

## GUARDIANSHIP

### THE LAW

“...The written, informed consent of any patient shall be obtained [prior to providing services], unless the person has been found not competent to refuse medication and treatment under s. 51.61 (1) (g) or the person is a minor 14 years of age or older who is receiving services for alcoholism or drug abuse or a minor under 14 years of age who is receiving services for mental illness, developmental disability, alcoholism, or drug abuse. In the case of such a minor, the written, informed consent of the parent or guardian is required, except as provided under an order issued under s. 51.13 (1) (c) or 51.14 (3) (h) or (4) (g), or as provided in s. 51.138 or 51.47. Except as provided in s. 51.138, if the minor is 14 years of age or older and is receiving services for mental illness or developmental disability, the written, informed consent of the minor and the minor’s parent or guardian is required, except that a refusal of either such a minor 14 years of age or older or the minor’s parent or guardian to provide written, informed consent for admission or transfer to an approved inpatient treatment facility is reviewable under s. 51.13 (1) (c), (3), or (4), or 51.35 (3) (b), and a refusal of either a minor 14 years of age or older or the minor’s parent or guardian to provide written, informed consent for outpatient mental health treatment is reviewable under s. 51.14.”

§ 51.61(6), Wis. Stats.

"Any **informed consent** which is required under [sec.51.61] sub. (1)(a) to (i) **may be exercised by the patient's legal guardian** if the patient has been adjudicated incompetent and the guardian is so empowered, or by the **parent** of the patient if the patient is a minor."

§ 51.61(8), Wis. Stats. [Emphasis added.]

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### DECISIONS

1. 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.)
2. [Note from the Client Rights Office: **A person under guardianship may still file his or her own patient rights complaints. The guardian’s consent is not required.** The guardian should, however, be informed of any complaint involving the guardian’s ward.]

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