

# CLIENT RIGHTS SPECIALIST TRAINING



WISCONSIN DEPARTMENT  
*of* HEALTH SERVICES

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# The facts

- Clients rights is the law.
  - ✓ [Wis. Stat. § 51.30 – Records](#)
  - ✓ [Wis. Stat. § 51.61 - Patient Rights](#)
  - ✓ [Wis. Admin. Code ch. DHS 92 - Confidentiality of Treatment of Records](#)
  - ✓ [Wis. Admin. Code ch. DHS 94 - Patient Rights and Resolution of Patient Grievances](#)
- It is the duty of all staff at a service provider to enforce the client rights law.
- Clients who feel their rights have been violated may file complaints or bring lawsuits to enforce their rights.

# Who has client rights?

- People receiving services for developmental disability, mental health challenges, and substance use challenges have client rights.
- People may receive these services in a variety of inpatient and outpatient settings, including adult family homes, clinics, community-based residential facilities, facilities operated by the Wisconsin Department of Health Services, and group homes.
- Inmates, emergency room patients, and single-person provider clinic patients are not covered by Wisconsin's client rights law.

# Be a professional

- There are civil and criminal penalties for staff who violate client rights, including breaching confidentiality.
- Staff may also be disciplined by the provider for client rights violations.

# CLIENT RIGHTS FOR ALL PATIENTS

# The basics

Every patient has the right to:

- Be treated with dignity and respect by all staff of the provider.
- Be informed of his or her rights.
- Be informed of any costs of his or her care.
- Have staff make fair and reasonable decisions about them (decisions cannot be arbitrary).
- File complaints about violations of his or her rights.
- Be free from any retribution for filing complaints.

# Treatment

Every patient has the right to:

- Receive prompt and adequate treatment.
- Participate in their treatment planning.
- Be informed of their treatment and care.
- Refuse treatment and medications unless court-ordered.
- Refuse electroconvulsive therapy.
- Refuse drastic treatment measures.
- Be free from unnecessary or excessive medications.

# Privacy

- Every patient has the right to not be filmed or taped without his or her consent.
- In some settings, a live monitor is okay, but no filming or taping is allowed.
- Cell phones may need to be restricted to ensure that no recording takes place within the program office or clinic.



# Record privacy and access

- Staff must keep patient information confidential.
- Records cannot be released without patient consent with some exceptions.
- Patients may see their records.
- They can always see records of their medications and health treatments.
- During treatment, access may be limited if the risks outweigh benefits.
- Patients may challenge the accuracy, completeness, timeliness, or relevance of entries in their records.

# CLIENT RIGHTS FOR INPATIENTS

# The basics

Inpatients should have all the client rights they would enjoy in the community, unless there is a valid treatment, management or security reason for limits on those rights.

In addition to the client rights listed for all patients, inpatients have the right to:

- Live in a humane environment.
- See (or refuse to see) visitors daily.
- Participate (or not) in religious worship.
- Use their own possessions.
- Wear their own clothing.

# Personal

Inpatients have the right to:

- Be re-notified of their rights annually if they are long-term patients.
- Have the least restrictive environment, except for forensic patients.
- Not be secluded or restrained except in an emergency when necessary to prevent harm to self or others.
- Refuse to work – except for personal housekeeping tasks.
- Be paid for work they agree to do that is of financial benefit to the facility.

# Personal

Inpatients have the right to:

- Use their own funds unless there is a guardian or representative payee.
- Be taught money management, if appropriate.
- Have a reasonable amount of secure storage space (for their possessions and their own food where possible).
- Have regular and frequent exercise opportunities.
- Have regular and frequent access to the outdoors.
- Have privacy in toileting and bathing (with same-sex assistance where possible).

# Communication

Inpatients have the right to:

- Have reasonable access to a phone.
- Send and receive unread mail. (A guardian can consent to staff reading the mail to the client.)
- Contact public officials, lawyers, or advocates.

# LIMITATIONS OR DENIALS OF RIGHTS

# The basics

- Certain rights of clients in residential settings may be limited or denied through a process called client rights limitation or denial (CRLD)
- Certain rights may be denied through the CRLD process only when there are documented reasons that there is not a less restrictive way of protecting security, treatment, or management interests.
- When less restrictive measures are not considered feasible the rationale for that determination should be clearly documented.



# The basics

- The CRLD process applies to the following client rights:
  - ✓ Phone use
  - ✓ Seeing visitors
  - ✓ Privacy in bathing/toileting
  - ✓ Use of own possessions
  - ✓ Access to storage space
- Other rights may be limited or denied outside of the CRLD process. More information can be found on the DHS website:  
<https://www.dhs.wisconsin.gov/clientrights/limitdenial.htm>

# The basics

The right to send/receive mail and the right to refuse treatment or medications may only be limited or denied per court order or in an emergency.

# The basics

- Items that are banned per policy (either within the whole facility or on certain units within a facility) can be confiscated by staff without having to follow the CRLD process. (examples: illegal drugs or potential weapons)
- Any confiscation should be documented in the client's records.

# Limitation vs. denial

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

- Wis. Admin. Code § 94.05(2)(c)

# Notice

When a client right is limited or denied:

- Written notice must be provided to the client and the guardian within two days and a copy of that notice must be placed in the client's record.
- The provider client rights specialist must get a copy and, if the county is involved, the county client rights specialist must also get a copy.

# Notice

- The guardian should be asked to consent to the limitation or denial.
- If the guardian refuses consent, the provider must make a risk-management decision whether to impose the restriction or denial anyway.
- If the limitation/denial is imposed over the guardian's objection, the guardian should be informed of the right to file a grievance or challenge the limitation or denial in court.

# Notice

The notice must contain:

- The specific reason for the limitation.
- The conditions for restoring the right.
- The expected duration of limitation.
- Notification of the right to an informal hearing.

- Wis. Admin. Code § 94.05(3)

# Process

- CRLDs must be documented.
- An optional form that can be used to document CRLDs is available on the DHS website:  
<https://www.dhs.wisconsin.gov/clientrights/limitdenial.htm>



# Documentation

The documentation of a CRLD should be detailed.

- Do not use the term non-therapeutic, use counter-therapeutic.
- Do not use per policy, state a specific reason.
- Do not base the limitation on general security or treatment reasons, state a specific reason.

# Review

- The client rights specialist must review each CRLD to determine whether it meets the requirements.
- If any of the requirements are not met, the client rights specialist must send the CRLD back for corrections before it is implemented. If it can not be corrected to meet legal requirements, the limitation or denial must end.

# Requirements

- Is the CRLD for a right that can be limited or denied?
- Is the CRLD proposed for a valid treatment, management, or security reason?
- Is there good cause for the CRLD?
- Is the expected duration of the CRLD specified?
- Does the CRLD specify what the client must do to have their right reinstated?
- Does the CRLD specify a review schedule?

# Contesting

- The client has a right to an informal hearing or a meeting with the person who made the CRLD decision within three days.
- The client may also file a grievance about the limitation or denial.

# Informal hearing/meeting

The informal hearing/meeting gives the client the opportunity to refute the reasons for the CRLD.

- The person who made the decision or their representative should attend.
- The client should be informed of the reasons for the limitation or denial and expected duration.
- The client is not entitled to full “due process” rights (like calling witnesses).
- The client may have an approved advocate speak for them.

# Informal hearing/meeting

- Staff must show there is “probable cause” to believe the exercise of the right by the client would create a security problem, adversely affect the client’s treatment, or seriously interfere with the rights or safety of others.
- Staff must also show why the limitation/denial is the least restrictive measure necessary under the circumstances.

# Review

CRLDs must be reviewed on a reasonable schedule to see if they are still necessary.

- Inpatient facilities accredited by the Centers for Medicaid & Medicare Services must review limits/denials on phone calls and visitors weekly. It is best practice for other facilities to follow this standard, too.
- All other limits/denials should generally be reviewed at least once a month.

# Review

- Longer review schedules are allowed when the limitation/denial is part of a patient's treatment program that has a regular review schedule, such as quarterly or annually.
- In rare cases, such as a limitation/denial on certain possessions, reviews may be done annually.
- No review schedule for a limitation/denial should be longer than a year.



# GRIEVANCE PROCESS FOR ALL CLIENTS

# The basics

- Client rights specialists and other staff at the service provider should not take complaints personally.
- Grievances are opportunities for clients to be heard and to improve service delivery.
- A grievance does not need to be written nor formal.
- A grievance should be processed any time a client states, upon questioning, that they wish to utilize the grievance process.

# The basics

- The client rights specialist investigates grievances.
- The client rights specialist decides how to investigate a grievance. The client must be interviewed. Interviewing others, reviewing records, and/or checking the physical environment is optional.
- Client rights specialists make a determination as to whether a grievance is “founded” or “unfounded.”
- The determination/finding and the reasoning supporting it should be included in the “Level I-A Report.”

# The basics

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# The basics

- Clients should file grievances/complaints within 45 calendar days from the date the event occurred. The client rights specialist has discretion to accept a later submission.
- It can never hurt to reassure clients that they will not be punished for complaining. It is a clear patient rights violation for a program to retaliate against a patient in any way for raising a complaint.

# The basics

- The client rights specialist must process all grievances no matter how trivial they may seem. For example, a client might complain that his food was too delicious. Even complaints this inconsequential must be reviewed. The analysis should be brief and documented so that the client learns about what their client rights are and so that the provider has a record of all complaints.
- Clients may file more than one grievance at one time, but they should be handled individually.

# Informal resolution

- The informal grievance resolution process may be selected by either the client or the client rights specialist at any time.
- Time limits are suspended during any period in which the informal resolution process is used.
- If either party believes the informal resolution process is inappropriate, they may opt for the formal process.
- Any resolution achieved through the informal process must be documented and provided to the parties.

# Formal resolution

## LEVEL I – PROGRAM LEVEL REVIEW

- I-A – Client rights specialist report
  - ✓ This detailed response to the client’s grievance is due in 30 days (5 days in an emergency).
  - ✓ The client has 14 days to appeal the determination/findings to the program manager.
- I-B – Program manager’s review
  - ✓ This is a desk review, not an investigation. The report should clarify whether the program wishes to affirm, modify, or reverse the client rights specialist decision.
  - ✓ The client has 14 days to appeal the determination/findings to the county level review (Level II) OR state grievance examiner (Level III).



# Formal resolution

## LEVEL II – COUNTY LEVEL REVIEW

- If the county is paying for the client's services, the contact information for the director of the county department should be provided to the client in the appeals section of the Level I-B decision.
- This level of review gives the county an opportunity to review the program's decision regarding whether a patient's rights were violated.
- A Level II decision is due in 30 days.
- The client has 14 days to appeal the decision to the state grievance examiner.

# Formal resolution

## LEVEL III – STATE LEVEL REVIEW

- The state grievance examiner reviews the client's complaint.
- This review may include more investigation of the client's complaint.
- The state grievance examiner issues a decision and makes any recommendations that might improve services and remedy actual or potential rights violations.
- The state grievance examiner has 30 days to complete their review.

# Formal resolution

## LEVEL IV – DCTS ADMINISTRATOR

If a client appeals the determination/findings of the state grievance examiner, the next level is a desk review by the administrator of the Division of Care and Treatment Services.

# Formal resolution

- All grievances must start at Level I in the process.
- The four-step process allows for objective reviews at several levels.
- Clients may appeal for any reason.

# Court review

- Client may take their concerns to court at anytime.
- They do not have to “exhaust their administrative remedies” before filling a lawsuit.
- Clients can not obtain monetary damages through the grievance procedure. Only a court can award monetary damages.

# Website

For more information on client rights in Wisconsin, visit the DHS Client Rights Office website:

<https://www.dhs.wisconsin.gov/clientrights/index.htm>

The screenshot shows the website for the Wisconsin Department of Health Services Client Rights Office. At the top, there is the department's logo and a search bar. Below the logo is a navigation menu with categories: About DHS, Data & Statistics, Diseases & Conditions, Health Care & Coverage, Long-Term Care & Support, Prevention & Healthy Living, Partners & Providers, and Certification, Licenses & Permits. A secondary navigation bar lists topics from A to Z. A COVID-19 update banner is visible below the navigation. The main content area is titled 'Client Rights Office' and includes a sidebar with links to 'Client Rights: Home', 'Contacts', 'How to File a Complaint', 'List of Rights', 'Community Treatment', 'State Centers', 'State Mental Health Institutes', 'Secure Treatment Center', and 'Minors'. The main text describes the office's mission and lists 'Duties of the office' and 'History of the office' as key areas. A section titled 'Promotion of client rights' is also visible.

# Questions

Staff in the DHS Client Rights Office are available to answer your questions. Contact information for staff is available on the DHS website.

<https://www.dhs.wisconsin.gov/clientrights/contacts.htm>

# Certificate of completion

To receive a certificate of completion for this training, you must complete and pass this quiz:

<https://www.surveygizmo.com/s3/6355341/Client-Rights-Quiz>