

RISK-REDUCTION MEASURES

THE LAW AND STANDARDS

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.]

Standard for Risk-Reduction Measures:

When a decision is made to **take an action** to **prevent** a patient from being in the position to **impose a significant risk of harm**, this is a **risk reduction measure**. In accordance with the Client Rights Office, risk-reduction measures must meet the following standards in order not to be found to be **arbitrary**:

1. There must be a **showing** that there is a **significant risk** that the patient will exhibit the feared behavior.

[This is analogous to the "**probable cause**" standard used in the legal system.]

2. There must be a **rational basis** for the **perception** that there is a **risk**.

[Staff should take into account **all available evidence** and should be as free from personal bias as possible. Staff may, however, rely on their **subjective or intuitive skills** if necessary to reach a judgment. The **patient's past history**, especially with regard to **antecedent behaviors**, can play a key role in arriving at the perception that there is a risk.]

2. The measure taken to reduce the risk should be the **least restrictive alternative** that is **appropriate to the danger**.

[The measure taken must actually **reduce the risk**. If it does not reduce the risk, what is the point? No measure should be taken which is more restrictive than necessary to accomplish the goal.]

3. The measures must be **ended** as soon as the **danger is over**.

[The danger is the **justification**. When the risk has been reduced to an acceptable level, the justification no longer exists. That is why patients must be removed from seclusion and/or restraint when they have calmed down. **Trial releases** from seclusion and/or restraint are one way to measure the current level of risk.]

5. The measures must meet the basic standards for **humane treatment**.

[NOTE: Imposition of a **consequence** for **violation** of a **rule** is a **deterrent sanction** and must meet deterrent standards. See **Rules & Sanctions** section of this digest.]

DECISIONS

[None at this time.]

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