

TREATMENT - - RIGHT TO

THE LAW

Each patient shall... "Have a right to receive **prompt and adequate treatment, rehabilitation and educational services** appropriate for his or her condition..."

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

"All patients shall be provided **prompt and adequate treatment, habilitation or rehabilitation, supports**, community services and **educational services** as required under s. 51.61(1)(f), Stats., and copies of applicable licensing and certification rules and program manuals and guidelines." DHS 94.08, Wis. Admin. Code [Emphasis added.]

DECISIONS

1. The **alcohol treatment program** did **not require** the individuals to **attend Alcoholics Anonymous (AA)** or the steps that have religious aspects. Thus, his right to be freedom of religious worship was not violated. (Level III decision in Case No. 98-SGE-02 on 10/13/98, upheld at Level IV.)
2. A **county found** a 17-year old **ineligible for developmental disabilities services**. She had been diagnosed as having a developmental disability at the age of 6 months. At the age of 12, she was diagnosed as autistic by a multi-disciplinary team of professionals. **Autism is developmental disability** that is a **life-long condition**. The question was whether or not she met the eligibility threshold of a 30% or more functional limitation in at least two of five areas of skills. The county conceded she met that threshold in the area of "self-direction and independence". The records indicate that she also meets the threshold in the area of "self care". Thus, she should have been eligible for the county's programs. Her **right** to prompt and adequate treatment **was violated** by the county's denial of her eligibility. (Level III decision in Case No. 98-SGE-03 on 11/10/98.)
3. A complainant **claimed** on appeal that "**alcoholism is not a disease** and that there is not treatment for it." The Level IV decision pointed out that the state Bureau of Substance Abuse Services developed a paper titled, "**Disease concept of Alcoholism**" and that numerous national and international organizations and associations define and classify alcoholism as a disease. The decision also pointed to statistics showing that, although no form of treatment can guarantee 100% success, there is a **high rate of success** for post-treatment abstinence with **post-discharge support group** utilization. (Level IV decision in Case No. 98-SGE-02 on 1/22/99.)

4. A client was **deprived of one of her medications** just prior to taking a long trip, due to a series of **errors and omissions** on the service provider's part. This was a **violation** of her right to prompt and adequate treatment. (Level III decision in Case No. 00-SGE-02 on 6/17/00, upheld at Level IV.)
5. A mother complained that her **son's condition was worsening** since his medications were discontinued. Her son's **doctor was on maternity leave** and the service provider would not temporarily assign him to another doctor. She was instructed to call back the next month when the doctor was scheduled to return. The desperate mother put her son back on the discontinued medication, without any medical assistance. The service provider **violated** the son's **right to prompt and adequate treatment**. (Level III decision in Case No. 00-SGE-08 on 7/28/00, upheld at Level IV.)
6. Where a developmentally disabled young woman ended up in an acute inpatient mental health setting, it was **appropriate** for the Level I Client Rights Specialist to **recommend** a potential "**crisis intervention plan**" for her in case the situation arose again. Such an approach is an element of ongoing quality assurance on the part of the County program, too. (Level III decision in Case No. 99-SGE-07 on 1/3/01.)
7. When a patient raises treatment issues, it is **not sufficient** for the Client Rights Specialist to **simply note** the **response** of the patient's attending **physician**. Further investigation may be required. (Level III decision in Case No. 99-SGE-12 on 1/3/01.)
8. A client's mother filed a **written complaint** on his behalf about the treatment he was receiving from his doctor. She was **referred to the doctor**, instead of the Client Rights Specialist. Since this was a formal complaint, the **doctor had a conflict of interest** and it was inappropriate to refer the matter to him. (Level IV decision in Case No. 00-SGE-08 on 2/21/01.)
9. A client complained that a Community Service Provider (CSP) had not done enough to get him **re-involved** in a local **community center**. This was considered part of his right to reasonable access to community activities. The grievance was resolved by an agreement between the CSP and the client that the CSP would assist him with an inter-personal problem-solving protocol that would hopefully enable him to return to the community center. (Level III decision in Case No. 00-SGE-12 on 8/6/01.)
10. A woman complained about her therapist and the **quality of services** she received. The allegations included concerns about the therapist's professionalism, timeliness, and the large amount of personal information and opinions that were communicated to her during therapy sessions. In a non-secure treatment setting, a therapist's sharing personal information with the client can help to build the relationship by allowing the therapist and client to relate to one another. However, the therapist and patient here seemed to have divergent opinions on social, political, and religious issues. Thus, in this case the **sharing of personal information** may have **compromised** the quality of the **therapeutic relationship**. It seems to have detracted from the client's ability to relate to her therapist or discuss details of her treatment issues with the therapist. This

seems to have occurred both because of the content of the information and the frequency with which it was shared, leaving the client less time to address treatment needs during the therapy sessions. The client did not verbally express her disagreeable response to the sharing of this information to the therapist during sessions. This is unfortunate because the nature of their dialog may have changed if this concern had been clearly stated early in the relationship. However, this is more of a **personality conflict** rather than a patient rights issue. Thus, this **does not rise** to the level of a patient rights violation. (Level III decision in Case No. 00-SGE-03 on 9/12/01.)

11. A woman complained about her therapist because of **cancelled appointments**. The Level I decision found that her right to receive prompt treatment was violated by the high number of cancellations. The service provider implemented a formal plan and consistently followed up on it to reduce the number of cancellations. It was found at Level III that the frequency of cancellations did rise to the level of a patient rights violation and the Level I finding was upheld. The **actions taken** by the service provider remedied the rights violation. (Level III decision in Case No. 00-SGE-03 on 9/12/01.)
12. A patient wanted to **bring a friend** to her **therapy sessions**. The service provider agreed that there are times that it may be appropriate, especially if the person is a primary support person for the client. Bringing another person to a therapy session **requires a signed release** from the patient. Since the requested remedy was provided, this issue was considered resolved. (Level III decision in Case No. 00-SGE-03 on 9/12/01.)
13. A patient **threatened to kill** his wife, her boyfriend and his **therapist**. The transitional living facility he was in was justified in not allowing him to be re-admitted. (Level III decision in Case No. 01-SGE-06 on 10/18/01.)
14. A patient wanted to continue the individual therapy she had received for 9 years, but the service provider shifted to only doing **group therapy** with her. She had been made aware months in advance of the upcoming change in services. The treatment team agreed that this change was appropriate for her treatment needs. Thus, her right to treatment and her right to be free from arbitrary decision-making were not violated. (Level III decision in Case No. 01-SGE-09 on 3/27/02.)
15. A patient's treatment plan focused on the **patient's suicidal ideation** and safety. His doctor developed the plan based on the information he had at the time. Where the patient claimed, at a much later dated, that he lied to the doctor, his right to prompt and adequate treatment was not violated. (Level IV decision in Case No. 99-SGE-05 on 3/29/02, upholding the Level III.)
16. A **PRN** ("as indicated") order **does not mean** the patient will receive the medication **upon demand**. A **qualified medical professional**, such as an RN, must make the **clinical decision** as to whether or not it is appropriate for the patient, based on an assessment of the patient's condition at the time. (Level IV decision in Case No. 99-SGE-05 on 3/29/02, upholding the Level III.)

17. A complainant raised issues regarding the “**couples therapy**” he and his wife received. At **Level II** of the grievance process, it was concluded that the **complainant was not a client**, in the context of therapy that was provided, and thus did not have access to the grievance process. At Level III, it was concluded that the complainant was a patient by definition since he was referred to as such numerous times in the treatment records, **had his own diagnosis**, and had a **joint “treatment plan” with his wife**. Thus, he had access to the grievance process like any other “patient”. (Level III decision in Case No. 00-SGE-11 on 4/30/02, dismissed at Level IV for lack of standing to appeal because the ruling was in his favor at Level III.)
18. A grievance must be filed within 45 days of the occurrence of the event or circumstances or of the time when the event or circumstances “should reasonably have been discovered” or whichever comes last. Here, a minor’s prior physician apparently **misdiagnosed** him. The minor was **later correctly diagnosed** and **appropriately treated** during a stay at a state mental health facility. His parents filed a grievance about his original misdiagnosis seven months after his discharge from the state facility. The grievance was not timely filed. The program director’s refusal to accept this late complaint was an exercise of his discretion. He could have accepted the complaint, but chose not to. He did not abuse his discretion. In fact, there would have been little point in accepting it since the doctor in question was no longer working for the program. (Level III decision in Case No. 03-SGE-01 on 7/16/03.)
19. In general, the treatment decisions of professionals are afforded “**due deference**” by peers and by the courts. However, if a treatment decision “**departs from professional judgment**”, the patient’s right to treatment may have been violated. A “departure from professional judgment” may be evinced in any of three ways: a) where the evidence suggests that the professional exercised **no judgment** at all; b) where the individual was **not qualified** to make the judgment; or c) where a decision was made on an **impermissible basis** (e.g., as “punishment”). (Level IV decision in Case No. 02-SGE-04 on 9/19/03.)
20. There must be **sufficient evidence** to show it was **more probable than not** that a **doctor departed from professional judgment** in his prescribing medication to a patient after a phone call with her. Such evidence would have to come in the form of a **second opinion** from a professional of equal or greater standing than the doctor. Where there was **no such evidence** presented, the finding of a **rights violation** at Level III will be **overturned**. (Level IV decision in Case No. 02-SGE-04 on 9/19/03, overturning the Level III.)
21. In a situation where a **suicidal patient** has been put on a **new medication**, then **cancels her next appointment** with the doctor, the **clinic has a duty** to at least have someone review the situation to see if follow-up contact with the patient is necessary. There was **no evidence** that this was done here. While it could be assumed that, as a voluntary patient, she was exercising her right to discontinue treatment, there should have been some determination made as to whether or not to contact her. The clinic

thus **violated** the patient's **right** to prompt and adequate treatment by not making that determination. (Level IV decision in Case No. 02-SGE-04 on 9/19/03.)

22. Patients have the right to have their **care and treatment coordinated** with **other treatment staff** who are involved in their care and treatment. A doctor ordering a change in a patient's medication must ensure that other members of the patient's treatment team are **informed about the new medication** and the **expected benefits** and **potential adverse side effects** which may affect the patient's overall treatment. (Level IV decision in Case No. 02-SGE-04 on 9/19/03.)
23. Where a **doctor knew or should have known** that his patient was **seeing other professionals** involved in her care, the doctor has a **duty** to at least **attempt to inform** the other therapist involved of a change in medication. If the patient's consent is required, the doctor should ask for it. Where no such attempt was made here, the doctor violated the patient's rights. (Level IV decision in Case No. 02-SGE-04 on 9/19/03.)
24. A mother believed a **therapist acted unprofessionally** in working with her daughter by **not reporting various risky behaviors** in which her daughter was engaged. The therapist was aware that her daughter tried to commit suicide, purposely cut herself many times, used illegal drugs, and engaged in underage sex with multiple partners. The mother thought the therapist should have reported all these incidents to proper authorities. She requested disciplining the therapist – including possible license revocation. The records indicated that the suicidal ideation expressed by the daughter was taken seriously. **Appropriate referral resources** were immediately **offered** to her parents. The daughter was also placed on a medication for depression. For the next seven subsequent sessions the therapist inquired about and documented the daughter's present mental status and thoughts of suicide or dying. Each entry includes some statement indicating that she was asked if she was seriously contemplating suicide or hurting herself. She responded that she was not having thoughts about suicide or hurting herself over the following months. Therefore, her **right** to prompt and adequate treatment **was met**. The therapist was **not obligated** to initiate social services intervention into her family life, **or to notify any other authorities**. (Level III Decision in Case No. 03-SGE-02 on 12/26/03.)
25. 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.)

26. **Methadone** is a **nationally recognized treatment modality** for **heroin addiction**. Where a patient has done well on a methadone program, staying drug-free for a period of 18 months, the **continuation of outpatient treatment** for her is **appropriate**. It is also the least restrictive alternative to inpatient treatment. (Level IV decision in Case No. 99-SGE-01 on 5/16/04.)
27. Someone in a **methadone treatment program** can ask for a **“fair hearing” only** when they have been **involuntarily terminated** from the program. (Level IV decision in Case No. 99-SGE-02 on 5/24/00.)
28. The individual’s right to treatment **includes specific protocols** as necessary to ensure health and sanitary living conditions. The treatment needs of the client need to be considered and clearly documented in the contract between the county and any contract agencies, with a plan for monitoring and updating those treatment goals. Any **barriers** to achieving these needs **must be documented**, the guardian must be informed, and a **plan to resolve** such issues needs to be **implemented**. These treatment protocols are an essential feature for the treatment and management of the client, and they are an **integral part** of the client’s right to prompt and adequate treatment. (Level III Decision in Case No. 03-SGE-04 on 6/15/04.)
29. The sister/guardian of a woman filed a grievance about the care the woman had received while she was living in her own apartment. She had been receiving supportive **home care services** from an **independent service provider** under a general **contract with the county**. The guardian alleged “abuse of a vulnerable adult” because the woman’s apartment was not kept clean by the contractor and was “unlivable due to filth”. The contract contained no specific requirements, but there was a list of duties for the staff who visited her apartment. One duty was to clean the apartment weekly. During one particular period, the contractor’s employees did not complete many of the required items and the apartment became very dirty. Instead, they spent the time **providing companionship** to the woman. Regardless of her desire for companionship, the employees were responsible for keeping the apartment clean. Whenever possible the caregivers should be making sure the task list is completed while working with the client to model those skills, and to create a social situation where tasks can be completed together and in a way that is therapeutic for her by reinforcing daily living skills. The contractor violated her right to a humane environment. (Level III Decision in Case No. 03-SGE-04 on 6/15/04.)
30. The individual’s **right to treatment** includes specific **protocols** as necessary to **ensure health and sanitary living conditions**. The treatment needs of the client need to be considered and clearly documented in the **contract** between the county and any contract agencies, with a **plan for monitoring and updating** those treatment goals. Any barriers to achieving these needs must be documented, the guardian must be informed, and a plan to resolve such issues needs to be implemented. These **treatment protocols** are an **essential feature** for the treatment and management of the client, and they are an **integral part of the client’s right to prompt and adequate**

treatment. (Level III Decision in Case No. 03-SGE-04 on 6/15/04.)

31. A **psychiatrist** prescribing the medications has the **ultimate authority** to make **individualized decisions** for each patient. Individualized decision making is a key element for providing prompt and adequate treatment services appropriate to each individual patient's condition. While the majority of patients may not be suitable for a full disbursement of their medications, psychiatrists and treatment providers need to recognize individuals who are stable and consistent with their treatment programs and accommodate their request for dispensing increased amounts of medications at one time accordingly. (Level III Decision in Case No. 03-SGE-08 on 7/14/04.)
32. The primary rationale for the **proposed change in vocational services** for a client was **economic**. The county Health and Human Services program faced **increasing waiting lists** for people who need services while having **less fiscal support** to provide those services. In the face of a decreasing budget, the HHS was looking at areas where money could be saved. The **costs** of continuing this client's current vocational service provider were **considerably more** than other, **similar providers** in the area. It was **reasonable** for the county to **consider cutting costs without cutting programs**. The client rights question was whether or not the other providers would be able to offer **like services** that **adequately met** the client's **individualized needs** and supported her right to receive **prompt and adequate treatment** appropriate to her condition. It was found that the support services the other vocational provides could offer would be **comparable**. The client would continue working in the same settings at the same times, and with a support person available for the same amount of time. The changes would necessarily include different persons providing those services and doing so under a different organizational structure. However, the vocational services would essentially be the same under the county's proposal. The county's request that the client choose between two other, less expensive, vocational services providers was reasonable and fair. The **need to serve as many clients as possible outweighs the potential benefits of one individual** to continue receiving services from a **more costly service provider** than is necessary to provide support services in a similar manner that other agencies may provide in the same setting. Thus, requiring the client to choose between the two less expensive of three possible providers was not a violation of her rights. (Level III decision in Case No. 03-SGE-09 on 4/11/05)
33. Clients throughout the state receive **different services** from **different providers** who work together as parts of the service delivery system. The key to **maintaining quality services** and an **effective continuity of care and treatment** is the use of effective **communication protocols** between agencies. All agencies involved are expected to communicate and cooperate for the benefit of their clients and in accord with the right to provide prompt and adequate treatment and excellent continuity and coordination of services. (Level III decision in Case No. 03-SGE-09 on 4/11/05)
34. A client in need of a **very specific type of therapist** alleged that the county department of community programming was not coordinating her services adequately. While some of their correspondence and efforts to assist her could have been more timely, **she was**

receiving treatment during the time she allege the lack of coordinated services. This situation **did not rise** to the level of a patient rights violation. (Level III Grievance Decision in Case No. 04-SGE-07, affirmed at Level IV on 8/15/05)

35. A psychiatrist determined that the **therapeutic rapport** between himself and one of his clients had been **irrevocably damaged**. That presented a **valid treatment reason for discontinuing his services** to that client. The agency the psychiatrist worked for gave the client adequate notice and time to find a replacement psychiatrist and also suggested possible alternatives. The client was also appropriately referred back to his own county. The client's rights were not violated. (Level IV decision in Case Nos. 05-SGE-06 and 05-SGE-08 on 12/15/05)
36. An outpatient mental health client believed **she needed financial counseling** and that this should have been brought to her attention by her therapist. While it is recognized that clients in the midst of stressful situation often lack the insight to identify these kinds of needs on their own, this allegation **does not rise** to the level of a patient rights violation. The treatment she was receiving was for psychological issues. It was **reasonable** for her therapist to believe that the **client could identify** and address her **financial concerns** without explicit direction from her therapist. (Level III Grievance Decision in Case No. 05-SGE-12 on 5/16/06)
37. The **adequacy** of the treatment a client received during the last six months of treatment was difficult to ascertain. Treatment records were minimal, the treatment occurred years ago in the past, and there are some differences of recollection between the client and the therapist. However, based on all available information, it seemed **likely** that the therapist was providing adequate treatment based on **her perception** of the client's treatment needs. While it is carefully considered that the **client did not agree** with the therapist's perception of her treatment needs nor the manner in which treatment was provided, it is difficult to prove that the treatment was not adequate based on the available facts. While it was recognized that the treatment she received was **not optimal**, there was **insufficient evidence** to **substantiate** the allegation that the treatment was **not adequate**. (Level III Grievance Decision in Case No. 05-SGE-12 on 5/16/06)
38. Ideally, **treatment** should be provided in the most **integrated** and **comprehensive** manner possible. While each treatment professional may only act within the scope of their own professional capacity, communication between professionals (with the client's consent) is an option. **Professional collaboration** can help provide an **integrated mind/body perspective**. In a situation where a client is in a state of emotional or psychological distress, it may be appropriate for a therapist to request the client's consent to communicate with her other treatment professionals, such as her gynecologist. This is particularly pertinent when the client may lack insight or the ability to process all facets of medical or psychological information at the time. However, it did not rise to the level of a rights violation where there were indicators that the client's physical health care needs were being met and the client desired confidential services. In this situation, it was **not necessary or appropriate** for the therapist to request a

release to **talk** with the client's **other medical professionals**. Identifying a client's physiological health care needs is not an expectation or responsibility of a psychotherapist. (Level III Grievance Decision in Case No. 05-SGE-12 on 5/16/06)

39. A diagnosis made by an independent, outpatient clinician was that **clinician's opinion**, which **cannot be challenged** in the **grievance process**. The client has the right to get a **second opinion** if she disagrees with the diagnosis. (Level IV decision in Case No. 06-SGE-09 on 9/27/06)
40. A client complained about **being refused services** by the **psychiatrist in her small home town**. She was being provided those services in a larger, nearby city, but she had transportation problems. Records indicated that she had originally requested that her services be transferred to the provider's outpatient department in the city, **blaming her local psychiatrist for all of her problems**. Later, she wanted to return to that psychiatrist, but **he refused to take her back** as a client. Considering the history between them, **it was appropriate** for the psychiatrist to refer her to another service provider. When the **psychiatrist/client rapport was irretrievably broken**, **referral to another psychiatrist was warranted**, even if that meant the client had to find transportation to the new provider a few miles away. (Level IV decision in Case No. 06-SGE-14 on 8/16/07)
41. A patient's mother felt that the **outpatient drug treatment program "failed" her son** by **failing to diagnose his depression**. The son ended up requiring inpatient treatment. However, according to his outpatient treatment records, the son **did not appear to present with any depressive or mood disorder** at the time. By his own account, **he did not report feeling depressed, tired, or sad**, as evidenced by the questionnaire he completed on admission. Although the clinic did not diagnose him with depression during his first year of outpatient treatment, the evidence indicated that **a thorough assessment was conducted**. Based on the documentation, the **lack of diagnosis did not constitute a violation** of his right to receive adequate treatment appropriate to his condition. (Level III decision in Case No. 07-SGE-07 on 4/2/08)
42. At the time of a client's admission to an inpatient substance abuse facility, the agency **presented her with a treatment schedule** and had her sign a consent to the treatment program. From the schedule, it appeared that each day would offer a full day's worth of treatment programming to clients. However, **because of the timing of her stay** during the late-December holiday season, **much of the activities and treatment programming on the schedule did not take place**. It was concluded that **the client's right to meaningful informed consent to treatment was violated** due to the **inadequate information** provided to her on admission. (Level III decision in Case No. 09-SGE-03 on 8/05/09)
43. It was determined that the complainants' daughter's right to an **adequate assessment was violated** because the **psychiatrist did not review, consider, and include the past treatment approaches and records before the assessment**. It was also unprofessional for the hospital not to admit the psychiatrist made a mistake by not

reviewing the records that were submitted prior to the appointment. While it is understandable that a mistake can be made regarding records and electronic file sharing, the mistake should have been corrected as soon as it became known so that the treatment of the client need not suffer or be delayed as a result of the mistake. It was further concluded that her **right to a prompt assessment was violated** by the response to the parents' request for their daughter to see another psychiatrist. They were informed that a second assessment would not be able to take place until **five months later**. (Level III decision in Case No. 09-SGE-08 on 5/18/10)

44. A man whose adult son had been protectively placed with him as an Adult Family Home provider **requested to be reimbursed** from the county for the **"respite" hours** and mileage he had provided when the assigned respite staff did not show up to take his son out. The county's attempts to provide respite care were **made in good faith**. If some of the respite care staff did not work out, that does not mean the county violated his son's rights. The reimbursement issue is not grievable as a client rights issue. Rather, it is an issue between the provider/father and the county to work out. (Level IV Decision in Case No. 06-SGE-03 on 9/01/10)

45. **Screening, assessment and treatment planning for client-centered services should, when appropriate, include a determination of the likelihood that a client has co-occurring substance abuse and mental disorders.** Planning should also include gathering information and engaging in a process with the client that enables the provider to establish (or rule out) the presence or absence of a co-occurring disorder. Further, the provider should determine the client's readiness for change and engage the client in the development of an appropriate treatment relationship. Also, **a comprehensive plan should be developed and matched to the individual needs, readiness, preferences and personal goals of the client.** (Level III decision in Case No. 10-SGE-08 on 12/21/10)

46. A mother felt that her teenage son **should have been evaluated for brain damage.** The evidence indicated that the hospital made reasonable efforts to assess his conditions, within the purview of what their Adolescent Unit offered, and created a realistic treatment plan with him. **His treatment was "adequate"**, as required by statute. (Level III decision in Case No. 10-SGE-08 on 12/21/10)

47. A client felt she was **not provided adequate treatment** or treated with dignity and respect because she was **denied services, visits, phone calls and a case manager.** The **evidence indicated that she was not denied these things.** Her case manager and related staff went out of their way to assist her with services and housing. The case manager offered to come to her home rather than requiring her to take the long bus ride to his office. He also assisted her when she moved. Her rights were not violated. (Level III decision in Case No. 10-SGE-07 on 02/18/11)

48. Research indicates that **Clonazepam may increase suicidal thoughts.** Clonazepam in large doses could easily be used by someone to commit suicide and it was found that **a client had 90 excess pills.** It was **appropriate for his psychiatrist to be very**

concerned about his continued use of that drug. **Taking him off that medication was a logical, professional response to the situation. Professional judgments** such as that **will not be second-guessed in the grievance process.** (Level IV decision in Case No. 10-SGE-10 on 4/20/11)

49. It was **not arbitrary** for a provider to **deny** an adult client **transfer to the doctor of her choice** when that **doctor had expressed a wish to limit her new clients to minors only.** That would be **a valid reason to deny the request.** It is not a violation of patient rights for a provider to determine which doctors will see which patients, as long as the decision is rationally based and made in good faith. Any directives placed on what type of patients particular doctors see should be well documented. Doctors themselves may limit, within the provider's parameters, which patients they see based on their schedules and long-term career interests. (Level III decision in Case No. 11-SGE-02 on 06/27/11)
50. The fact that a client's Dialectical Behavior Therapy groups were partially led by individuals that had not completed advanced training did not mean that she received inadequate treatment. Staff credentials are a licensing and regulation issue and, in and of itself, would not constitute a patient rights violation. (Level III decision in Case No. 11-SGE-01 on 6/28/11)
51. A patient complained that the Dialectical Behavior Therapy program she was in did not provide outcome information. The model DBT programs provide that information. A treatment program may deviate from the model on which it is based in order to accommodate the particular needs of the staff, facility, budget and patients. It is not a patient rights violation to do so. It was noted that this program did make changes so that such information would be available in the future. (Level III decision in Case No. 11-SGE-01 on 6/28/11)
52. A patient felt she was not getting enough services and that the provider was denying her services as a direct consequence of her decision to reject the services that had been offered. The provider had offered all the services that they determined would be appropriate and helpful for the patient, according to her individual assessments. It is a positive treatment approach for a program to evaluate a patient based on that patient's specific needs and then, to make recommendations based on that evaluation. No rights violation was found. (Level III decision in Case No. 11-SGE-01 on 6/28/11)
53. A patient felt that the doctor she initially met with should have informed her up front that his limited availability precluded him from treating her regularly. It is standard procedure for doctors to meet with patients in order to assess their needs before making a determination as to how much time that patient will require and whether or not their schedules will permit them to treat that individual. Therefore, the doctor did not provide inadequate treatment in declining to treat this patient. (Level III decision in Case No. 11-SGE-01 on 6/28/11)
54. It was not a patient rights violation to have an internal medicine specialist rather than a

psychiatrist provide a patient her prescriptions, particularly since a psychiatrist initially evaluated her and provided a diagnosis and prescription recommendations. (Level III decision in Case No. 11-SGE-01 on 6/28/11)

55. A five week delay between a client's leaving one Dialectical Behavior Therapy (DBT) group and beginning another was unavoidable and was not a patient rights violation. Treatment providers must stagger group start-dates so that one begins when another one is finished. Since the client left the first group before it ended, a delay was inevitable. (Level III decision in Case No. 11-SGE-01 on 6/28/11)
56. Patients' right to prompt and adequate treatment is **balanced against the provider's right to terminate services for non-payment**. (Level III decision in Case No. 11-SGE-06 on 12/02/11)
57. A person gains patient rights when they receive services for mental illness, substance abuse or developmental disability. Since appropriate services are initially determined at intake, complainant's services began on August 27, 2011. The **issue is whether the time between August 27, 2011 and August 29, 2011 was excessive, given the fact that she was suicidal**. The term "**prompt**" is not defined in the relevant statute or code, nor has it been addressed in the context of prior community grievance precedents. Her intake assessment from August 27, 2011 indicated that she was "able to contract for safety." **The seriousness of suicide cannot be understated. Unfortunately, services are not always available when they are most needed, despite the best efforts of service providers. Doctors are in the best position and have discretion to make decisions about how to prioritize services based on availability and need. Her doctor's professional judgment was utilized in determining that she was able to ask for help and there was no evidence that the doctor made that decision based on an impermissible basis. Thus, no violation of her right to prompt and adequate treatment was found.** (Level III decision in Case No. Case No. 11-SGE-07 on 06/22/12)
58. A patient claimed that **staff failed to provide her with adequate services when she was allegedly crying in her bathroom for up to an hour**. The physician's notes from that date indicated that **staff were aware of her mental state and were addressing it according to professional standards of care. If staff did not come to her immediately while she was crying, it is not necessarily inadequate treatment**. Patients have a right to privacy in toileting and the bathroom is traditionally a place people expect privacy. Further, it is plausible that staff decided that venting her feelings in private was appropriate and therapeutic intervention was not required. **No violation** of her right to prompt and adequate treatment was found. (Level III decision in Case No. Case No. 11-SGE-07 on 06/22/12)
59. Unfortunately, **not every patient** that receives services for mental health **leaves treatment feeling equipped to handle adversity. Sometimes that is due to the failure to provide adequate services. Other times that is due to an inability on the client's part to process the information and assistance provided**. No violation was

found of her right to prompt and adequate treatment. (Level III decision in Case No. Case No. 11-SGE-07 on 06/22/12)

60. A patient complained about the **change in her medication dosage** while she was an inpatient. She felt that her doctor should have had more contact with her mother and her out-patient psychiatrist before he adjusted her medication level. She claimed she had been doing well on the level she had been on and that if her medication had not been changed, she would not have “suffered” as much during her inpatient stay and that stay would have been shorter. However, it was noted that the medication levels she was on before her inpatient stay were not well tailored to her needs since she was not doing well and, consequently, required hospitalization. Additionally, **she could have requested a second opinion** within the provider if she questioned her doctor’s prescriptions. It was found that **her physician was acting within the professional standards of care** and did not violate her rights. (Level III decision in Case No. Case No. 11-SGE-07 on 06/22/12)

61. A patient complained about **termination of his services** by his provider. However, he was no longer receiving services from the program and had no desire to continue with them. Thus, even if his rights had been violated by the termination from that program, there was no remedy that could have been granted to him that would have rectified the situation. The State Grievance Examiner (SGE) opted to use her discretion to address this issue anyway in the Level III decision. The subsequent analysis of the situation led to the conclusion that **he had failed to meet his burden** of showing that his rights had been violated by the termination of his services. He provided no new evidence in his appeal to Level IV that would add sufficient “weight” to meet his burden of showing that his rights were, in fact, violated. (Level IV decision in Case No. 10-SGE-15 on 03/27/13)

62. A patient claimed that her right to adequate treatment was violated: when she was **not screened for domestic abuse during admission to an inpatient facility**; when the facility performed a **body search on her that was allegedly not trauma informed**; and when she was discharged 28 hours after requesting discharge, which is four hours more than the 24 hours stated in the provider’s policy. **The right to adequate treatment requires reasonable levels of care within accepted professional standards, it does not require best practices.** However, treatment must be individualized. There was conflicting evidence as to whether a domestic violence screen was completed. Since there were no obvious signs of abuse or coercion, the question became one of whether domestic violence screening should be routine for all incoming patients. **It would have been best practice to do a domestic violence screen in this case. However, even if the facility failed to do so, it would not have been a violation of the patient’s right to adequate treatment.** Similarly, although it is best practices to use trauma informed care, failure to do so is not a violation of a patient’s right to adequate treatment. Finally, the 24 hour policy in question provides an exception for weekends to ensure that a doctor can assess the patient’s safety prior to release. Since the patient failed to claim that the additional four hours in the facility did her any harm and since there is an applicable exception to the 24 hour policy, no violation of the patient’s right to

adequate treatment was found. (Level III decision in Case No. 16-SGE-08 on 5/26/2017)

[Document last updated: 07/17/2018. Digesting in progress for cases decided after 2013]