

## RESPECTING CLIENT CHOICES

### THE LAW

Each patient shall... "Have a right to a **humane psychological... environment** within the hospital facilities..."

§ 51.61(1)(m), Wis. Stats. [Emphasis added]

Each patient shall... "Have the right to be **treated with respect and recognition of the patient's dignity and individuality** by all employees of the treatment facility or community mental health program and by licensed, certified, registered or permitted providers of health care with whom the patient comes in contact."

§ 51.61(1)(x), Wis. Stats. [Emphasis added.]

"Patients have the right to be free from having **arbitrary decisions** made about them. To be non-arbitrary, a decision about a client shall be **rationally based** upon a **legitimate treatment, management or security interest.**"

DHS 94.24(3)(h), Wis. Admin. Code [Emphasis added.]

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### DECISIONS

1. A client was placed in a **more restrictive setting** than necessary under an **emergency detention**. She was **advised to execute an Advance Directive to identify her hospital preference** and her treating physician and to provide a copy to the county, too. That would assist the county to appropriately place her if she ever needed emergency detention again. (Level IV decision in Case No. 99-SGE-03 on 11/3/99, reversing the Level III decision.)
2. A client who was about to be discharged from an inpatient facility **felt she was not being given enough input or choices** in terms of to **where she would be discharged**. She **wanted to be placed in an apartment** in the community. Facility staff were considering placement at other inpatient settings or a CBRF (group home) setting. Ultimately, she was transferred to a community **supported living arrangement** in an apartment. Since this was what she wanted, the grievance was dismissed at Level III as being **"resolved"**. (Level III decision in Case No. 00-SGE-05 on 2/16/01.)
3. A client was denied **CIP 1-B funding** for an **addition to her house**. The county followed all applicable laws and policies in denying the request, so the client's **rights were not violated**. However, the county and the department worked together to find **another way to pay** for the remodeling project. (Level III decision in Case No. 00-SGE-06 on 2/5/01.)

4. An inpatient complained about **lack of interactions with staff** during her six-day stay. Each patient's needs and perceptions are unique, and staff cannot use a "one size fits all" approach. There is a **thin line between respect** for a patient's privacy and **choices** (e.g. to not have many interactions with others and to be given personal space), **and going too far in the other direction** (e.g., in trying to probe for interaction with many questions). In the latter instance, the patient could have complained that she was not respected and not given reasonable space or privacy. Here, the record reflects a **reasonable degree of staff attentiveness** and vigilance and, in the latter part of the stay, more discussion with her about issues. It was concluded that the patient's **right** to a humane psychological and physical environment was **not violated** in this circumstance. (Level III decision in Case No. 99-SGE-08 on 3/23/01.)
5. A man made several statements about **wanting to take his own life**. His wife called the police and he was **emergency detained**. He **wanted** to be detained at a **local hospital**, but the police made the decision to detain him at a state mental health facility, over his objections. Since **other, less-restrictive options were available** and he adamantly did not want to go to the state facility, **his right to the least restrictive conditions was violated**. (Level III decision in Case No. 00-SGE-04 on 4/9/01.)
6. A client complained that a **Community Service Provider (CSP)** had not done enough to get him **re-involved** in a **local community center**. This was considered part of his right to **reasonable access to community activities**. The grievance was resolved by an agreement between the CSP and the client that the CSP would assist him with an inter-personal problem-solving protocol that would hopefully enable him to return to the community center. (Level III decision in Case No. 00-SGE-12 on 8/6/01.)
7. A patient **threatened to kill his wife, her boyfriend** and his **therapist**. The transitional living facility he had been in was **justified** in **not allowing** him to be **re-admitted**. (Level III decision in Case No. 01-SGE-06 on 10/18/01.)
8. A service recipient felt her **case manager was too controlling** of her life. She usually **accompanied** the individual to her **doctor appointments**, but did most of the talking. However, the doctor had ordered the case manager to monitor the individual's psychotropic medications and to visit her weekly. Thus, it was appropriate for the case manager to accompany her and report to the doctor. The individual also had private appointments with her doctor, so her right to treatment was not violated. (Level III decision in Case No. 01-SGE-05 on 11/29/01.)
9. A patient wanted to **continue the individual therapy** she had received for 9 years, but the service provider shifted to **only doing group therapy** with her.

She had been made aware months in advance of the upcoming change in services. The treatment team agreed that **this change was appropriate** for her treatment needs. Thus, her rights to treatment and her right to be free from arbitrary decision-making were not violated. (Level III decision in Case No. 01-SGE-09 on 3/27/02.)

10. A patient **wanted to choose a new psychiatrist** after her case was transferred from a doctor she had been seeing to another doctor. The service provider **tried to accommodate** her request, but the two psychiatrists she asked for declined to accept her on their caseloads. The **accommodation attempts were reasonable**. **No violation** of her rights was found. (Level III decision in Case No. 01-SGE-09 on 3/27/02.)
11. A father/guardian **wanted to choose a different county case manager** for his son. He noted that the **Medical Assistance Waivers Manual** emphasizes a **choice of providers**. The father **wanted to choose a specific case manager** who worked for the county. The county **had only five case managers** and had a **solid rationale** for why they were not willing to reassign the son to the case manager the father requested. They **gave him the option** of choosing **either the county as a provider or an outside agency**. Thus, the **county was providing him with a choice** of provider. The county was **not mandated** to provide him with a **choice amongst their own case managers**. The counties still maintain final decision-making authority in how they manage their staff and the workload that is assigned to those staff. No rights violation occurred. (Level III Decision in Case No. 03-SGE-06 on 2/18/04.)
12. A man complained on his wife's behalf that she was **given a new therapist without consulting her first**. A treating facility has the right to change therapists for business management reasons. It is **good practice to consult with the patient first**, but it **does not rise** to the level of a rights violation **not to do so**. (Level IV decision in Case No. 02-SGE-07 on 3/10/04, reversing the Level III decision.)
13. A client of a **methadone clinic** had difficulties receiving psychiatric treatment for anxiety that was accessible and affordable to her and which was also acceptable to the clinic. She found one she liked, but **was told to quit seeing him** by the clinic or her services would be terminated. The psychiatrist in question **does not have a good reputation in the field of substance abuse treatment** because he has a reputation for **prescribing medications that may not be appropriate**. She then found a new psychiatrist who charged more and was less accessible for her to visit. Her right to choose her own psychiatrist was not violated because the clinic had good reasons to ask her to see a different psychiatrist. It was not an arbitrary decision by the clinic in these circumstances. (Level III decision in Case No. 04-SGE-02 on 12/20/04)

14. The primary rationale for the **proposed change in vocational services** for a client was **economic**. The county Health and Human Services program faced **increasing waiting lists** for people who need services while having **less fiscal support** to provide those services. In the face of a decreasing budget, the HHS was looking at areas where money could be saved. The **costs** of continuing this client's current vocational service provider were **considerably more** than other, **similar providers** in the area. It was **reasonable** for the county to **consider cutting costs without cutting programs**. The client rights question was whether or not the other providers would be able to offer **like services** that **adequately met** the client's **individualized needs** and supported her right to receive **prompt and adequate treatment** appropriate to her condition. It was found that the support services the other vocational provides could offer would be **comparable**. The client would continue working in the same settings at the same times, and with a support person available for the same amount of time. The changes would necessarily include different persons providing those services and doing so under a different organizational structure. However, the vocational services would essentially be the same under the county's proposal. The county's request that the client choose between two other, less expensive, vocational services providers was reasonable and fair. The **need to serve as many clients as possible outweighs** the **potential benefits of one individual** to continue receiving services from a **more costly service provider** than is necessary to provide support services in a similar manner that other agencies may provide in the same setting. Thus, requiring the client to choose between the two less expensive of three possible providers was not a violation of her rights. (Level III decision in Case No. 03-SGE-09 on 4/11/05)

15. A patient was receiving services at a Community Based Residential Facility under a Court's commitment order and an involuntary medication order. The patient requested a new psychiatrist. **The right to adequate treatment does not encompass a right to which-ever care provider a patient requests**. If patients were allowed to doctor shop it would undermine the provision of adequate care by incentivizing doctors to make treatment decisions based on the wishes of the patient rather than what is most likely to be helpful to the patient. **Clients have the right to obtain a different care provider at their own expense**. (Level IV decision in Case No. 15-SGE-0001 on 10/17/2016)

[See: "Introduction to Digest-Date Last Updated" page.]