

Danish Ministry of Health  
Holbergsgade 6  
1057 Copenhagen K  
E-mail: [sum@sum.dk](mailto:sum@sum.dk) and [nff@sum.dk](mailto:nff@sum.dk)

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**DIGNITY's consultation response to the draft bill to change the law on the use of restraints in psychiatric practice etc.**

DIGNITY wishes to thank the Danish Ministry of Health for its request of 31 August 2021 for comments on the proposal to change the Danish Psychiatry Act etc. (referred to below as 'the draft bill'). Our comments are limited to the part of the draft bill that falls within DIGNITY's mandate and expertise.

We view positively the Danish government's statement that improvements to the psychiatric field are a very important priority and that the use of restraints in psychiatric wards should be reduced. We are also positively disposed towards many of the draft bill's proposals, including enhanced regulation of house rules.

However, DIGNITY wishes to point out that the draft bill will not result in full implementation of international human rights standards as regards the use of restraints. According to the European Committee for the Prevention of Torture (CPT), the duration of the use of mechanical restraints with physical instruments (such as belts and straps) must be as short as possible and normally last for a matter of minutes rather than hours:

*The duration of the use of means of mechanical restraint and seclusion should be for the shortest possible time (usually minutes rather than hours) and should always be terminated when the underlying reasons for their use have ceased.<sup>1</sup>*

DIGNITY has therefore previously recommended focusing on prevention of the use of restraints which could risk inhuman or degrading treatment<sup>2</sup> and avoiding the use of restraints for more than 24 hours.<sup>3</sup> We maintain this general position and therefore call on the Danish government to initiate more comprehensive regulatory work with a view to reducing the use of restraints in the field of psychiatry. Such regulatory work could be based on experiences from other countries and the coming recommendations from the Ombudsman's visits to psychiatric institutions in 2021 under the UN's Additional Protocol and in partnership with the Danish Institute for Human Rights and DIGNITY.

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<sup>1</sup> The Council of Europe: The European Committee for the Prevention of Torture (CPT): *Means of restraint in psychiatric establishments for adults (Revised CPT Standards)*, 21 March 2017, CPT/Inf(2017)6, pr 4.1.

<sup>2</sup> NGO UPR report, 15 October 2020.

<sup>3</sup> NGO report to the UN Torture Committee, 11 November 2015.

**DIGNITY**  
Danish Institute Against Torture  
Bryggervangen 55  
2100 Copenhagen Ø

Tel. +45 33 76 06 00  
Fax +45 33 76 05 10

[info@dignity.dk](mailto:info@dignity.dk)  
[www.dignity.dk](http://www.dignity.dk)

CVR no. 69735118  
P no. 1002304764  
EAN 5790000278114  
LOK no. 5790001376147

As regards the specific draft bill, DIGNITY wishes to recommend the following amendments:

### **Checks of restrained patients**

The current three medical assessments a day of patients restrained with belts are maintained, but as something new the draft bill introduces maximum intervals between checks, i.e. the first check no later than four hours after restraining has commenced and a maximum of ten hours between subsequent checks , cf. Section 21, sub-section 4, items 2-4 of the draft bill.

In our assessment, these intervals are too lengthy and should be reduced in light of the potentially serious consequences of restraints and in order to comply with human rights standards. Checks every other hour should be considered.

### **Permanent on-duty staff obligation to take notes**

The draft bill proposes that permanent on-duty staff should prepare an objective description of the patient's current condition during the use of restraints. The permanent on-duty staff's obligations to observe and document should be specified. As permanent on-duty staff do not necessarily possess medical training, a precise description of the observations to be documented must be prepared so that this documentation can be used as part of e.g. medical examinations as well as in the event of any patient complaints. It may be beneficial to require that these objective descriptions be produced on an on-going basis, say, at intervals of 15 minutes' duration. Additionally, special forms could be required for the purpose of this on-going documentation, so that permanent on-duty staff know exactly which observations are to be documented. It is also important that permanent on-duty staff are instructed to reproduce exactly what has taken place and not an interpretation of events. On-duty staff should therefore, for example, be instructed to note down the patient's precise statements and not simply state that he or she is verbally threatening.

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We are, of course, available for further comment, if required.

Yours sincerely



Rasmus Grue Christensen  
CEO, DIGNITY – Danish Institute Against Torture