

INFORMED OF RIGHTS - - RIGHT TO BE

THE LAW

Each patient shall: "Upon admission or commitment be **informed orally and in writing of his or her rights under [s. 51.61]**. Copies of this section shall be **posted conspicuously** in each patient area, and shall be **available to the patient's guardian or immediate family.**"
§ 51.61(1)(a), Wis. Stats. [Emphasis added.]

"NOTIFICATION OF RIGHTS. (1) **Before or upon admission** or, in the case of an outpatient, before treatment is begun, the patient shall be **notified orally** and given a **written copy** of his or her **rights** in accordance with s. 51.61(1)(a), Stats., and this chapter. **Oral notification may be accomplished by showing the patient a video** about patient rights under s. 51.61, Stats., and this chapter. The guardian of a patient who is incompetent and the parent of a minor patient shall also be notified, if they are available. Notification is not required before admission or treatment when there is an emergency.

(2) **Before**, or at a reasonable time **after admission**, a patient shall be informed in writing, as required by s. 51.61(1)(w), Stats., of any **liability** that the patient or any of the patient's relatives may have for the **cost** of the patient's **care and treatment** and the right to receive information about charges for care and treatment services.

(3) Patients who receive services for an extended period of time shall be **orally re-notified** of their rights **at least annually** and be given **another copy** of their rights **in writing** if they **request** a copy **or** if there has been **statutory changes** in any of their rights since the time of admission.

(4) If a patient is **unable to understand** the notification of rights, written and oral **notification** shall be made to the **parent or guardian**, if available, at the time of the patient's admission or, in the case of an outpatient, before treatment is begun, and **to the patient** when the patient **is able to understand**.

(5) **All notification of rights**, both oral and written, shall be in **language understood by the patient**, including **sign language, foreign language or simplified language** when that is necessary. A simplified, **printed version** of patients rights shall be **conspicuously posted** in each patient area."

DHS 94.04, Wis. Admin. Code [Emphasis added.]

"**At the time of discharge** all individuals shall be **informed** by the director of the treatment facility or such person's designee **of their rights** [to access their records] as provided in this subsection."
§ 51.30(4)(d), Wis. Stats. [Emphasis added]

DECISIONS

1. An intense **inpatient AODA program** requires 24-hour, 7-day a week involvement of the patient for up to 30 days. Where this is **explained to all patients upon intake**, the patients' right to **notification** of their rights is **not violated**. (Level III decision in Case No. 98-SGE-02 on 10/13/98, upheld at Level IV.)
2. Where a **methadone clinic did not ensure that all clinic employees were aware of patient rights and the grievance process**, they **violated** the patients' rights. (Level III decision in Case No. 99-SGE-02 on 5/17/00. Appeal to Level IV by the patient was dismissed since the Level III decision was in his favor.)
3. A patient received services from an **agency contracted by the county**. He felt he was **not adequately informed** of his patient rights because his rights were provided in a **perfunctory way, without dialog or the ability on his part to ask questions** or seek **further clarification**. He wanted clarification of the notification requirements and expectations. Given his requested relief, there was **no conclusion** made that the provider was out of compliance, but recommendations were made for **further review** of the agency's rights **notification process**. (Level III decision in Case No. 00-SGE-01 on 6/29/01.)
4. The **notification of rights** is a **very important task** as it is intended to convey to clients that, indeed, **they have many rights** while receiving services, and that there are **mechanisms designed to protect their rights** – such as the DHS 94 **grievance resolution procedure**. Yet, as clients begin receiving services, they may be at various **functioning levels** in terms of their **ability to process** this information and understand their rights. The law emphasizes the **need for flexibility and follow-up** by providers as may be warranted in any given situation. For example, if a client is admitted to an inpatient setting in an **acutely psychotic state**, that may be a **time when the rights are the least meaningful or understandable**. Thus, someone will need to **follow up** with the rights notification at a later time when the client is **more likely to understand** them. There are creative and effective ways in which information can be shared, explained, and discussed to make it meaningful. Usually some combination of oral notification (unless a client states that is not wanted) **and written notification** followed by an **opportunity to ask questions, discuss** what the rights mean, ensure the client **knows who the Client Rights Specialist is**, etc., is effective. The key part of this entire process is **documentation**. Having a patient **sign an acknowledgement** of receipt of rights information is always a **good idea** but, **without more, this alone is not always meaningful**. If there is a question later, additional and **contemporaneous documentation** about what the rights notification process entailed is a **good protective measure** for both a client and agency. It is always positive to include such documentation in the client's record. Documentation of **annual re-notification** of rights is **also necessary**. Who does the follow-up in up to the provider, but logically the Client Rights Specialists should have some role. (Level III decision in Case No. 00-SGE-01 on 6/29/01.)

5. It is **not necessary** for each treatment **staff person** of a clinic, hospital or treatment program to **notify a client of his or her rights** and the grievance process. **One timely notification** prior to the patient beginning his or her treatment is **sufficient**. (Level III decision in Case No. 03-SGE-01 on 7/16/03.)
6. Even though the DHS 94 grievance process has **no jurisdiction** over an **independent physician** delivering services through an office that is not part of a program, the **physician was still obligated to inform his patients of their rights** under Sec. 51.61, Wis. Stats. And, **when the physician became part of an organized service corporation**, he was **also obliged to inform his patients** that the **DHS 94 grievance process** applied as of that time. (Level III decision in Case No. 03-SGE-01 on 7/16/03.)
7. A client complained about lack of access to the DHS 94 grievance procedure at a clinic. It was determined that the clinic does have a Client Rights brochure, which the client was able to get a copy of. The brochure outlines the DHS 94 grievance procedure. The clinic was reminded that they **need to put the name and contact information** of the clinic's **Client Rights Specialist** on **all their brochures**. (Level IV decision in Case No. 06-SGE-01 on 4/3/06)

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