

ARBITRARY DECISIONS - - RIGHT TO BE FREE FROM

THE LAW

Each patient shall... "Have a right to a **humane psychological... environment** within the hospital facilities..."

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

"Patients have the right to be free from having **arbitrary decisions** made about them. To be non-arbitrary, a decision about a client must be **rationally based** upon a **legitimate treatment, management or security interest.**"

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

The treatment facility shall maintain a patient treatment record ... which shall include: "**Documentation** that is **specific** and **objective** and that adequately **explains** the **reasons** for any **conclusions** or **decisions** made regarding the patient."

DHS 94.09(6)(d), Wis. Admin. Code [Emphasis added.]

DECISIONS

1. 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.)
2. 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 when the doctor may have returned. But they never attempted to ascertain exactly when the doctor would come back. The **service provider violated the son's right** be free from **arbitrary decisions** being made about him. (Level III decision in Case No. 00-SGE-08 on 7/28/00, upheld at Level IV.)

3. **Financial assistance for housing is not an issue covered by client rights** and such decisions cannot be challenged in the grievance process in DHS 94. (Level III decision in Case No. 01-SGE-02 on 6/6/01.)
4. 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.)
5. 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.)
6. A **methadone clinic** took away a client's **Sunday take-home privileges** after some incidents. The client had a positive breathalyzer test result for alcohol, had lost her take-home bottle, and had taken an overdose of another medication. She was **informed in writing** of the **requirements** for restoring her Sunday take-home privilege, which included having no positive breathalyzers for alcohol and obtaining a letter from her psychiatrist stating that in his/her best clinical judgment that she was responsible and could handle her Sunday take home bottle. Her **right to be treated fairly** was **not violated** because the clinic had **significant, appropriately documented reasons** to take away her Sunday take-home dose. The Sunday take-home dose was eventually restored in an individualized and appropriate manner. (Level III decision in Case No. 04-SGE-02 on 12/20/04)
7. A client of a **methadone clinic** had difficulties receiving psychiatric treatment for anxiety that was accessible and affordable to her and which was also acceptable to the clinic. She found one she liked, but **was told to quit seeing him** by the clinic or her services would be terminated. The psychiatrist in question **does not have a good reputation in the field of substance abuse treatment** because he has a reputation for **prescribing medications that may not be appropriate**. She then found a new psychiatrist who charged more and was less accessible for her to visit. Her right to choose her own psychiatrist was not violated because the clinic had good reasons to ask her to see a different psychiatrist. It was **not an arbitrary decision** by the clinic in these circumstances. (Level III decision in Case No. 04-SGE-02 on 12/20/04)
8. 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)

9. A client had used an **enclosed canopy bed** (manufactured and labeled as a "Vail 1000" bed) for several years for sleeping at night, occasional naps during the day, and as a platform for some personal cares. After an extensive review of the client's situation, it was concluded that **this particular canopy bed was appropriate and safe** for her use. Though technically a **restrictive measure**, it was found that the bed was the **least restrictive alternative to ensure her safety** while allowing her to get the sleep she needed. Therefore, the state and county decisions to discontinue their approval of the use of her Vail 1000 bed was a **violation** of the client's right to a **safe and humane environment** and an **arbitrary decision** because it **was not individualized** to this client's **exceptional safety needs and her unique situation**. This decision **does not set precedent for all Vail beds** or other canopy beds, but only for the bed as it was being used in this specific instance. Thus, the precedent is not binding for other provider agencies or other clients. (Level III decision in Case No. 07-SGE-03 on 12/19/07)
10. A former client of an outpatient **methadone clinic** complained about a new policy that **Sunday take-home doses** were restricted to those who did not miss other dosing days. He wanted the clinic to either be open on Sundays or reverse the Sunday take-home policy. It was concluded that the **policy did not punish patients** because it was **applied equitably**, it was **instituted to motivate** patients to take every scheduled dose, it **has been successful** in decreasing no-shows, it **complies with the federal regulations, state law and code** and the **provider does make exceptions** to the policy for patients that miss doses infrequently and for good reasons, such as automobile problems or illness. No rights violation was found. (Level III decision in Case No. 10-SGE-13 on 3/03/11)
11. A former client of an outpatient methadone clinic complained that he was **not allowed to use a cell phone** even though staff used them. The restriction of cell phone use on

program premises was **not arbitrary**. The clinic has to ensure that patients' confidentiality is protected. Cell phones can and have been used to record and then post to the Internet video of patients in the clinic. Staff are also prohibited from using cell phones there. If staff were not following that directive, the matter would need to be addressed by program administration since it would not amount to a patient rights violation unless evidence was provided that staff were illicitly video recording clients at the clinic. (Level III decision in Case No. 10-SGE-13 on 3/03/11)

12. A former client of an outpatient methadone clinic complained that the **rules and policies were constantly changing** without being adequately communicated to the patients, that he was not provided with a rule handbook after requesting one, nor were new rules put into writing for him. He wanted all rules to be preceded by four weeks notice and for there to be better staff-patient communication about policies. The two-week notice of the new Sunday take-home policy was adequate and did not violate patient rights. Recommendations were made regarding staff-patient communication. (Level III decision in Case No. 10-SGE-13 on 3/03/11)
13. 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)
14. A client's right to be free from arbitrary decisions was **not violated** because the provider's **decision to terminate her treatment** was based on accusations the provider found credible. Also, the provider's decision was based, at least in part, on evidence of a missed same day call-back, which is a **rule violation**. (Level III decision in Case No. 11-SGE-05 on 9/20/11)
15. A client complained about **losing her Phase 5 treatment status** at a methadone clinic. Adjusting someone's treatment level is a **risk-reduction measure**. For that type of decision, the provider **only needs probable cause** to believe that the patient poses a significant risk in order to implement the measure. Her missed call-back and the two anonymous accusations that she was hoarding and selling her methadone doses provided them with sufficient probable cause to reduce her treatment phase. The **decision** was therefore **not arbitrary**. (Level IV decision in Case No. 11-SGE-04 on 10/17/11)
16. It is **not a rights violation for one party** to decide, in the midst of negotiation, that **they no longer want to negotiate**. (Level III decision in Case No. 11-SGE-06 on 12/02/11)

17. The issue is whether the **two days between complainant's intake assessment and her inpatient admission** was excessive, given the fact that she was suicidal. Her intake assessment 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 06/19/12)
18. A patient had several complaints that stemmed from her alleged misdiagnosis by one of the provider's doctors. The patient was diagnosed with bi-polar II, which allegedly caused severe problems in her life. The patient alleged that the diagnosis was arbitrary. **The patient had the burden to show that the diagnosis was not based upon a legitimate treatment, management or security interest to prove that it was not arbitrary.** The provider's documentation supported the conclusion that the diagnosis was based on a legitimate treatment interest. The doctor believed that the patient had bipolar and made the diagnoses to get the patient the assistance that she needed to feel better. The patient was suffering badly until she started taking the medication prescribed for bipolar disorder and then recovered. **There was no violation of the patient's right to non-arbitrary decisions.** (Level III decision in 12-SGE-0006 decided on 11/14/2012)
19. 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)
20. A patient grieved that he was put into the provider's Safety Management Level System (SMLS) in violation of his client rights. The patient alleged that he was not an appropriate candidate for SMLS because he was not suicidal. **When all patients receive the same treatment is it less likely that the provision of that treatment to one patient is arbitrary. The use of a broad treatment program is likely to be tailored to patients admitted to a special unit for specific treatment.** All patients on the providers locked unit at the provider were on SMLS and all of them had been determined to be a risk to harm themselves or others. Thus, all patients who begin treatment at the facility participate in the SMLS unless the interdisciplinary

determined that it would undermine the patient's treatment. **Here, the treatment team met to consider the patient's desire to get off of SMLS and determined, in their discretion, that SMLS was appropriate for the client. The client's diagnosis and history justified paying close attention to his safety. The provider's decisions to place the client on SMLS and to keep him in the program despite his desire to be removed from it were not arbitrary.** (Level III decision in Case No. 12 SGE-0012 decided on 06/11/2013)

21. A patient was discharged because the provider allegedly discovered that she was audiotaping her interactions with her therapist and provider staff without permission. The patient filed the grievance in the hopes that she would be able to start seeing the same therapist again. The case was held to be moot, but the State Grievance Examiner analyzed her claims in the hope of providing closure and clarification for the parties. **Patients do not have the right to be given a list of all acts that could result in discharge from services.** Providers should give notice of anything unusual or surprising that could result in discharge from services. DHS regulations required some providers to consider whether the discharge may be the result of the patient's mental health symptoms. However, **that regulation did not apply to this provider because this provider was not a state certified clinic. Even if the regulation had applied to the provider, the provider's actions did not rise to the level of an arbitrary decision because the client-therapist relationship was broken.** (Level III decision in 12-SGE-00017 decided on 8/22/2013)
22. A patient filed a grievance because his therapist failed to conduct a PTSD evaluation on the patient despite the patient asking several times to be evaluated for PTSD. The patient alleged that the therapist did not come right out and refuse to do the evaluation but instead employed other approaches, such as cognitive behavioral therapy, in their sessions. **The decision to evaluate (or not) a client for a particular diagnosis is within the professional discretion of a trained therapist. However such decisions must be based on legitimate treatment, management or security reasons. The case notes disclosed that the therapist had a legitimate reason to not test for PTSD, namely that the client was seeking a PTSD diagnosis to unfairly access SSDI.** The fact that another therapist later diagnosed the patient with PTSD did not prove that the therapy was inadequate or that the decision not to test the patient was arbitrary. (Level III decision in 14-SGE-0002 decided on 11/19/2014)
23. A patient alleged that his rights to adequate treatment and to be free from arbitrary decisions were violated when his therapist failed to provide medication that he requested. The grievant indicated that he suffers from severe nerve pain. Evidence showed that three referrals were made to pain clinics. The patient did not attend appointments with any of the suggested clinics and cancelled his psychiatric evaluation appointments. The patient stated that he did not pursue medication from the pain clinics because he could not get pain medication from the pain clinics due to the clinics suspicion that he may have been drug seeking. **Failing to provide the**

patient with pain medication upon his request was not a violation of his right to adequate treatment. (Level III decision in 14-SGE-0003 decided on 6/26/2015)

24. A patient alleged that his right to be free from arbitrary decisions was violated when his therapist failed to provide medication that he requested. **A decision about a client must be based on a legitimate treatment, management or security interest to be non-arbitrary. The burden is on the patient to provide sufficient evidence that it was more probable that not that the decision was a departure from professional judgement to support a finding that a treatment decision is arbitrary.** Such evidence has to be in the form of a second opinion from a professional of equal or greater standing than the doctor. No such evidence was provided by the patient. On the contrary, the record in this case reflects that the treatment team documented legitimate treatment reasons not to provide the patient with his requested pain medications. Namely, **the doctor expressed concern that the grievant has unaddressed mental health and substance abuse issues that should be evaluated prior to prescribing pain medication. No violation of the patient's right to be free from arbitrary decisions was found.** (Level III decision in 14-SGE-0003 decided on 6/26/2015)
25. A patient alleged that his rights to adequate treatment and to be free from arbitrary decisions were violated when the provider failed to give the patient sufficient information about his court ordered psychiatric evaluation. The patient cancelled his evaluation appointments and so he never had a chance to discuss his concerns with experts. The provider gave the grievant referrals to mental health evaluators who would be able to give the grievant information regarding the efficacy and purpose of the evaluation. The grievant may have felt unsafe even showing up to the evaluation appointments to collect information. Regardless, he cancelled the appointments. **An explanation of the purpose of the referrals was not required, but would have been best practices. No violation of the patient's rights to adequate treatment and to be free from arbitrary decisions was found.** (Level III decision in 14-SGE-0003 decided on 6/26/2015)
26. A patient had three therapy appointments cancelled and rescheduled in three weeks. The appointments were rescheduled without checking with the patient about the dates and times. The provider argued that the cancellations occurred because a provider was ill, a computer training for all staff was required and the therapist went on vacation. **No violation of the patient's right to non arbitrary treatment decisions was found because the cancellations were made for reasons that made sense and rescheduling occurred promptly and the patient was able to attend the sessions.** (Level III decision in Case No. 15-SGE-0003 on 01/14/2016)
27. **A therapist asked a grievant to sign two release of information forms for the personal purposes of the therapist's spouse.** To be non-arbitrary, a decision must be rationally based on a legitimate treatment, management or security interest. A grievant must show that the decision was arbitrary by a more likely than not standard.

The grievant provided a letter from the therapist that indicated that the therapist should not have requested a release of information to a friend of the therapist's wife. **The evidence showed that it was more likely than not that the release was requested for reasons that were not reasonably related to the client's treatment.** Thus, a violation of the client's right to be free from arbitrary treatment decisions was found. (Level III decision in Case No. 15-SGE-0002 on 01/29/2016)

28. A patient was approached by a friend of her therapist's wife who told her that the reason that the grievant was being treated was that the therapist wanted to have sex with her. The grievant's therapist (who was also the Director of the provider) requested a release of information so that the therapist's wife (who was also an employee of the provider) could prove something to her friend. Next, the therapist requested that the grievant sign a release to his wife's friend. There were several red flags in this case. **Since the grievant and the therapist occupied the same social circles, gossip about the therapist from a mutual acquaintance damaged the client/patient relationship.** Further, it led the therapist to request **two releases of information for personal reasons.** A violation of the patient's right to non-arbitrary treatment decisions was found. (Level III decision in Case No. 15-SGE-0002 on 01/29/2016)

29. A grievant claimed that a strip search conducted without warning upon her admission was improperly performed by staff at an inpatient psychiatric hospital. **A patient has a right to be free from arbitrary treatment decisions. A decision about a patient must be based on legitimate treatment, management or security interests.** There must be a reason for the decision that makes sense under the circumstances. Due deference must be given to treatment professionals while determining if the decision makes sense. However, if a treatment decision "departs from professional judgement" a patient's rights may have been violated. In this case the legitimate management and security reasons for a search upon admission were obvious. Searches limit the risk of people bringing weapons or drugs into an inpatient unit. **Patients on inpatient units have a right to a safe environment, therefore strip searches are allowable. This rationale may not be used to support extreme measures. The right to a safe environment must be balanced against other applicable client rights.** The balancing should result in searches being completed in accord with Trauma Informed Care practices because such practices are part of adequate treatment. Here, the patient's right to be free from arbitrary decisions was not violated because the policy was a valid management and security decision created via professional judgement by qualified staff for permissible reasons. (Level III decision in Case No. 15-SGE-0008 on 6/16/2016)

30. A patient alleged that a provider violated her client rights when she called to complain about adverse side effects that she was experiencing after changing her medication. The patient claimed that provider staff claimed that staff did not need to respond to her inquiry for 48 hours. A 24 hour response time is certainly best practice. However, **a 48 hour response time for medication issues is acceptable**

when viewed through the lens of client rights where there are immediate services available to clients, such as urgent care and emergency. This case would not have risen to a violation of the patient's right to prompt and adequate treatment or her right to be free from arbitrary decisions even if this portion of the complaint had not been dismissed as moot. (Level IV decision in 14-SGE-0005 decided on 10/17/2016)

31. A patient claimed that her former therapist lied in her progress notes. The patient alleged that the misrepresentations in her treatment record were a violation of her right to have non arbitrary treatment decisions made about her. Among the therapist's alleged lies included in her treatment record were: that she had no previous history of memory loss; that he had not previously known the patient to be so upset; that her symptoms had been worsening and etc. It could be an arbitrary decision if a therapist wrote inaccurate information in progress notes. **There was no legitimate reason for the therapist to lie in the client's progress notes.** Here, there was **no evidence that the therapist's notes were inaccurate. The main problem with the grievant's claim was that she did not support her grievance with evidence of the veracity of her allegations.** No violation was found because the progress notes did not appear on their face to be based on arbitrary rationalization. (Level III decision in Case No. 16-SGE-03 on 11/3/2016)
32. A patient grieved that he was wrongly denied Targeted Case Management (TCM), was wrongly discharged from Comprehensive Community Services and was misled about his ability to return to TCM. The patient allegedly wanted to continue to receive services with different contracted agencies under the provider's services. **A decision about a client must be rationally based on a legitimate treatment, management or security interest in order to be non-arbitrary.** Although treatment decisions of professionals are entitled to due deference, if a treatment decision departs from professional judgement the treatment decision may be a violation. In **this case, the discharge could have been based on legitimate management and security reasons because the grievant was making death threats against staff members. Death threats against staff constitute a legitimate security reason to discharge a patient, as well as a treatment reason to dismiss a patient since the level of trust between a patient and provider are compromised by high levels of anger and fear.** Further, when a patient refuses to work with individual staff and the contracted service agency it constitutes a legitimate management decision to discharge a patient. (Level IV decision in Case No. 15-SGE-0007 on 12/9/2016)
33. A Grievant was **working on his Driver Safety Plan and receiving outpatient AODA services through the county to have his driver's license reinstated.** He attended a portion of his safety plan, but did not finish it. Evidence submitted by the grievant's doctor showed that the patient was disabled and had severe restrictions on his ability to walk or travel long distances in a vehicle, which the grievant alleged made him **unable to transport himself to the clinic.** His requests for telephonic

services were denied. Providers must not make arbitrary decisions about patients. **In order to be non-arbitrary, a decision about a client must be rationally based on a legitimate treatment, management or security interest**, meaning that a given provider decision must make sense under the specific circumstances of a given case. In order to be arbitrary, a treatment decision must depart from professional judgement by the provider in order to overcome the due deference that treatment professionals are accorded. **Departure from professional judgement may be evidenced by: (i) a showing that the professional exercised no judgement at all; (ii) a showing that the professional was not qualified to make the decision; or (iii) a showing that the judgement was made on an impermissible basis, such as punishment.** Although the grievant made a convincing case as to the extent of his medical issues, he failed to offer any evidence that tended to show any departure from professional judgement in deciding not to offer services remotely. The provider identified significant security and management issues that prevented in home AODA services including the difficulty of in home drug testing, ensuring the safety of unaccompanied staff entering the homes of known substance users, some of whom own firearms or accompanied staff violating the confidentiality of clients. It was held that the client's right to be free from arbitrary treatment decisions was not violated. (Level IV decision in Case No. 16-SGE-01 on 12/15/2016)

34. A patient's mother acted on her daughter's behalf and claimed that services received through the Treatment Alternative and Diversion program run by the County violated her daughter's patient rights. The Grievant claimed that her right to be free from arbitrary treatment decisions was violated when the treatment team discharged the patient based on inaccurate lab results showing positive results for use of heroin, cocaine and morphine. **Tests from six separate dates came up positive for drugs, most frequently cocaine. The tests were found to be accurate.** Furthermore, evidence showed that the patient was struggling in treatment, had a negative attitude and was undermining and defensive when confronted on her behaviors by staff. In general, treatment decisions of professionals are afforded "due deference." A patient's right to non-arbitrary treatment decisions may have been violated *only* if a treatment decision departs from professional judgement. Nothing presented evidenced that the patient's treatment team failed to use proper judgment, were unqualified or discharged the patient as punishment or for any other impermissible reason. **Based on the determination that the lab results were reliable and on the fact that the discharge decision was based on diminishing participation in treatment and ongoing refusal of recommended services in addition to positive drug screens, no violation of the patient's right to be free from arbitrary treatment decisions was found.** (Level IV decision in "Case No. 16-SGE-0006 on 10/23/2017)

35. There was a **lack of documentation into the decision-making process that led to the discharge of a minor patient.** The provider implied that the discharge was

due to the breakdown in the therapist-family relationship, but this implication, **without support from documentation, was not determined to be a legitimate treatment, security or management reason to discharge a patient when services can be switched to other staff.** However, the provider also stated that there were **no other therapists available** to serve the client in the area in which he lives. This issue would create **a legitimate management reason to discharge the client.** As such, there was no violation found of the patient's right to be free from arbitrary decisions when discharged. (Level III Grievance Decision in Case No. 18-SGE-02).

36. A mother/guardian complained, on behalf of her adult son about a number of his rights having been violated at a day treatment service provider. No violation of the participant's right to be free from arbitrary decisions was found because **data collection was done for legitimate reasons rooted in appropriate treatment and management.** (Level III Grievance Decision, upheld at Level IV, in Case No. 19-SGE-02)
37. A mother/guardian complained, on behalf of her adult son about a number of his rights having been violated at a day treatment service provider. The fact that some of the details included in documenting the participant's privacy needs described a challenging situation for staff, and for the participant, shows **the documentation served the purpose of understanding what kinds of situations need to be anticipated and was not done for arbitrary reasons.** Therefore, no violation of the participant's right to be free from arbitrary decisions was found. (Level III Grievance Decision, upheld at Level IV, in Case No. 19-SGE-02)
38. A patient complained that the **decision to discharge him from services was arbitrary.** However, the decision was non-arbitrary because **there were legitimate treatment and security reasons to discharge the grievant.** He did not want to receive the therapy services, expressed multiple times his belief that staff were incompetent, and was extremely **hostile, aggressive, and threatening towards staff.** (Level III Decision in Case No. 19-SGE-04, upheld at Level IV)
39. An outside agency filed a grievance on behalf of a client. The agency and client claim that the client's discharge violated her rights. The **discharge was because of the client's behavior, a diminished trust and relationship between the client, the client's daughter, and the provider, and a mutual agreement to discontinue services.** There were legitimate management reasons to discharge the client. Therefore, the discharge was not arbitrary. (Level III Grievance Decision in Case No. 20-SGE-03).
40. An individual filed a complaint on behalf of his wife, alleging that a longstanding **policy enacted by a clinic which required that patients meet with their current psychiatrist to initiate a request to transfer to a different psychiatrist** was arbitrary. In the course of investigating the appeal to Level III, it was discovered that

the **clinic amended the policy** shortly after the complaint was filed, such that patients are no longer were required to meet with their current psychiatrist to initiate a transfer request. However, the clinic did not acknowledge this policy change in any correspondence with the patient or grieving party, and the policy continued to be a source of concern in the appeal to Level III. As the policy was already amended, there was **no further relief that could be provided**. This concern was dismissed as resolved. (Level III decision in case number 21-SGE-07)

41. A patient alleged that staff violated her rights when **a social worker enacted the facility's Duty to Protect policy and contacted law enforcement**. It was found at both Level I and Level II that the patient's rights were violated as the Duty to Protect policy was not properly used as the patient had no plan and no access to weapons. **There was not proper rationale to support the decision to contact law enforcement, therefore, the patients right to be free of arbitrary decisions was violated**. The facility reviewed and updated their Duty to Protect policy and it is a part of all employee training. As the facility has already taken adequate steps to ensure this did not happen again, there were no further recommendations that the Client Rights Office could make. Level I and Level II both found rights violations. Level III affirms Level I and II. (Level 3 Decision Case No. 22-SGE-04)

[See: "Introduction to Digest-Date Last Updated" page.]