STAFF-PATIENT CONFLICTS

THE LAW

Each patient shall... "Have a right to a **humane psychological** and physical **environment** within the hospital facilities. These facilities shall be designed to... promote dignity and ensure privacy..." § 51.61(1)(m), Wis. Stats. [Emphasis added.]

Each patient shall... "Have the right to be treated with **respect** and **recognition** of the patient's **dignity** and **individuality** by all employees of the treatment facility or **community mental health program** and by licensed, certified, registered or permitted providers of health care with whom the patient comes in contact."
§ 51.61(1)(x), Wis. Stats. [Emphasis added.]

"Each patient shall be treated with **respect** and with recognition of the patient's **dignity** by all employees of the service provider and by all licensed, certified, registered or permitted providers of health care with whom the patient comes in contact."
DHS 94.24(2)(b), Wis. Admin. Code [Emphasis added.]

DECISIONS

1. An inpatient complained about **lack of interactions with staff** during her six-day stay. Each patient's needs and perceptions are unique, and **staff cannot use a "one size fits all" approach**. There is a thin line between respect for a patient's privacy and choices (e.g. to not have many interactions with others and to be given personal space), and going too far in the other direction (e.g., in trying to probe for interaction with many questions). In the latter instance, the patient could have complained that she was not respected and not given reasonable space or privacy. Here, the record reflects a **reasonable degree of staff attentiveness and vigilance** and, in the latter part of the stay, more discussion with her about issues. It was concluded that the patient's right to a humane psychological and physical environment was not violated in this circumstance. (Level III decision in Case No. 99-SGE-08 on 3/23/01.)

2. A service recipient complained about her **case manager yelling at her** and pounding her fist on the table during a home visit. The case manager admits doing this but said it was a demonstration of how she would act if she were, in fact, the type of controlling person that the service recipient described her to be. This was an **isolated incident**, but the **effect** on the service recipient was **very negative**. **Even though it only happened once**, **it was a violation** of the individual's right to be treated with dignity and respect. (Level III decision in Case No. 01-SGE-05 on 11/29/01.)

3. On the day before her discharge, an Occupational Therapist (**OT**) **made a comment** to the patient to the effect that, "You won't be embarrassed about walking into the

dayroom naked and sitting down." She followed it up by saying, "**Just kidding**". There was no further discussion between the OT and patient regarding the comment. The patient did not tell the OT she found the comment distressing in any way, and the OT did not have any other indication that the patient had not accepted it in a humorous way. In retrospect, the OT said she never would have used this comment or any reference to the word "naked" had she been aware of the sensitive connotation that may have had with the patient. The OT wished that the patient had stated her concerns at the time so they could have discussed them in a positive and solution-oriented way. The OT felt comfortable about using humor with this patient since she had responded well to humor being used in a therapeutic manner on prior occasions. **Staff are not expected to interact only in a formal or robot-like manner with patients.** There is **ample room for humor** in the course of mental health treatment. Had the OT known that the patient would find the comment distressing or demeaning rather than humorous, it would have been a rights violation to say it. **Some comments are so egregious** that, as a matter of law, **they are rights violations** – such as **cursing** at a patient, or **making racial or ethnic slurs**. This comment does not fit that category. Under these circumstances, the comment **did not rise** to the level of a rights violation. (Level IV decision in Case No. 01-SGE-08 on 8/27/02, modifying the Level III finding.)

4. The Level III decision found a violation of a complainant's wife's rights when her **therapist called her at work** to say she was discontinuing the therapy. However, there was **no evidence** in the record that his **wife told the therapist not to call her at work**. This was a **business call**, rather than a personal call, and therefore it was **not necessarily inappropriate** for the therapist to call his wife at work. The **finding** of a **rights violation** was **reversed**. (Level IV decision in Case No. 02-SGE-07 on 3/10/04, reversing the Level III decision.)

5. A complainant accused his wife's therapist of **verbally accosting him** in a public parking lot. The record shows he **attempted to obtain a restraining order** against the therapist in court, but was **unsuccessful**. Since he was unable to prove the matter in court, he failed to show that the therapist had violated his rights in those circumstances. (Level IV decision in Case No. 02-SGE-07 on 3/10/04, upholding the Level III decision.)

6. A man complained on his wife's behalf that she was **given a new therapist without consulting her first**. A treating facility has the right to change therapists for business management reasons. It is **good practice** to **consult with the patient first**, but it **does not rise** to the level of a rights violation **not to do so**. (Level IV decision in Case No. 02-SGE-07 on 3/10/04, reversing the Level III decision.)

7. A complainant alleged that the facility's **Client Rights Specialist** (CRS) **did not identify himself as such** to him in a timely manner. There was evidence in the record that the CRS's name and title were provided to all patients at the facility. If the individual was not re-informed of his title as CRS when discussing his issues with him, this was a **technical violation** of his rights. (Level IV decision in Case No. 02-SGE-07 on 3/10/04, modifying the Level III decision.)

8. An ex-patient complained about a **lack of individualized treatment** at a psychiatric hospital. These concerns were **meaningfully addressed** when the hospital responded to his observations and concerns about the manner in which patients are assessed and treated. The hospital was planning a specific **training session for staff** to address indicators, features, and treatment approaches for Post Traumatic Stress Disorder and Parkinson's Disease. The training will also address the variables that could arise with men's issues during treatment. This staff training should lead to an improved awareness and create a better standard of care, greater dignity and respect for patients, and more individualized treatment decision-making. Given the training initiatives planned, this issue was **considered resolved**. (Level III Decision in Case No. 03-SGE-07 on 4/22/04)

9. A client in the community complained about **her telephone conversation with a crisis worker on a suicide hotline**. She **felt that the crisis worker was disrespectful** and offensive, especially when it came to the topic of spiritual support since the client was not a spiritual or religious person. At a reconciliation meeting the crisis worker apologized to the client for anything that disturbed or offended her. The conversation was not recorded, so it was difficult to establish exactly what the crisis worker said to her. But it was obvious that the client was in despair and that **the crisis worker was trying every approach she knew to try to reach out to her**. The crisis worker asked her about family, friends, religious, spiritual or other supports she could turn to. **It is not, *per se*, inappropriate to ask a caller on a crisis line if they have any spiritual or religious beliefs that might help them** through a very trying time. For some, such support can be a comfort. The **crisis worker had already apologized**. Even if a rights violation had been established here, **there was nothing more that the grievance procedure could offer her by way of an outcome**. The grievance process cannot award monetary or other damages or impose disciplinary actions on staff who violate patients' rights. Any such action could only be taken by the courts or by the staff member's employer. (Level IV decision in Case No. 07-SGE-04 on 6/26/08)

10. A patient complained about the manner in which facility staff treated her **during an Emergency Detention**. She said staff shined laser-pointers and lights in her eyes, especially at night. Patients on ED require frequent monitoring as they are usually in a crisis situation, so staff must continuously check on their welfare, even at night. In the dark, it requires shining a light on them to make sure they are OK. Lights are also used by clinical staff to check the patient's eyes for dilation. While this can be very irritating to the patient, it is often necessary for their welfare. There is insufficient evidence to conclude that a laser pointer was used. It could also have been a small, focused light. The blurred vision she experienced could have been caused by many different factors, including the stress or her ED and medications she may have taken. No rights violations were established. (Level IV decision in Case No. 08-SGE-01 on 7/23/08)

11. While program staff **may be capable of disrespectful, passive-aggressive behavior towards patients**, in such cases **it is essential that grieving parties provide more than hearsay evidence for a rights violation to be found**. (Level III decision in Case No. 11-SGE-01 on 6/28/11)

12. A patient **felt she was treated disrespectfully** by group leaders in a session. However, she was **no longer receiving services from that provider**. Since she was no longer dealing with the staff she complain about, **this issue was moot**. Even if a rights violation had been found, there was no remedy available to her at this time. (Level III decision in Case No. 11-SGE-01 on 6/28/11)

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