

## DUE PROCESS OF LAW

### 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 be given an **opportunity to refute any accusations** prior to initiation of disciplinary action."

DHS 94.24(2)(g), Wis. Admin. Code [Emphasis added.]

"No patient may be disciplined for a violation of a treatment facility rule unless the patient has had **prior notice of the rule.**"

DHS 94.24(2)(h), Wis. Admin. Code [Emphasis added.]

[NOTE: See also the **Rules & Sanctions** section of this digest.]

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## DECISIONS

1. A hospital noted on appeal of findings of rights violations that the **State Grievance Examiner (SGE) had not contacted the patient's doctor directly** during the Level III review. The **hospital asserted** that this **evinced a lack of professional courtesy** and **constituted a violation of due process**. The SGE should probably have contacted the doctor to **provide him with a sense of fairness**. But the SGE has **broad discretion in how to conduct Level III reviews**. Where the SGE felt he could rely on the written records available to him, **failure to contact the doctor was not** an abuse of that discretion or a **violation of due process**. (Level IV decision in Case No. 02-SGE-04 on 9/19/03)
2. There is **nothing inherently wrong** with a facility Client Rights Specialist (CRS) **conferring with the facility's attorneys** on issues pertaining to patient rights. The patient rights laws and rules are complex. Seeking the advice of counsel is often a good way to ensure that the facility is in full compliance with those rights. The decision of the CRS, even if that decision is not to accept a complaint, is still appealable. The **four-stage grievance process ensures due process** of law for persons seeking to file complaints. (Level IV decision in Case No. 06-SGE-04 on 8/18/06)