

## DISCHARGE - OUTPATIENT

### THE LAW

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

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

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The treatment facility shall maintain a patient treatment record which shall include: “**Documentation** that is specific and objective and that **adequately explains** the reasons for any **conclusions or decisions** made regarding the patient.”

DHS 94.09(6)(d), Wis. Admin. Code [Emphasis added.]

(a) A **consumer** [at an **outpatient mental health clinic**] **may be involuntarily discharged** from treatment **because of the consumer's inability to pay** for services **or for behavior** that is reasonably a result of mental health symptoms only as provided in par. (b).

(b) Before a clinic may involuntarily discharge a consumer under par. (a), the clinic shall **notify the consumer in writing of the reasons for the discharge**, the **effective date** of the discharge, **sources for further treatment**, and of the consumer's **right to have the discharge reviewed**, prior to the effective date of the discharge, by the subunit of the department that certifies clinics under this chapter, with the address of that subunit. A review under this paragraph is in addition to and is not a precondition for any other grievance or legal action the consumer may bring in connection with the discharge, including a grievance or action under s. 51.61, Stats. In deciding whether to uphold or overturn a discharge in a review under this paragraph, the department may consider:

1. **Whether the discharge violates the consumer's rights** under s. 51.61, Stats.
2. In cases of discharge for behavior that is reasonably a result of mental health symptoms, **whether the consumer's needs can be met by the clinic**,

**whether the safety of staff or other consumers of the clinic may be endangered** by the consumer's behavior, and **whether another provider has accepted a referral to serve the consumer.**

DHS 35.24 (3), Wis. Admin. Code [Emphasis added.]

[Note: See also the "Discharge of Voluntary Patient" and "Treatment – Prompt & Adequate" sections of this digest.]

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## DECISIONS

1. A client **felt** her **termination** from **outpatient** therapy constituted "**abandonment**" which left her without mental health services and without options for a smooth transition into other services. Both she and her therapist agreed that the **attainment of measurable objectives was not being met** and that she was **no longer making progress in treatment**. The personalities involved were not meshing together in a productive fashion and the kind of therapeutic work and progress that the client really wanted was not getting done. This could have led to voluntary discharge, rather than termination, by encouraging joint decision making and agreement by both the client and the therapist. The **termination** of a client's outpatient therapy **did not rise to the level of a violation** based on the rights and rules that are currently in place. However, the **best practice** would be to **achieve consensus** that treatment goals were not being met and to **mutually agree to discontinue therapy**. (Level III Grievance Decision in Case No. 05-SGE-12 on 5/16/06)
2. A client complained about **being refused services** by the **psychiatrist in her small home town**. She was being provided those services in a larger, nearby city, but she had transportation problems. Records indicated that she had originally requested that her services be transferred to the provider's outpatient department in the city, **blaming her local psychiatrist for all of her problems**. Later, **she wanted to return** to that psychiatrist, **but he refused to take her back** as a client. Considering the history between them, **it was appropriate** for the psychiatrist to refer her to another service provider. When the **psychiatrist/client rapport was irretrievably broken**, **referral to another psychiatrist was warranted**, even if that meant that the client had to find transportation to the new provider a few miles away. (Level IV decision in Case No. 06-SGE-14 on 8/16/07)