

DIGNITY AND RESPECT

THE LAW

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.]

[NOTE: This section was added to the patient rights laws in 1995. See also the section on **Staff-Patient Conflicts** in this digest.]

DECISIONS

1. A therapist's supervisor correctly **referred** a client to the facility's **Client Rights Specialist** when she wanted to **file a complaint about the therapist**. The client felt the supervisor did not care about her concerns. However, the **referral was appropriate** and did not violate the client's right to be treated with dignity and respect. (Level III decision in Case No. 00-SGE-02 on 6/17/00, upheld at Level IV.)
2. 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.)
3. A patient was a **recovering alcoholic** who experienced a **relapse** after six months of sobriety. He visited a pastor while he was intoxicated. He ended up in detox that night. Upon intake, he **alleged** that the **pastor had sexually assaulted him**. He made those allegations while he was **still intoxicated**. The staff at the detox facility **took no actions** on the allegations. It is normal procedure to **wait until a patient is no longer intoxicated** to address such

issues. Later, when he was no longer under the influence of alcohol, he denied that any assault had occurred. It was reasonable for the staff to accept the later, sober, statements over the prior intoxicated ones. He was released the day after being admitted and did not pursue criminal charges against the priest. No rights violation was found in the manner in which the staff dealt with his allegation of assault. (Level IV decision in Case No. 00-SGE-16 on 8/14/01, upholding the Level III.)

4. A service recipient complained about her **case manager yelling at her** and pounding her fist on the table during a home visit. The case manager admits doing this but said it was a demonstration of how she would act if she were, in fact, the type of controlling person that the service recipient described her to be. This was an isolated incident, but the **effect** on the service recipient was **very negative**. **Even though it only happened once, it was a violation** of the individual's right to be treated with dignity and respect. (Level III decision in Case No. 01-SGE-05 on 11/29/01.)
5. Her daughter's therapist told her mother, in a rather public place, that she (the mother) was the one who needed treatment. This remark was **insensitive**, but the **mother was not a patient** at the time and the **right** to dignity and respect **did not apply to her**. (Level III decision in Case No. 01-SGE-02 on 12/10/01.)
6. On the day before her discharge, an Occupational Therapist (**OT**) **made a comment** to the patient to the effect that, "You won't be embarrassed about walking into the dayroom naked and sitting down." She followed it up by saying, "**Just kidding**". There was no further discussion between the OT and patient regarding the comment. The patient did not tell the OT she found the comment distressing in any way, and the OT did not have any other indication that the patient had not accepted it in a humorous way. In retrospect, the OT said she never would have used this comment or any reference to the word "naked" had she been aware of the sensitive connotation that may have had with the patient. The OT wished that the patient had stated her concerns at the time so they could have discussed them in a positive and solution-oriented way. The OT **felt comfortable about using humor** with this patient since she had responded well to humor being used in a therapeutic setting on prior occasions. **Staff are not expected to interact only in a formal or robot-like manner with patients**. There is **ample room for humor** in the course of mental health treatment. Had the OT known that the patient would find the comment distressing or demeaning rather than humorous, it would have been a rights violation to say it. **Some comments are so egregious** that, as a matter of law, **they are rights violations** – such as cursing at a patient, or making racial or ethnic slurs. This comment does not fit that category. Under these circumstances, the comment **did not rise** to the level of a rights violation. (Level IV decision in Case No. 01-SGE-08 on 8/27/02, modifying the Level III finding.)

7. The Level III decision found a violation of a complainant's wife's rights when **her therapist called her at work** to say she was discontinuing the therapy. However, there was **no evidence** in the record that his **wife told the therapist not to call her at work**. This was a **business call**, rather than a personal call, and therefore it was **not necessarily inappropriate** for the therapist to **call his wife at work**. The **finding of a rights violation was reversed**. (Level IV decision in Case No. 02-SGE-07 on 3/10/04, reversing the Level III decision.)
8. A complainant accused his wife's therapist of **verbally accosting him** in a public parking lot. The record shows he attempted to obtain a restraining order against the therapist in court, but was unsuccessful. Since he was **unable to prove the matter in court**, he **failed to show** that the therapist had **violated his rights** in those circumstances. (Level IV decision in Case No. 02-SGE-07 on 3/10/04, upholding the Level III decision.)
9. An ex-patient complained about a **lack of individualized treatment** at a psychiatric hospital. These concerns were **meaningfully addressed** when the **hospital responded** to his observations and concerns about the manner in which patients are assessed and treated. The hospital was planning a specific **training session** for staff to address indicators, features, and treatment approaches for Post Traumatic Stress Disorder and Parkinson's Disease. The training will also address the variables that could arise with men's issues during treatment. This staff training should lead to an improved awareness and create a better standard of care, **greater dignity and respect** for patients, and more individualized treatment decision-making. Given the training initiatives planned, this issue was **considered resolved**. (Level III Decision in Case No. 03-SGE-07 on 4/22/04.)
10. A client's right to be treated with dignity and respect were **violated** at a methadone clinic when her **psychiatrist made a remark** about her lack of treatment progress **in front of other clients** in the waiting room. That remark should not have been made in front of others. (Level III decision in Case No. 04-SGE-02 on 12/20/04)
11. A client's right to be treated with **dignity and respect was violated** by the **lack of shared decision-making and collaborative planning** during the **evaluation and assessment phase** of services. While the service provider does maintain the right to choose which clients they will or will not see, their assessment and evaluation of a client's treatment needs should also recognize and respond to a client's request for more frequent visits. They need to clearly define the purpose of the assessment and set reasonable expectations for the client. (Level III Decision in Case No. 05-SGE-003 on 6/8/06)

12. Where a client asserts that his AODA counselor used foul language, was confrontational, and was generally **disrespectful** to him, the **burden of proof was on the client** to provide sufficient evidence that a rights violation has occurred. This was a verbal exchange and no witnesses were present. While it would not be appropriate or acceptable for a counselor to use foul language or be disrespectful to a client, the allegations were self-reported and technically **only constituted hearsay evidence**. The client **had not met his burden** of showing a rights violation. (Level III decision in Case No. 09-SGE-04 on 7/06/09)
13. A patient complained about a nurse practitioner violating his confidentiality and his right to **dignity and respect** by in the manner in which she talked to him in a hallway. The **evidence, records, and witness reports did not provide sufficient evidence** to show that it was **more probable than not** that his right to confidentiality or his right to be treated with dignity and respect were violated. The client's **burden of proof had not been met**. (Level III decision in Case Nos. 09-SGE-07 & 09-SGE-10 on 3/18/10)
14. A client felt she was not provided adequate treatment or **treated with dignity and respect because she was denied services, visits, phone calls and a case manager**. The **evidence indicated that she was not denied these things**. Her case manager and related staff went out of their way to assist her with services and housing. The case manager offered to come to her home rather than requiring her to take the long bus ride to his office. He also assisted her when she moved. Her rights were not violated. (Level III decision in Case No. 10-SGE-07 on 02/18/11)
15. The provider's Intake Coordinator **left a message** on the client's answering machine **that upset her**. She was merely informing the client that the provider would not be able to help her. This information was found to be a violation of the client's right to prompt and adequate treatment by the Division of Quality Assurance. However, **the manner of delivery** of that message to the client **was not necessarily a violation of her right to be treated with dignity and respect**. (Level III decision in Case No. 11-SGE-02 on 06/27/11)
16. A patient **felt she was treated disrespectfully by group leaders** in sessions. **Statements by treatment staff** to a patient regarding normal procedure for responding to homework, regarding saving matters for future sessions due to time constraints, and regarding the processing of disability claims, generally, **do not amount to violations** of the patient's rights **without proof of exacerbating circumstances**. Provider staff must communicate directly regarding how matters are generally handled and there was **no evidence that the group leaders were personally deriding this patient** by discussing procedural issues in response to her questions and requests. (Level III decision in Case No. 11-SGE-01 on 6/28/11)
17. A client's recent provider and his former provider were **at professional odds with each other** and **the client found himself in the middle of their**

quarrel. For example, the provider's Client Advocate wrote him a letter responding to his concerns with their program. But, instead of providing him with therapeutic replies to his concerns, she **used that opportunity to malign the other provider.** She implied that the prior provider had "violated professional boundaries" by engaging in a "pattern of unstable and intense interpersonal relationships" between the client and staff, that they had "victimized" him, and that they were illegally billing Medical Assistance. Anyone reading that letter would conclude, as the State Grievance Examiner did in the Level III decision, that **it was unprofessional and counter-therapeutic to the client.** A rights violation was found. That finding was supported by the evidence provided. (Level IV decision in Case No. 10-SGE-14 on 7/18/11)

18. A client claimed that his provider's Director **badgered him** about his relationship with a prior provider in the same community. Although it may have been appropriate to question the client about this under the circumstances, it was inappropriate for a Director to continue to pressure the client about it after the client asked her to stop several times. The **credibility** of both the client and the Director were weighed by the State Grievance Examiner in the Level III decision and it was concluded that it was more likely than not that the client's version of the events was accurate. A **rights violation was found.** That finding was supported by the evidence provided. (Level IV decision in Case No. 10-SGE-14 on 7/18/11)