

## SEXUAL MATERIAL

### THE LAW

Each patient shall..."Be permitted to use ... his own ... **personal articles...**"

§ 51.61(1)(q), Wis. Stats. [Emphasis added.]

"A patient's rights guaranteed under **sub. (1) (p) to (t)** may be denied for cause after review by the director of the facility, and **may be denied when medically or therapeutically contraindicated** as documented by the patient's physician, licensed psychologist, or licensed mental health professional in the patient's treatment record. The individual shall be informed in writing of the grounds for withdrawal of the right and shall have the opportunity for a review of the withdrawal of the right in an informal hearing before the director of the facility or his or her designee. There shall be documentation of the grounds for withdrawal of rights in the patient's treatment record. After an informal hearing is held, a patient or his or her representative may petition for review of the denial of any right under this subsection through the use of the grievance procedure provided in sub. (5) or, for review of the denial of a right by a licensed mental health professional who is not affiliated with a county department or treatment facility, through the use of one of the grievance resolution procedure options required under s. 457.04 (8). Alternatively, or in addition to the use of the appropriate grievance procedure, a patient or his or her representative may bring an action under sub. (7)."

§ 51.61(2), Wis. Stats. [Emphasis added.]

"No patient right may be denied except as provided under s. 51.61 (2), Stats., and as otherwise specified in this chapter.

(2)(a) Good cause for denial or limitation of a right exists only when the director or designee of the treatment facility has **reason to believe the exercise of the right would create a security problem, adversely affect the patient's treatment or seriously interfere with the rights or safety of others.**

(b) Denial of a right may only be made when there are documented reasons to believe there is not a less restrictive way of protecting the threatened security, treatment or management interests.

(c) No right may be denied when a limitation can accomplish the stated purpose and no limitation may be more stringent than necessary to accomplish the purpose.

(3) At the time of the denial or limitation, written notice shall be provided to the patient and the guardian, if any, and a copy of that notice shall be placed in the patient's treatment record..."

DHS 94.05(1)-(3), Wis. Admin. Code [Emphasis added.]

"Inpatients shall be allowed to provide their own **room decorations** except that a facility may restrict this right for documented security or safety reasons. Facilities may adopt

policies **restricting areas** where patients may **display sexually explicit** or **patently offensive** room **decorations** and may prohibit gang-related room decorations.”

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

“An inpatient shall be allowed **individual expression** through **music, art, reading materials** and media except for any limitation that may be necessary for documented security or safety reasons.”

DHS 94.24(3)(b), Wis. Admin. Code [Emphasis added.]

[NOTE: As of May 2017, the Client Rights Office will use the term “sexually material” instead of “pornography.” This change will be reflected in the Decision Digest.]

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## DECISIONS

[Document last updated: 05/03/2017]