

SAFETY - - RIGHT TO

THE LAW

"...[Hospital] **facilities** shall be designed to afford patients with **..safety...**"

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

"Staff shall take **reasonable steps** to ensure the **physical safety** of all patients."

DHS 94.24(2)(a), Wis. Admin. Code [Emphasis added.]

DECISIONS

1. A woman **complained about her doctor**, alleging that the **medications** he prescribed for her may have **caused an adverse heart reaction** leading to an **emergency visit** to the hospital. This allegation was **reviewed** by the **Bureau of Regulation and Licensing (BRL)**, which reviews medical allegations of malpractice or injury to others. BRL did not find that the heart reaction and emergency room visit was necessarily caused by the medication. The **grievance process defers to BRL's medical expertise** on such issues and thus there was **no finding** of any rights violation. (Level III decision in Case No. 00-SGE-03 on 9/12/01.)
2. The **county** is **ultimately responsible** for the health and **safety** of a client to whom they provide services. **Even though they have a contract** for an independent **service provider** to do the hands-on services, the **contracted agency's failure** to perform its duties **is also the county's failure**. The **county must monitor** the providers it **contracts** with in order to **ensure that vital services are provided for their clients**. (Level III Decision in Case No. 03-SGE-04 on 6/15/04.)
3. The sister/guardian of a woman filed a grievance about the **care** the woman had received while she was **living in her own apartment**. She had been receiving supportive home care services from an independent service provider under a general contract with the county. The guardian alleged lack of care **causing deterioration** in health to the point of **needing immediate medical attention**. Staff's tasks included providing "acu-checks," monitoring her bathing three times a week and providing medical treatment for her hands and legs with sores. It was found that the woman's **rights were violated** when the contract agency **did not complete the assigned tasks** during a period of time and the woman's health deteriorated as a result. (Level III Decision in Case No. 03-SGE-04 on 6/15/04)
4. 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)

5. A patient with a history of anxiety, major depression, prior suicide attempts and substance abuse was admitted into the hospital's inpatient psychiatry unit. She was put on one of the least restrictive precautionary treatment levels despite the fact that she had attempted to commit suicide in the past 48 hours prior to admission. The patient was given a butter knife with a meal and stabbed herself in the abdomen. **The client had unique safety needs because she had attempted to end her life with a knife before and had within the last couple of days attempted to commit suicide.** The provider had knowledge of these circumstances and still put the patient on a level on which knives are given to clients with food and on which the client had a semi-private bathroom. The level I-B decision argued that the decision to put the patient on one of the least restrictive precautionary treatment levels with additional monitoring and open seclusion (a monitored but private room because of the patient's pseudo-seizures) was individualized and took into consideration the client's rights and needs. **However, no documentation of the consideration process was provided in evidence.** The patient's exceptional safety needs and her unique situation would seem to require a greater level of precaution than the level she was admitted to afforded, even with the added services. Namely, **the individual need of not giving the client sharps was not met. As a whole, the provider failed to correctly weigh safety versus the least restrictive treatment conditions.** Thus, the client's right to an individualized, safe environment was not met and her right was violated by the provider in this regard. (Level III decision in 13-SGE-0004 decided on 11/5/2013)
6. A patient was receiving services at a Community Based Residential Facility (CBRF) under a commitment order and an involuntary medication order. The **patient alleged that she was poisoned at the CBRF.** The grievant's only evidence was her claim that staff tried to poison her with tainted hamburger. No violation of the grievant's right to adequate treatment or her right to a safe environment was found because **the grievant's allegation was the only evidence presented that staff served the grievant poisoned hamburger.** (Level IV decision in Case No. 15-SGE-0001 on 10/17/2016)
7. A grievant claimed that a strip search conducted upon her admission was improperly performed by staff at an inpatient psychiatric hospital. The grievant claimed that she never would have signed a statement agreeing to voluntary admission if she had been warned that the strip search would be required. The search was not

technically part of the patient's treatment as treatment is defined in applicable statutes. Such a search was most likely done to meet safety and management needs. **If a person were able to enter into an inpatient psychiatric hospital with weapons or drugs the safety of all patients would be compromised. Therefore the right to informed consent was not violated because informed consent relates to treatment, not policy.** (Level III decision in Case No. 15-SGE-0008 on 6/16/2016)

8. 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)

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