RHRA

Retirement
Homes
Regulatory
Authority

Guidance Document

Personal Assistance Services Devices (PASDs)

RHRA Retirement Homes Regulatory Authority

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Throughout this document, "Act" refers to the *Retirement Homes Act, 2010* and "Regulation" refers to O. Reg. 166/11 under the Act.

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This guidance document is designed to help licensees and operators understand the requirements of parts of the *Retirement Homes Act, 2010* ("the Act") and *Ontario Regulation 166/11* ("the Regulation") relating to Personal Assistance Service Devices (PASD). This guidance document does not replace the requirements set out in the Act and Regulation or the specific PASD training that must be conducted in each retirement home. Licensees should consult the Act and Regulation for current legislation and compliance requirements. This guidance document does not constitute legal advice and users should consult their own legal counsel for the purposes of interpreting the Act and Regulation.

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About PASDs

1. **What are PASDs?**
   The Act and Regulation set out a specific definition of "personal assistance services device" (PASD). A device is considered to be a PASD if it meets *all* of the following criteria.

   1. The device is intended to assist the *particular resident* with a routine activity of living, *and*
   2. If the *particular resident* uses the device, it will limit or inhibit his or her freedom of movement, *and*
   3. If the *particular resident* uses the device, he or she is *not* physically *or* cognitively able to release himself or herself from the device.

   If a specific device has all three of these features for a *particular resident*, it is considered a PASD for that resident and, therefore, is subject to the requirements under the Act and Regulation regarding the use of PASDs.

   For an example of how to use the three criteria to determine if a device is a PASD, see Example Scenario 1 here.

2. **Why are PASDs used in retirement homes?**
   PASDs may only be used in retirement homes for one purpose – *to assist a resident with a routine activity of living*.

   A "routine activity of living" is an activity that is part of a resident's usual way of living. Commonly, these activities relate to personal care (e.g., hygiene, washing, dressing, grooming, eating, drinking, toileting) and functional mobility (e.g., ambulating, positioning, sitting, sleeping, resting). [1]

3. **What does it mean to assist a resident with a routine activity of living?**
   Assisting with a routine activity of living can be interpreted as the device promoting the resident's independence, quality of life, or safety while performing the routine activity.[2] If a device is used to restrict a resident's movement or manage a resident's behaviour, such as preventing a resident from standing and wandering, it is not being used to assist a resident with a routine activity of living.

[1] Routine Activities of Living are commonly described across various sources as daily self-care tasks essential for resident independence, including personal hygiene, dressing, eating, maintaining continence, and mobility/transferring. (Ontario Personal Support Worker Training Standard (p.43), Professional Practice Network of Ontario (p.9), Veteran Affairs Canada, Paying for Senior Care, Senior Living).

[2] Per AdvantAge's policy on PASD and Restraints, the resident's care plan must specify how, when, and why the device is used to support *promoting independence* and *quality of life*.

PASDs versus Restraints

4. Are PASDs restraints?

No, a PASD is not a restraint for a particular resident as long as it is used for that resident in a way that meets *all* of the standards and requirements under the Act and Regulation regarding the use of PASDs by residents.

If a device is not used to assist a resident with a routine activity, and if its limits or inhibits movement and the resident cannot release themselves from it, it is likely being used as a restraint.

For those same devices that are intended to assist the resident with a routine activity, if the licensee does not comply with all of the standards and requirements for PASD use in the Act and Regulation, it may be considered as a restraint. Restraints are *prohibited* in retirement homes. (See the next FAQ for more information).

For an example of how the same device can either be a PASD or restraint, see Example Scenario 2 here.

5. Can restraints be used in retirement homes?

No. Using restraints in retirement homes is *prohibited* under the Act and Regulation except when immediate action is necessary under section 71(1) of the Act such as when immediate action is necessary to prevent serious bodily harm to the person or to others.

6. What devices are expressly prohibited from use in retirement homes?

The Act and Regulation *prohibit* the use of the following devices in retirement homes.

- × A roller bar on wheelchairs, commodes, or toilets
- × Any device used to restrain a person to a commode or toilet
- × Vest or jacket restraints
- × Any device with locks that can only be released by a separate device, such as a key or magnet
- × Four-point extremity restraints
- × Any device that cannot be immediately released by staff
- × Sheets, wraps, tensors, or other types of strips or bandages used other than for a therapeutic purpose

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Using PASDs

7. Can PASDs be used in retirement homes at any time?

No. PASDs may only be used in retirement homes when certain conditions are present.

Before a PASD is used with a particular resident, the licensee of the retirement home or an external care provider must give permission for the specific PASD to be used for the particular resident.

The licensee or external care provider may only permit the use of a PASD if *all* of the following conditions are present for that specific PASD and particular resident.

a. The purpose of the device is to assist a resident with a routine activity of living.

b. Alternatives for the resident have been considered and/or tried.

c. The alternatives will *not* effectively assist the resident with a routine activity of living.

d. The use of the device is reasonable considering the resident's physical and mental condition and personal history.

e. If used by the resident, the device will restrict the resident's freedom of movement the least compared to other devices that can effectively assist the resident with a routine activity of living.

f. The use of the device by the resident has been approved by one or more of the following persons.
   - A *legally qualified medical practitioner* (i.e., a member of the College of Physicians and Surgeons of Ontario)
   - A *nurse* (i.e., a member of the College of Nurses of Ontario)
   - An *occupational therapist* (i.e., a member of the College of Occupational Therapists of Ontario)
   - A *physiotherapist* (i.e., a member of the College of Physiotherapists of Ontario)

g. The resident (or the resident's substitute decision-maker, if applicable) has consented to the use of the device.

h. The use of the device is in the resident's plan of care.
   - Note that there are specific requirements under the Act and Regulation for assessments and plans of care for residents who may need to use a PASD.

i. The device will be used in accordance with the requirements under the Regulation.

For an example of these conditions, see Example Scenario 3 here.

8. While using a PASD for a resident, what requirements must be met?

At all times, the device must be well-maintained.

The Act and Regulation also set out requirements for how PASDs are applied, used, and removed.

Application	Use	Removal
• Staff must apply the device in accordance with the manufacturer's instructions (if any)	The device must: • Be used in accordance with evidence-based practices, or if there are no such practices, in accordance with prevailing practices • Not be altered except for routine adjustments in accordance with the manufacturer's instructions (if any)	The device must be removed as soon as: • It is no longer required to assist a resident with a routine activity of living, unless the resident requests that it be retained • It is found that the resident has altered skin integrity (or is at risk of altered skin integrity) related to the use of the device

Alternatives to PASDs

9. What are alternatives to PASDs?

Alternatives to PASDs may involve other strategies and/or other devices that may assist the resident with a routine activity of living. Whether an alternative is appropriate will depend on the particular resident's specific circumstances and needs.

Alternatives *must* be used *instead of a PASD* when:

- The alternative can effectively assist the resident with a routine activity of living (this is condition 'a' under FAQ 7), *and*
- The alternative does not restrict the resident's freedom of movement or restricts the resident's freedom of movement *less than* the PASD restricts the resident's freedom of movement (this is condition 'e' under FAQ 7).

Alternatives may also be less restrictive PASDs. Alternatives can vary in their degree of assistance and restrictiveness. Alternatives can be evaluated by considering the level of assistance, the degree of restriction, the resident's physical and mental condition and personal history, consultation with a regulated health professional, and ability to implement the alternative.

For an example of alternatives to PASDs, see Example Scenario 4 here.

10. Why do alternatives to PASDs need to be considered and/or tried?

Before licensees or external care providers can permit a resident to use a particular PASD, they must consider and/or try alternatives to the device. (This is condition 'b' under FAQ 7).

Alternatives must be considered and/or tried because PASDs limit or inhibit a resident's freedom of movement. The goal is to find solutions that provide necessary support while minimizing restrictions on the resident's freedom. Finding the best approach should be made in consultation with the resident, and if applicable substitute decision maker, and requires interdisciplinary support including the regulated health professional who would be approving the PASD**.** Additionally, practical factors such as resources and costs directly impacting the resident must be carefully considered when assessing alternatives to ensure a balanced approach.

Policy regarding the Use of PASDs

11. Do licensees have to have a policy regarding the use of PASDs?

Yes. Licensees must ensure that the retirement home has a written policy regarding the use of PASDs. *The policy must be specific to the retirement home*.

12. What are the requirements for this policy?

At minimum, a retirement home's policy regarding the use of PASDs must set out:

- The duties and responsibilities of staff regarding the use of PASDs.
    - This part of the policy must include information about:
        - Who has the authority to apply a PASD to a resident.
        - Who has the authority to release a resident from a PASD.
        - How the retirement home ensures that all appropriate staff are aware at all times of when the licensee has permitted the use of a PASD for a resident.
- The types of PASDs that can be used by residents of the retirement home.
- The process for obtaining and documenting consent for the use of a PASD.
    - Consent must be obtained from the resident or the resident's substitute decision-maker.
- Alternatives to the use of PASDs.
    - This part of the policy must set out how the retirement home plans, develops, and implements alternatives using an interdisciplinary approach.
- The process for evaluating the use of PASDs in the retirement home.
    - The purpose of the evaluation is to ensure that all necessary use of PASDs is done in accordance with the Act and Regulation.
- The fact that a resident must not be restrained in any way, except when immediate action is necessary as described in section 71(1) of the Act.

Training about PASDs

13. Who has to receive training about PASDs?

The following staff must receive training about PASDs.

- All new staff.
- All staff who provide care services directly to residents.

14. What are the requirements for this training?

All *new staff* must receive training in the retirement home's policy regarding the use of PASDs for residents.

All *staff who provide care services directly to residents* must also receive training in the following areas as a condition of continuing to have contact with residents.

- Ways to minimize the need of residents for PASDs.
- If a resident needs a PASD, ways of using it in accordance with the manufacturer's operating instructions, the Act, and Regulation.

References to the Act and Regulation

15. What sections of the Act and Regulation relate to PASDs?

Licensees should review the following sections of the Act and Regulation which relate to PASDs:

	Act	Regulation
Definition of PASD	50(1)	
Conditions that must be present for licensees or external care providers to permit the use of PASDs for a resident	69	
Requirements for assessments and plans of care		44(3)(a) 47(5)-(6) 48(2)
Requirements for applying, using, and removing a PASD		55(2)
Requirements for a home's policy regarding the use of PASDs	68(3)	52(1)
Requirements for staff training regarding the use of PASDs	65(2)(d) 65(5)(4)	
Information for residents regarding the use of PASDs	54(2)(e)	
Prohibited devices		51

The Act and the Regulation are available at www.e-laws.gov.on.ca

RHRA Retirement Homes Regulatory Authority

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Appendix A. Example Scenarios

The following example scenarios are fictional and general in nature. They are designed to help illustrate some of the concepts addressed in the FAQs in this document but are not exhaustive of the requirements under the Act and Regulation. The scenarios are not a substitute for the Act and Regulation, and they do not provide legal advice. The scenarios do not fetter the discretion of the Registrar in making statutory decisions.

ES 1. The three components of the definition of PASD

Nick and Sally, retirement home residents, use wheelchairs for outings because of difficulty with walking on uneven and/or slippery surfaces. Given their posture, both Nick and Sally are at risk of slipping off of the wheelchair if bumps are encountered and have asked retirement home staff to use seatbelts for their wheelchairs. Nick is cognitively and physically able to apply, use, and release the seatbelt on his own. Sally understands how to apply the seatbelt but is not physically able to use and release the seatbelt on her own. Are the seatbelts a PASD in this scenario?

As noted in FAQ 1, a device is considered to be a PASD if it meets *all* of the following criteria.

1. The device is intended to assist the *particular resident* with a routine activity of living, *and*
2. If the *particular resident* uses the device, it will limit or inhibit his or her freedom of movement, *and*
3. If the *particular resident* uses the device, he or she is *not* physically *or* cognitively able to release himself or herself from the device.

Looking at Nick's case using these three criteria, the seatbelt is *not* a PASD because it does not satisfy all three features of PASDs. It only satisfies the first two of the three features.

- ✓ The seatbelt will be used to assist Nick with a routine activity of living (i.e., his ability to safely use his wheelchair outside).
- ✓ The seatbelt limits or inhibits Nick's freedom of movement.
- × Nick is able to apply and release the seatbelt on his own.

Looking at Sally's case using these three criteria, the seatbelt is a PASD because it satisfies all three features of PASDs.

- ✓ The seatbelt will be used to assist Sally with a routine activity of living (i.e., her ability to safely use her wheelchair outside).
- ✓ The seatbelt limits or inhibits Sally's freedom of movement.
- ✓ Sally is not able to apply and release the seatbelt on her own.

ES 2. PASDs versus restraints

George uses a wheelchair and requires a wheelchair tabletop for the specific purpose of assisting him with eating meals. He is not physically able to apply or remove the tabletop from the wheelchair on his own. The licensee of George's retirement home is facilitating George's use of the tabletop for the purposes of eating meals (i.e., a routine activity of living) because all of the conditions for approving the use of PASD have been met. However, is the wheelchair tabletop exclusively a PASD or could it sometimes be a restraint for George?

For George, the wheelchair tabletop can be either a PASD or a restraint depending on when and how it is used:

- The wheelchair tabletop *is a PASD* when it is provided to him at the time, he is about to have a meal, and once he has finished eating, the tabletop is removed because he does not require its use until the next time he has a meal. When using the tabletop in these circumstances, the tabletop is a PASD and can only be used if all of the requirements under the Act and Regulation regarding the use of PASDs are met.
- The wheelchair tabletop *becomes a restraint* for George when it remains attached to his wheelchair in between meals without the specific purpose of assisting him with a routine activity. If George explicitly requests to keep the tabletop on because he finds it more comfortable for sitting or useful for other activities like playing games or reading, then it would be considered a PASD as it is meant to assist George and he requested its continued use beyond its intended purpose.
- However, if the tabletop remains attached between meals without any intended purpose of assisting George with a routine activity, or at his request, and only restricts his freedom of movement, it is being used as a restraint. For example, if George has a cognitive impairment which increases his risk for wandering and the wheelchair tabletop was left on by staff to prevent him from getting up, it would be considered a restraint and prohibited.

ES 3. Consenting to the use of PASDs

Brian is concerned that both of his parents may fall out of bed at night and asks the retirement home's licensee that bed rails be used during the night. If used, Brian's parents would not be able to adjust the height of the bed rails on their own (i.e., they would be confined to the bed once the rails are raised). Brian's parents are not concerned about falling out of bed and do not consent to the use of bed rails. Brian continues to ask the licensee and staff that bed rails be used. Can the retirement home use bed rails in this case?

No, the retirement home cannot use bed rails in this case. One of the conditions for using a PASD is having the resident's consent. In this case, neither parent has given consent for the use of bed rails. While Brian may be acting out of concern for his parents, the licensee cannot permit the use of bed rails for these residents *unless* the bed rails are determined to be a PASD for *both* of these residents *and all* of the required conditions for the use of PASDs are present. (See FAQ 6 for information about the conditions).

If the home were to use bed rails without the residents' consent, the bed rails would be considered restraints. Restraints are ***prohibited*** in retirement homes except in very limited circumstances that are described in the Act. (For information about restraints, see the FAQs under 'PASDs versus Restraints').

Alternatively, if Brian's parents have given their consent and have the capacity to do so, the bed rails may be considered PASDs. However, consent alone does not permit the use of bed rails, including if the resident consents to their use to prevent falls. The use of bed rails solely for preventing falls (as opposed to supporting mobility in bed) is not the only consideration and may be inappropriate if the other requirements are not met. All required conditions for the use of PASDs must still be met. As an example, one requirement is that the home must first reasonably consider and/or try less restrictive alternatives before resorting to bed rails. The device must also be approved by a regulated health professional, and the decision must clearly promote the resident's independence, quality of life, and safety.

ES 4. Alternatives to PASDs

Sally, a retirement home resident, uses a wheelchair for outings because of difficulty with walking on uneven and/or slippery surfaces. Given her posture, Sally has difficulty with sitting in her wheelchair and is at risk of slipping off of the wheelchair. A seatbelt may be a solution, but it limits Sally's freedom of movement, and she is not able to apply, use, and release the seatbelt on her own, and there are serious safety risks to Sally if the seatbelt is not properly applied to the wheelchair. What are some examples of alternatives to the seatbelt?

What alternatives are appropriate will depend on the specifics of Sally's circumstances. In this general scenario, some *examples* of alternatives are:

- Having a qualified health professional conduct a seating assessment to see if there are any ways that Sally can be positioned and/or supported in the chair safely without having to use a seatbelt or other restrictive device.
- Using positioning aids to help Sally sit in the wheelchair in a way where she is not at risk of slipping off of the chair.
- If Sally only has difficulty with walking outside on surfaces with snow, ice, rain, or gravel, consider if she can get to her destination without using a wheelchair. For example, if Sally wants to go to the grocery store, instead of using a wheelchair, explore whether arrangements can be made for her to get a ride to and from the grocery store.