

DISCHARGE OF VOLUNTARY PATIENTS

THE LAW

"(1) When a **voluntary inpatient** requests a discharge, the facility director or designee shall **either release** the patient **or file a statement of emergency detention** with the court as provided under ss. 51.10(5), 51.13(7)(b) and 51.15(10), Stats., and this section.

(2) If a voluntary inpatient requests a discharge and he or she has **no other living quarters or is in need of other services** to make the transition to the community, **the following actions** shall be taken by the facility director or designee prior to discharge:

(a) **Counsel** the patient and, when possible, **assist** the patient in **locating living quarters**;

(b) **Inform the applicable program director**, if any, of the patient's need for residential and other necessary transitional services; and

(c) If no living arrangements have been made by the time of discharge, **refer** the patient to an appropriate service agency for **emergency living arrangements**."

DHS 94.23, Wis. Admin. Code [Emphasis added.]

(a) A **consumer may be involuntarily discharged** from treatment [at an outpatient mental health clinic] **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.]

DECISIONS

1. A father claimed that his **son's discharge** from treatment at a medical center **was in retaliation** for his filing a complaint about his own mother's care there. It was determined that **other factors led to the son's discharge** and that the father had been told that it was going to occur soon. This occurred several months prior to the complainant filing a grievance about his mother's care. No retaliation for filing a complaint was found. (Level III decision in Case No. 02-SGE-06 on 1/27/03)
2. A patient was voluntarily admitted to the behavioral health unit after considerable indecision. Upon admission, the patient almost immediately refused inpatient services. The patient claimed that she was not discharged within 24 hours of refusal, as required under provider's discharge policy. However, the provider's policy includes an exception for weekends to ensure that a doctor will have an opportunity to assess the patient's safety prior to the release. Further, the patient did not claim any additional harm stemming from the additional four hours that she spent on the ward. (Level III decision in Case No. 16-SGE-08 on 5/26/2017)

[Document last updated: 07/17/2018. Digesting in progress for cases decided after 2013]