

## DRASTIC TREATMENT PROCEDURES - RIGHT TO REFUSE

### THE LAW

Each patient shall..."Have a right not to be subjected to **treatment procedures** such as **psychosurgery**, or **other drastic treatment procedures** without the **express and informed consent of the patient** after **consultation with his or her counsel and legal guardian** if any. Express and informed consent of the patient after consultation with the patient's counsel and legal guardian, if any, is required for the use of **electroconvulsive treatment**."  
§ 51.61(1)(k), Wis. Stats. [Emphasis added.]

"**Drastic treatment procedure**' means an **extraordinary or last resort treatment** method which places the patient at **serious risk** for **permanent psychological or physical injury**, including psychosurgery, convulsive therapy other than electroconvulsive therapy, and behavior modification using painful stimuli."  
DHS 94.02(12), Wis. Admin. Code [Emphasis added.]

"(1) Drastic treatment procedures **may only be used in an inpatient treatment facility or a center** for the developmentally disabled as defined in s. 51.01(3), Stats. No patient may be subjected to drastic treatment procedures except as specified under s. 51.61(1)(k), Stats., and this section.

(2) The patient shall be informed that he or she has a **right to consult with legal counsel, legal guardian**, if any, and **independent specialists** prior to giving informed consent for drastic treatment procedures.

(3) The treatment facility shall notify the program director prior to the planned use of drastic treatment procedures on county department patients.

(4) Each county department shall report monthly to the department the type and number of drastic treatment procedures used on county department patients."

DHS 94.12, Wis. Admin. Code [Emphasis added.]

"(1) No patient may be administered **electroconvulsive therapy** except as specified under s. 51.61(1)(k), Stats., and this section.

(2) The patient shall be informed that he or she has a **right to consult with legal counsel, legal guardian**, if any, and **independent specialists** prior to giving informed consent for electroconvulsive therapy.

(3) A treatment facility shall notify the program director prior to the planned use of electroconvulsive therapy on a county department patient.

(4) Electroconvulsive therapy may only be administered under the direct **supervision of a physician**.

(5) A service provider performing electroconvulsive therapy shall develop and implement written policies and procedures for obtaining and monitoring informed consent."

DHS 94.11, Wis. Admin. Code [Emphasis added.]

"An informed consent document is not valid unless the subject patient who has signed it is

**competent**, that is, is substantially able to understand all significant information which has been explained in easily understandable language, or the consent form has been signed by the legal guardian of an incompetent patient or the parent of a minor, except that the **patient's informed consent is always required** for the patient's participation in **experimental research**, subjection to **drastic treatment procedures** or receipt of **electroconvulsive therapy**."

DHS 92.03(2), Wis. Admin. Code [Emphasis added.]

[NOTE: See also the section on **Research** in this Digest.]

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## DECISIONS

[None at this time.]

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