

LIBERTY / SECURITY LEVEL ISSUES

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.]

DECISIONS

1. A Patient claimed that her right to a humane psychological environment was violated upon admission to an inpatient unit when a body search was conducted. The State Grievance Examiner found that strip searches should be done in the least intrusive manner possible, which includes: (i) **patient should have an unhurried opportunity to understand the reasons for the search;** and (ii) **searches should be done in a manner that is trauma informed, especially for women entering a psychiatric inpatient unit, because they are likely to have been physically and or sexually abused in the past and may be terrified of being undressed for any length of time. A locked inpatient unit is, in this respect, the equivalent of a "maximum security" unit, which gives the facility the right to conduct body searches before the patient leaves or enters the security enclosure.** This case is differentiated from 15-SGE-08 decided on 6/16/2016, which found that a patient's right to a humane psychological environment was violated by a body search upon admission where there was no documentation of an individualized need for the search, because patient here was being admitted to a maximum security locked unit. Further, patient did not provide evidence of disrespectful or inhumane treatment during the search, beyond the fact that the search was required at all. (Level III decision in Case No. 16-SGE-08 on 5/26/2017.)

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