



Client Rights Limitations and Denials

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Client Rights Office
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Agenda



- Client rights in community treatment
- Provider responsibilities when limiting or denying a client right
- Question and answer period

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State Grievance Examiners: Who are we and what do we do?



- Respond to questions from the community about issues with services for mental health, substance use, and/or developmental disability: DHSDCTSCRO@dhs.wisconsin.gov.
- Investigate appeals to Level III within the Wis. Admin. Code ch. DHS 94 patient right and resolution process.

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Client Rights: Relevant Laws and Codes



- Wis. Stat. §§ 51.30 and 51.61 – Client Rights
- Wis. Admin. Code ch. DHS 94 – Patient Rights
- Wis. Admin. Code ch. DHS 92 – Confidentiality of Treatment Records

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Client Rights in Wis. Stat. § 51.61



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Categories and List of Client Rights



- Treatment rights
- Record privacy and access
- Communication rights
- Personal rights
- Financial rights
- Privacy rights
- Miscellaneous rights
- Right to file grievances

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No Limitation or Denial of These Client Rights



- Be informed of rights
- Refuse labor
- Send/receive sealed mail
- Petition court for release
- Least restrictive conditions
- Prompt and adequate treatment
- Participate in treatment planning
- Refusing medication and treatment
- No unnecessary/excessive medications
- Free from restraint and seclusion

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No Limitation or Denial of These Client Rights



- No experimental research
- No drastic treatment
- Participate in religious worship
- Have a humane environment
- Confidentiality of records
- No filming or taping
- Use one's own funds
- Be informed of costs of care
- Be treated with dignity and respect

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Client Rights Limitations and Denials



Six patient rights can legally be limited or denied by using a DHS form: Client Rights Limitation or Denial Documentation, F-26100.

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May Limit or Deny These Rights Using a Client Rights Limitation or Denial



- Access to **telephone**, Wis. Stat. § 51.61(1)(p)
- Wearing one's own **clothing**, Wis. Stat. § 51.61(1)(q)
- Using one's own **possessions**, Wis. Stat. § 51.61(1)(q)
- Adequate **storage space**, Wis. Stat. § 51.61(1)(r)
- Privacy in **toileting and bathing**, Wis. Stat. § 51.61(1)(s)
- Seeing **visitors**, Wis. Stat. § 51.61(1)(t)

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Privacy in Toileting



- The Division of Care and Treatment Services and Division of Quality Assurance interpret urine drug screens as activities of toileting and bathing.
- Community providers who provide urine drug screens with in-person or video monitoring must notify individual patients of the limitation or denial of their right to privacy upon implementation.

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Client Rights Limitation and Denial Process



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Wis. Stat. § 51.61(2)



- Privacy during toileting and bathing is one of the client rights that may be limited or denied under Wis. Stat. § 51.61(2).
- The client rights limitation or denial process outlined in Wis. Admin. Code § DHS 94.05 must be followed to implement in-person or video monitoring of urine drug screens.
- Service providers must document limitations or denials of client rights on the Client Rights Limitation or Denial Documentation, F-26100.

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Client Rights Limitation or Denial Documentation Requirements



- The burden is on the **provider** to provide sufficient reasons why a right will be limited or denied (treatment focused).
- Client rights limitations or denials are not long-term behavior management or treatment interventions.
- Notice and documentation must include conditions that the patient must meet to have their rights reinstated.

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Complete Client Rights Limitation or Denial Documentation/Form



At the time of the limitation or denial, F-26100 needs to be completed and explained to the patient.

- If the patient agrees, they will sign.
- A copy needs to be given to the patient and/or guardian.
- A copy must be also given to the patient rights staff person(s) at the provider.

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Completing F-26100



DEPARTMENT OF HEALTH SERVICES
Division of Care and Treatment Services
F-26100 (03/2019)

STATE OF WISCONSIN
Wis. Stat. § 51.61(2)
Wis. Admin. Code § DHS 94.05

CLIENT RIGHTS LIMITATION OR DENIAL DOCUMENTATION

Signature of client is voluntary. If not signed, the staff will witness and document refusal. This record is filed in the client's record and is accessible to all authorized users

INSTRUCTIONS for completion of this form are on the back of this form or page two.

Name – Client (Last, First MI)

Name – County 51.42 Board which Authorized Placement

Name – Agency / Institution / Facility

Living Unit

Date Limitation/Denial Begins

Client Right to be Affected

☐ Phone use

☐ Storage Space

☐ Clothing, Possessions, and Laundry

☐ Visitors

☒ Privacy in Toileting and Bathing

☐ Mail (980 patient only)

Describe Specific, Individualized Limitation / Denial

Describe what less restrictive alternatives have been considered:

Reason for Limitation / Denial

☐ Safety ☐ Security ☐ Treatment

Explain Specific Reason for Limitation / Denial

Attach Relevant Documentation

Condition for Restoring Right(s) – Explain the specific conditions required for restoring or granting the right.

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Describe Specific Limitation



Limiting privacy in toileting during urine drug screens by using in-person or video monitoring

- Video monitoring means live feed only, no recording permitted
- **Describe what less restrictive alternatives have been considered**
 - No monitoring
 - Video monitoring instead of in-person monitoring

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Reason for Limitation/Denial



- Check box for safety, security, or treatment. (Most situations in Wis. Admin. Code chs. DHS 35 and 75 settings would indicate "treatment" as the reason.)
- Explain specific reason for the limitation or denial.
 - Individualized reason
 - Attach any relevant documentation (example: progress note related to the client rights limitation or denial implementation)

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Condition for Restoring Rights



What is the patient required to do to have their right to privacy during toileting restored?

- Conditions and goals must be tailored to the specific patient.
- Condition for restoring rights should be data driven (example: number of negative urine screenings, number of months, etc.).
- Goals must be achievable by the patient—client rights limitations and denials are meant to be a temporary aspect of treatment.

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Signatures



Signing either line is acknowledgement of receipt of form.			<input type="checkbox"/> Client unwilling or unable to sign.
I DO want a hearing/meeting SIGNATURE – Client		Date Request Signed	
I DO NOT want a hearing/meeting SIGNATURE – Client		Date Signed	
SIGNATURE – Staff (person completing form)	Title / Position	Date Signed	
Date – Hearing Conducted / Meeting Held		Client's Comments at Hearing / Meeting or Give Location Where Comments are Documented.	
Hearing / Meeting Outcome <input type="checkbox"/> Right Restored <input type="checkbox"/> Right / Limitation / Denial Continued <input type="checkbox"/> Right / Limitation / Denial Modified as Follows:			
SIGNATURE – Person Conducting Hearing / Decision Maker	Title / Position	Date Signed	

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Signatures



The limitation or denial should be explained in detail to the patient in a manner they can understand.

- Patient signs that they do or do not want an informal hearing/meeting.
- Patient signatures are voluntary.
- If the patient refuses, staff checks that they were unwilling or unable to sign.

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Signatures



Within three calendar days of the limitation or denial, the client has the right to an informal hearing or meeting with the person who made the decision.

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Informal Hearing/Meeting



- Informal hearing is held with director or program manager or designee.
- Informal meeting is held with the staff person who completed the form.

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Informal Hearing/Meeting Details



- Present the specific reasons for the limitation or denial.
- Allow the patient an opportunity to dispute facts or their opposition on the matter.
- Document patient comments on the form which is kept in the client record, or it must be noted on the form where the patient comments can be found.
- Document outcome on the form.

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Review Schedule



REVIEW SCHEDULE	
This limitation/denial shall be reviewed <input type="checkbox"/> Daily <input type="checkbox"/> Quarterly <input type="checkbox"/> Weekly <input type="checkbox"/> Annually <input type="checkbox"/> Monthly <input type="checkbox"/> Other:	Reasons for Choosing this Review Schedule
REVIEW DATE	OUTCOME
DISTRIBUTION: Original – client's record; Copy – client rights specialist; Copy – county client rights specialist; for state facilities, Client Rights Office; Copy – client or guardian at time of limitation/denial	

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Review Schedule



- Check the appropriate box for how often the limitation or denial will be reviewed (recommended at least monthly).
- This review is to determine if the limitation or denial is still necessary.
- Indicate reason for the review schedule chosen.
- Enter the review dates, outcome, and staff signature.
- **Once the need for the client rights limitation or denial has passed, the limitation or denial must be made less restrictive or discontinued.**

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Summary



Protection of client rights for in-person or video monitoring of urine drug screens requires:

- Following the client rights limitation or denial process outlined in Wis. Admin. Code § DHS 94.05.
- Using the Client Rights Limitation or Denial Documentation, F-26100.

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For More Information



- Client Rights Office email for technical assistance:
DHSDCTSCRO@dhs.wisconsin.gov
- Client Rights Office webpages:
www.dhs.wisconsin.gov/clientrights

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