

CONSUMER RIGHTS AND GRIEVANCE PROCESSES UNDER § 51.61, STATS., AND DHS 94, WIS. ADMIN. CODE

Wis. Stats., 51.01 Definitions. As used in this chapter, except where otherwise expressly provided:

(2g) (a) “Brain injury” means any injury to the brain, regardless of age at onset, whether mechanical or infectious in origin, including brain trauma, brain damage and traumatic head injury, the results of which are expected to continue indefinitely, which constitutes a substantial handicap to the individual, and which directly results in any 2 or more of the following:

1. Attention impairment.
2. Cognition impairment.
3. Language impairment.
4. Memory impairment.
5. Conduct disorder.
6. Motor disorder.
7. Any other neurological dysfunction.

(am) “Brain injury” includes any injury to the brain under par. (a) that is vascular in origin if received by a person prior to his or her attaining the age of 22 years.

(b) “Brain injury” does not include alcoholism, Alzheimer’s disease as specified under s. 46.87 (1) (a), or degenerative brain disorder, as defined in s. 55.01 (1v).

(5) (a) “Developmental disability” means a disability attributable to brain injury, cerebral palsy, epilepsy, autism, Prader-Willi syndrome, mental retardation, or another neurological condition closely related to mental retardation or requiring treatment similar to that required for individuals with mental retardation, which has continued or can be expected to continue indefinitely and constitutes a substantial handicap to the afflicted individual. “Developmental disability” does not include dementia that is primarily caused by degenerative brain disorder.

(b) “Developmental disability”, for purposes of involuntary commitment, does not include cerebral palsy or epilepsy.

51.61 Patients rights. (1) In this section, “patient” means any individual who is receiving services for mental illness, developmental disabilities, alcoholism or drug dependency, including any individual who is admitted to a treatment facility in accordance with this chapter or ch. 48 or 55 or who is detained, committed or placed under this chapter or ch. 48, 55, 971, 975 or 980, or who is transferred to a treatment facility under s. 51.35 (3) or 51.37 or who is receiving care or treatment for those conditions through the department or a county department under s. 51.42 or 51.437 or in a private treatment facility. “Patient” does not include persons committed under ch. 975 who are transferred to or residing in any state prison listed under s. 302.01. In private hospitals and in public general hospitals, “patient” includes any individual who is admitted for the primary purpose of treatment of mental illness, developmental disability, alcoholism or drug abuse but does not include an individual who receives treatment in a hospital emergency room nor an individual who receives treatment on an outpatient basis at those hospitals, unless the individual is otherwise covered under this subsection. Except as provided in sub. (2), each patient shall:

Note: The statutes go on to list the rights provided, as well as other significant information. These rights and information related to the grievance process are addressed below.

Client Rights and the Grievance Procedure for Community Services* for Clients Receiving Services in Wisconsin for Mental Illness, Alcohol or Other Drug Abuse, or Developmental Disabilities Under Chapter 51, Wisconsin Statutes and for Persons Who Receive Protective Services or a Protective Placement Under Chapter 55, Wisconsin Statutes

*The term Community Services refers to all services provided in non-inpatient and non-residential settings.

CLIENT RIGHTS

When you receive any type of service for mental illness, alcoholism, drug abuse, or a developmental disability, you have the following rights under Wisconsin Statute sec. 51.61 (1) and DHS 94, Wisconsin Administrative Code:

PERSONAL RIGHTS

- You must be treated with dignity and respect, free from any verbal, physical, emotional or sexual abuse.
- You have the right to have staff make fair and reasonable decisions about your treatment and care.
- You may not be treated unfairly because of your race, national origin, sex, age, religion, disability or sexual orientation.
- You may not be made to work except for personal housekeeping chores. If you agree to do other work, you must be paid.
- You may make your own decisions about things like getting married, voting and writing a will, if you are over the age of 18, and have not been found legally incompetent.
- You may use your own money as you choose.
- You may not be filmed, taped or photographed unless you agree to it.

TREATMENT AND RELATED RIGHTS

- You must be provided prompt and adequate treatment, rehabilitation and educational services appropriate for you. Note: The statutes have a significant limitation related to this right. Clients “have a right to receive prompt and adequate treatment, rehabilitation and educational services appropriate for his or her condition, under programs, services and resources that the county board of supervisors is reasonably able to provide within the limits of available state and federal funds and of county funds required to be appropriated to match state funds.”
- You must be allowed to participate in the planning of your treatment and care.
- You must be informed of your treatment and care, including alternatives to and possible side effects of treatment, including medications.
- No treatment or medication may be given to you without your written, informed consent, unless it is needed in an emergency to prevent serious physical harm to you or others, or a court orders it. [If you have a guardian, however, your guardian may consent to treatment and medications on your behalf.]
- You may not be given unnecessary or excessive medication.
- You may not be subject to electro-convulsive therapy or any drastic treatment measures such as psychosurgery or experimental research without your written informed consent.
- You must be informed in writing of any costs of your care and treatment for which you or your relatives may have to pay.
- You must be treated in the least restrictive manner and setting necessary to achieve the purposes of admission to the program, within the limits of available funding.

RECORD PRIVACY AND ACCESS

Under Wisconsin Statute sec. 51.30 and HFS 92, Wisconsin Administrative Code:

- Your treatment information must be kept private (confidential), unless the law permits disclosure.
- Your records may not be released without your consent, unless the law specifically allows for it.
- You may ask to see your records. You must be shown any records about your physical health or medications. Staff may limit how much you may see of the rest of your treatment records while you are receiving services. You must be informed of the reasons for any such limits. You may challenge those reasons through the grievance process.
- After discharge, you may see your entire treatment record if you ask to do so.
- If you believe something in your records is wrong, you may challenge its accuracy. If staff will not change the part of your record you have challenged, you may file a grievance and/or put your own version in your record.
- A copy of sec. 51.30, Wis. Stats., and/or HFS 92, Wisconsin Administrative Code, is available upon request.

NOTE: There are additional rights within sec. 51.61(1) and DHS 94, Wisconsin Administrative Code. They are not mentioned here because they are more applicable to in-patient and residential treatment facilities. A copy of s. 51.61, Wis. Stats. and/or DHS 94, Wisconsin Administrative Code, is available upon request.

GRIEVANCE PROCEDURE AND RIGHT OF ACCESS TO COURTS

- Before treatment is begun, the service provider must inform you of your rights and how to use the grievance process. A copy of the Program's Grievance Procedure is available upon request.
- If you feel your rights have been violated, you may file a grievance.
- You may not be threatened or penalized in any way for presenting your concerns informally by talking with staff, or formally by filing a grievance.
- You may, instead of filing a grievance or at the end of the grievance process, or any time during it, choose to take the matter to court to sue for damages or other court relief if you believe your rights have been violated.

GRIEVANCE RESOLUTION STAGES

Informal Discussion (Optional)

- You are encouraged to first talk with staff about any concerns you have. However, you do not have to do this before filing a formal grievance with your service provider.

Grievance Investigation--Formal Inquiry

- If you want to file a grievance, you should do so within 45 days of the time you become aware of the problem. The program manager for good cause may grant an extension beyond the 45-day time limit.
- The program's Client Rights Specialist (CRS) will investigate your grievance and attempt to resolve it.
- Unless the grievance is resolved informally, the CRS will write a report within 30 days from the date you filed the formal grievance. You will get a copy of the report.
- If you and the program manager agree with the CRS's report and recommendations, the recommendations shall be put into effect within an agreed upon timeframe.
- You may file as many grievances as you want. However, the CRS will usually only work on one at a time. The CRS may ask you to rank them in order of importance.

Program Manager's Decision

- If the grievance is not resolved by the CRS's report, the program manager or designee shall prepare a written decision within 10 days of receipt of the CRS's report. You will be given a copy of the decision.

County Level Review

- If you are receiving services from a county agency, or a private agency and a county agency is paying for your services, you may appeal the program manager's decision to the County Agency Director. You must make this appeal within 14 days of the day you receive the program manager's decision. You may ask the program manager to forward your grievance or you may send it yourself.
- The County Agency Director must issue his or her written decision within 30 days after you request this appeal.

State Grievance Examiner

- If your grievance went through the county level of review and you are dissatisfied with the decision, you may appeal it to the State Grievance Examiner.
- If you are paying for your services from a private agency, you may appeal the program manager's decision directly to the State Grievance Examiner.
- You must appeal to the State Grievance Examiner within 14 days of receiving the decision from the previous appeal level. You may ask the program manager to forward your grievance to the State Grievance Examiner or you may send it yourself. The address is: State Grievance Examiner, DMHSAS, P.O. Box 7851, Madison, WI 53707-7851.

Final State Review

- Any party has 14 days of receipt of the written decision of the State Grievance Examiner to request a final state review by the Administrator of the Division of Mental Health and Substance Abuse Services (DMHSAS) or designee. Send your request to the DMHSAS Administrator, P.O. Box 7851, Madison, WI 53707-7851.

Additional options for resolving a grievance or complaint related to consumer rights or a provider's statutory or regulatory requirements overseen by the Department of Health Services include:

Complaint/grievance about or with whom:	Who to contact for assistance:
<p>1. Violations of client rights under either ss. 50.09 or 51.61, Stats.</p>	<p>In addition to the grievance process, the following organizations are charged with the responsibility to advocate for persons who have a developmental disability or a mental illness:</p> <p>The Board of Aging and Long Term Care (BATLC) provides advocacy services to persons who are 60+ years of age residing in a community-based residential facility or nursing home. They take complaints related to these providers. Contact information may be found at http://longtermcare.state.wi.us/home/contact.htm.</p> <p>Disability Rights Wisconsin (DRW) provides advocacy services to persons who are under 60 years of age residing in a community-based residential facility or nursing home. They take complaints related to these providers. Contact information for DRW can be found at http://www.disabilityrightswi.org/contact-us/.</p>
<p>2. Health care providers (entities – issues involving poor care and treatment by individual professionals or abuse, neglect, or mistreatment by a caregiver are addressed elsewhere)</p>	<p>The general website that provides information about filing a complaint for entities that are licensed or certified by the Department of Health Services is http://dhs.wisconsin.gov/bqaconsumer/HealthCareComplaints.htmweb site. Some of the information pertinent to specific provider types is below:</p> <p>Hospitals For complaints concerning hospitals, contact the Bureau of Health Services in the Division of Quality Assurance (Department of Health Services) at 608-264-9888 (main Bureau line) or 608-266-0224 (complaint coordinator). You may also email the Bureau of Health Services.</p> <p>Nursing homes or adult day care organizations To file a complaint about a nursing home or adult day care organization, contact the Regional Office for the county where the facility is located. The Bureau of Nursing Home Resident Care (Division of Quality Assurance) provides a list of addresses and telephone numbers for the Regional Offices or you can e-mail the Bureau of Nursing Home Resident Care.</p> <p>Home health agencies or hospices Concerning home health agencies or hospices, call the Home Health Hotline: 1-800-642-6552 or (608) 267-1441 or you can e-mail the Bureau of Health Services in the Division of Quality Assurance.</p> <p>Assisted living facilities For complaints concerning assisted living facilities, including residential care apartment complexes, please call the appropriate Regional Office of the Bureau of Assisted Living. You may also email the Bureau of Assisted Living in the Division of Quality Assurance.</p> <p>Still not sure where to take your complaint? The Bureau of Quality Assurance provides more information on how to make a complaint about health care facilities or caregivers.</p>

Complaint/grievance about or with whom:	Who to contact for assistance:
<p>3. Caregiver misconduct. Note: Any interested party may contact the county Department of Human Services if you believe that an adult-at-risk or an elder-adult-at-risk has experienced or is at risk of experiencing abuse, neglect, self-neglect or financial exploitation. Any interested party may contact the local law enforcement agency if you believe a crime has been or is being committed. These issues will be addressed in Attachment 1.</p>	<p>Wisconsin’s Caregiver Law requires background and criminal history checks of certain personnel who are responsible for the care, safety and security of children and adults. The law also requires covered entities to investigate and report incidents of misconduct (abuse, neglect or misappropriation of property – see the definitions from DHS 13 in Attachment 1).</p> <p>All entities regulated by the Division of Quality Assurance (DQA) must:</p> <ul style="list-style-type: none"> • Immediately protect clients from subsequent incidents of caregiver misconduct • Investigate all allegations of caregiver misconduct • Document the results of their investigation • Report allegations/incidents to DQA as appropriate <p>The Office of Caregiver Quality (OCQ) within the Division of Quality Assurance has the primary responsibility for:</p> <ul style="list-style-type: none"> ○ Administration of the Caregiver Program that requires background checks of caregivers, facility owners, board members and nonclient residents in Department-regulated facilities. ○ Receiving, screening and investigating allegations of caregiver misconduct and maintaining the Wisconsin Caregiver Misconduct Registry. ○ Administration of the federal and state requirements for nurse aide training, the competency evaluation program and the federal nurse aide registry. ○ Oversight of the Federal Background Check Pilot Program, which establishes a fingerprint-based background check process and provides abuse-prevention training in 4 pilot counties. <p>Anyone may call the Caregiver Intake Unit at (608) 261-8319, Division of Quality Assurance, file a complaint online at: The Online Complaint Intake System, or use the toll free number to file a complaint dial 1-800-642-6552.</p>
<p>4. Health Maintenance Organization under contract with the Department of Health Services for Medicaid (e.g., SSI Managed Care) – for persons who are enrolled with a HMO</p>	<p>Medicaid HMO (1-800-291-2002)</p> <p>Enrollment Specialist (1-800-291-2002)</p> <p>Medicaid HMO Ombudsmen (1-800-760-0001)</p> <p>Billing Questions for members enrolled in HMOs contact the HMO Contract Monitors at 1-800-760-0001</p>
<p>5. Care Management Organization (i.e., Family Care)</p>	<p>Ombudsman Programs Contact Information:</p> <p>Per the Department contract with the Managed Care Organizations, the Ombudsman Programs contact information should appear in each Managed Care Organization's member handbook and notice of action form.</p> <ul style="list-style-type: none"> • Disability Rights Wisconsin (DRW) provides advocacy to Family Care and Partnership members age 18-59. 131 W. Wilson St., Suite 700 Madison, WI 53703

Complaint/grievance about or with whom:	Who to contact for assistance:
	<p>608-267-0214 TTY: 888-758-6049 Fax: 608-267-0368 Madison Toll-free: 800-928-8778 Milwaukee Toll-free: 800-708-3034 Rice Lake Toll-free: 877-338-3724 http://www.disabilityrightswi.org</p> <ul style="list-style-type: none"> Wisconsin Board on Aging and Long Term Care Ombudsmen from this agency provide advocacy to Family Care and Partnership members 60 and older. Board on Aging and Long Term Care 1402 Pankratz Street, Suite 111 Madison, WI 53704-4001 Toll-free: 800-815-0015 Fax: 608-246-7001 http://longtermcare.state.wi.us/home
6. Other Medicaid issues	<p>Contact Member Services at 1-800-362-3002 for answers to general questions about:</p> <ul style="list-style-type: none"> BadgerCare Plus, Medicaid or FoodShare; Reporting a missing, lost or damaged <i>ForwardHealth</i> card; BadgerCare Plus/Medicaid Covered Services and Copayments BadgerCare Plus Premiums; Health Insurance Premium Payment program (HIPP); Etc. <p>Note: Application information and forms for Medicaid, BadgerCare, Food Share, etc. can be found at http://www.dhs.wisconsin.gov/medicaid/applications.htm. More specific information about eligibility for these programs, the on-line application process, checking the status of your benefits, and reporting changes in your status (e.g. change of address) can be found at https://access.wisconsin.gov/. You may also contact your local county or tribal agency for assistance with these issues.</p>

Issues involving poor care and treatment (i.e., malpractice or unethical conduct by individual professionals:

1. Individual professional (e.g., physician, therapist, nurse, etc.)	<p>The appropriate board at the Department of Regulation. You may file a complaint for any licensed or certified professional (but not persons certified by the Department of Public Instruction, such as teachers) via mail to PO Box 8935, Madison, WI 53708, via phone – (608) 266-2112, or on-line at http://drl.wi.gov/dept/complaint.htm. See the website for additional information and alternatives to filing a complaint. You can also contact the organization that represents the type of professional with whom you have a complaint or concern. Some of these include:</p> <ul style="list-style-type: none"> Wisconsin Academy of Physician Assistants (800) 762-8965 Wisconsin Nurses Association (608) 221-0383 Wisconsin Optometric Association (800) 678-5357 Pharmacy Society of Wisconsin (608) 827-9200 Wisconsin Chapter, Nat'l. Assoc. of Social Workers (608) 257-6334 Wisconsin Physical Therapy Association (866) 367-6978
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Agencies, both state and private, that may assist you in resolving a problem, grievance or complaint of various issues include (Note: The following listing is not necessarily exhaustive):

Complaint/grievance about or with whom:	Who to contact for assistance:
1. Insurance Company	Information can be found on the Office of Commissioner of Insurance’s website at http://oci.wi.gov/com_form.htm . If you have any questions or problems printing or opening the forms above, call the complaints and information toll-free number at 1-800-236-8517 (within Wisconsin) or 1-608-266-0103 (outside of Wisconsin) or send an e-mail message to ocicomplaints@wisconsin.gov .
2. Health Maintenance Organization (private or group health insurance)	You can contact the Office of the Commissioner of Insurance’s (OCI) Managed Care Specialist at the following electronic mail address: ocihmo@wisconsin.gov . You can also call the Information & Complaints line: 1-800-236-8517 (toll-free in Wisconsin) to ask health insurance-related questions. Additional information is available on the OCI website at http://oci.wi.gov/mngdcare.htm .
3. Medicare issues	The Centers for Medicare and Medicaid Services (CMS) is responsible for appeal processes related to Medicare. Go to http://www.medicare.gov/basics/appeals.asp for information. Their website at http://www.medicare.gov/Ombudsman/resources.asp related to the Beneficiary Ombudsman (i.e., consumer advocate) also may be helpful.
4. Accessibility issues related to buildings	From the Department of Commerce’s website: Accessibility: Contact the S&B commercial buildings email group, bdgtech@commerce.state.wi.us . Contact Commercial Building Plan Reviewer Dave Fliess, 262-521-5063, david.fliess@wi.gov Contact an S&B commercial buildings plan reviewer - Federal Americans with Disabilities Act home page - Americans With Disabilities Act Accessibility Guidelines are here, http://www.access-board.gov/adaag/html/adaag.htm .
5. Finding affordable housing	See the Department of Commerce’s website at http://www.wifrontdoorhousing.org/templates/Wisconsin/Intro/index.cfm?CFID=641829&CFTOKEN=5e3597acf7df98a5-7BE911CC-F1F6-96FD-8299BD5B0A86D3E3&jsessionid=5e302448061234734485964
6. Housing and employment discrimination	These issues are addressed by the Department of Workforce Development’s Equal Rights Division. Information for addressing these issued by the Civil Rights Bureau can be obtained at http://dwd.wisconsin.gov/er/discrimination_civil_rights/ . Cities and counties may have requirements (ordinances) that are more stringent than state law and may have an office that handles discrimination complaints.
7. Vocational rehabilitation services	Complaints/grievances related to services provided by the Department of Workforce Development’s Division of Vocational Rehabilitation may be directed to the Client Assistance Program (CAP). Currently, the lead staff person in the CAP is Linda Vegoe; she can be reached at 608-224-5070 or via e-mail at linda.vegoe@wisconsin.gov . The back-up person is Deb Henderson-Guenther; she can be reached at 608-224-5071 or via e-mail at deb-henderson.guenther@wisconsin.gov .

Complaint/grievance about or with whom:	Who to contact for assistance:
8. Mental health or substance abuse treatment services for persons who are in a county jail or state correctional facility	Marty Ordinans is the liaison for these issues between the Department of Corrections and county jails. His phone number is 608-240-5052 and his e-mail address is Marty.Ordinans@wisconsin.gov . Dr. Kevin Kallas is the Psychiatric Clinical Director within the Bureau of Health Services in the Department of Corrections and oversees delivery of mental health services in the state correctional facilities. His phone number is 608-240-5114 and his e-mail address is Kevin.Kallas@wisconsin.gov
9. School personnel or school issues (e.g., lack of appropriate services for a child who has exceptional educational needs)	The Department of Public Instruction's website at http://dpi.wi.gov/tepdll/concerns.html provides contact information for a wide variety of issues, such as bullying, discrimination, misconduct by a licensed educator, etc.
10. Consumer complaints	Complaints related to a wide variety of issues, such as landlord/tenant issues, home improvement, and product safety can be made on-line at http://www.datcp.state.wi.us/cp/consumerinfo/cp/complaint-form/CPComplaintForm.jsp . You also can download and complete forms and mail them to Department of Agriculture Trade & Consumer Protection, Consumer Information Center, PO Box 8911, Madison, WI 53708-8911 or by calling the Consumer Protection Hotline at 800-422-7128. Information about how to file a complaint with a business is available at http://www.datcp.state.wi.us/cp/consumerinfo/cp/factsheets/pdf/HowToFileComplaint127.pdf .
11. Need legal assistance?	<p>Some potential contacts:</p> <p>Wisconsin Bar Association: Finding a lawyer http://www.wisbar.org/AM/Template.cfm?Section=Finding_a_Lawyer</p> <p>Need a lawyer or other help with a legal issue? Call the State Bar of Wisconsin's Lawyer Referral and Information Service to talk with a legal assistant experienced in helping you locate the best source of assistance. If you're sure you need a lawyer, you can use LegalExplorer's online referral service to get the name of an attorney in your geographic area who accepts cases in your area of need. Can't afford a lawyer?</p> <p>WisBar's Lawyer Directory: Find contact and license status information for Wisconsin-licensed lawyers.</p> <p>Wisconsin Lawyer Directory: Print directory contains attorney alphabetical and geographic rosters; directory of court personnel and law-related vendors, and more.</p> <p>Related links</p> <p>Tips on hiring and working with a lawyer</p> <p>Business Assistance: Small and emerging businesses can receive up to two hours of counseling from a business lawyer at no cost</p> <p>Fee Arbitration: An informal and economical way to resolve fee disputes between lawyers and their clients</p> <p>Nonprofit Business Assistance Program: Small and emerging nonprofit organizations can receive up to two free hours of counseling from a business lawyer at no cost</p> <p>Low-cost or free legal services: Resources for those unable to afford representation</p>

Complaint/grievance about or with whom:	Who to contact for assistance:
	<p>Legal Action of Wisconsin (in particular, see the Volunteer Lawyers Project) http://www.badgerlaw.net/Home/PublicWeb/LAW Milwaukee Office 414-278-7722 Madison Office 608-256-3304 Racine Office 262-635-8836 Green Bay Office 920-432-4645 Oshkosh Office 920-233-6521 La Crosse Office 608-785-2809</p> <p>Disability Rights Wisconsin (DRW) provides advocacy services to persons who have a mental illness or a developmental disability residing in a community setting and persons who are under 60 years of age residing in a community-based residential facility or nursing home. Contact information for DRW can be found at http://www.disabilityrightswi.org/contact-us/.</p>

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Attachment 1

Definitions in DHS 13.03 related to caregiver misconduct:

DHS 13.03 (1) (a) “Abuse” means any of the following:

1. An act or repeated acts by a caregiver or nonclient resident, including but not limited to restraint, isolation or confinement, that, when contrary to the entity’s policies and procedures, not a part of the client’s treatment plan and done intentionally to cause harm, does any of the following:
 - a. Causes or could reasonably be expected to cause pain or injury to a client or the death of a client, and the act does not constitute self-defense as defined in s. 939.48, Stats.
 - b. Substantially disregards a client’s rights under ch. 50 or 51, Stats., or a caregiver’s duties and obligations to a client.
 - c. Causes or could reasonably be expected to cause mental or emotional damage to a client, including harm to the client’s psychological or intellectual functioning that is exhibited by anxiety, depression, withdrawal, regression, outward aggressive behavior, agitation, or a fear of harm or death, or a combination of these behaviors. This subdivision does not apply to permissible restraint, isolation, or confinement implemented by order of a court or as permitted by statute.
 2. An act or acts of sexual intercourse or sexual contact under s. 940.225, Stats., by a caregiver and involving a client.
 3. The forcible administration of medication to or the performance of psychosurgery, electroconvulsive therapy or experimental research on a client with the knowledge that no lawful authority exists for the administration or performance.
 4. A course of conduct or repeated acts by a caregiver which serve no legitimate purpose and which, when done with intent to harass, intimidate, humiliate, threaten or frighten a client, causes or could reasonably be expected to cause the client to be harassed, intimidated, humiliated, threatened or frightened.
- (b) “Abuse” does not include an act or acts of mere inefficiency, unsatisfactory conduct or failure in good performance as the result of inability, incapacity, inadvertency, or ordinary negligence in isolated instances, or good faith errors in judgment or discretion.

DHS 13.03 (3) (a) “Caregiver” means a person who is all of the following:

1. A person who has received regulatory approval from an agency or is employed by or under contract with an entity.
 2. A person who has access to the entity’s clients.
 3. A person who is under the entity’s control.
- (b) “Caregiver” does not include any of the following:
1. A person who performs solely clerical, administrative, maintenance or other support functions for the entity and is not expected to have regular, direct contact with clients or the personal property of clients.
 2. A person who is employed by or under contract with an entity to provide infrequent or occasional services, such as delivering items to the facility, equipment maintenance, groundskeeping, construction or other similar services that are not directly related to the care of a client.

DHS 13.03 (12) “Misappropriation of property” means any of the following:

- (a) The intentional taking, carrying away, using, transferring, concealing or retaining possession of a client’s movable property without the client’s consent and with the intent to deprive the client of possession of the property.
- (b) Obtaining property of a client by intentionally deceiving the client with a false representation which is known to be false, made with the intent to defraud, and which does defraud the person to whom it is made. In this paragraph, “false representation” includes a promise made with the intent not to perform it if it is a part of a false and fraudulent scheme.
- (c) By virtue of his or her office, business or employment, or as trustee or bailee, having possession or custody of money or of a negotiable security, instrument, paper or other negotiable writing of another, intentionally using, transferring, concealing, or retaining possession of the money, security, instrument, paper or writing without the owner’s consent, contrary to his or her authority, and with the intent to convert it to his or her own use or to the use of any other person except the owner.
- (d) Intentionally using or attempting to use personal identifying information as defined in s. 943.201 (1) (b), Stats., or an individual’s birth certificate or financial transaction card as defined in s. 943.41 (1) (em), Stats., to obtain

credit, money, goods, services or anything else of value without the authorization or consent of the individual and by representing that he or she is the individual or is acting with the authorization or consent of the individual.

(e) Violating s. 943.38, Stats., involving the property of a client, or s. 943.41, Stats., involving fraudulent use of a client's financial transaction card.

DHS 13.03 (13) "Misconduct" means abuse or neglect of a client or misappropriation of a client's property.

DHS 13.03 (14) (a) "Neglect" means an intentional omission or intentional course of conduct by a caregiver or nonclient resident, including but not limited to restraint, isolation or confinement, that is contrary to the entity's policies and procedures, is not part of the client's treatment plan and, through substantial carelessness or negligence, does any of the following:

1. Causes or could reasonably be expected to cause pain or injury to a client or the death of a client.
 2. Substantially disregards a client's rights under either ch. 50 or 51, Stats., or a caregiver's duties and obligations to a client.
 3. Causes or could reasonably be expected to cause mental or emotional damage to a client, including harm to the client's psychological or intellectual functioning that is exhibited by anxiety, depression, withdrawal, regression, outward behavior, agitation, fear of harm or death, or a combination of these behaviors. This paragraph does not apply to permissible restraint, isolation or confinement implemented by order of a court or as permitted by statute.
- (b) "Neglect" does not include an act or acts of mere inefficiency, unsatisfactory conduct or failure in good performance as the result of inability, incapacity, inadvertency or ordinary negligence in isolated instances, or good faith errors in judgment or discretion.

Wis. Stats., 46.90 Elder abuse reporting system. (1) DEFINITIONS. In this section:

(a) "Abuse" means any of the following:

1. Physical abuse.
2. Emotional abuse.
3. Sexual abuse.
4. Treatment without consent.
5. Unreasonable confinement or restraint.

(ag) "Aging unit" has the meaning given under s. 46.82 (1) (a).

(aj) "Bodily harm" means physical pain or injury, illness, or any impairment of physical condition.

(an) "Caregiver" means a person who has assumed responsibility for all or a portion of an individual's care voluntarily, by contract, or by agreement, including a person acting or claiming to act as a legal guardian.

(ar) "Case management" means an assessment of need for direct services, development of a direct service plan and coordination and monitoring of the provision of direct services.

(bm) "Direct services" includes temporary shelter, relocation assistance, housing, respite care, emergency funds for food and clothing and legal assistance.

(br) "Elder adult at risk" means any person age 60 or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.

(bt) "Elder-adult-at-risk agency" means the agency designated by the county board of supervisors under sub. (2) to receive, respond to, and investigate reports of abuse, neglect, self-neglect, and financial exploitation under sub. (4).

(cm) "Emotional abuse" means language or behavior that serves no legitimate purpose and is intended to be intimidating, humiliating, threatening, frightening, or otherwise harassing, and that does or reasonably could intimidate, humiliate, threaten, frighten, or otherwise harass the individual to whom the conduct or language is directed.

(ed) "Financial exploitation" means any of the following:

1. Obtaining an individual's money or property by deceiving or enticing the individual, or by forcing, compelling, or coercing the individual to give, sell at less than fair market value, or in other ways convey money or property against his or her will without his or her informed consent.
2. Theft, as prohibited in s. 943.20.
3. The substantial failure or neglect of a fiscal agent to fulfill his or her responsibilities.
4. Unauthorized use of an individual's personal identifying information or documents, as prohibited in s. 943.201.
5. Unauthorized use of an entity's identifying information or documents, as prohibited in s. 943.203.
6. Forgery, as prohibited in s. 943.38.
7. Financial transaction card crimes, as prohibited in s. 943.41.

(eg) "Fiscal agent" includes any of the following:

1. A guardian of the estate appointed under s. 54.10.
2. A conservator appointed under s. 54.76.
3. An agent under a power of attorney under ch. 243.
4. A representative payee under 20 CFR 416.635.
5. A conservatorship under the U.S. department of veterans affairs.

(er) “Investigative agency” means a law enforcement or a city, town, village, county, or state governmental agency or unit with functions relating to protecting health, welfare, safety, or property, including an agency concerned with animal protection, public health, building code enforcement, consumer protection, or insurance or financial institution regulation.

(f) “Neglect” means the failure of a caregiver, as evidenced by an act, omission, or course of conduct, to endeavor to secure or maintain adequate care, services, or supervision for an individual, including food, clothing, shelter, or physical or mental health care, and creating significant risk or danger to the individual’s physical or mental health. “Neglect” does not include a decision that is made to not seek medical care for an individual, if that decision is consistent with the individual’s previously executed declaration or do-not-resuscitate order under ch. 154, a power of attorney for health care under ch. 155, or as otherwise authorized by law.

(fg) “Physical abuse” means the intentional or reckless infliction of bodily harm.

(g) “Self-neglect” means a significant danger to an individual’s physical or mental health because the individual is responsible for his or her own care but fails to obtain adequate care, including food, shelter, clothing, or medical or dental care.

(gd) “Sexual abuse” means a violation of s. 940.225 (1), (2), (3), or (3m).

(gf) “State governmental agency” has the meaning given for “agency” in s. 16.417 (1) (a).

(gr) “State official” means any law enforcement officer employed by the state or an employee of one of the following:

1. The department of health services.
2. The department of justice.
3. The department of regulation and licensing.
4. The board on aging and long-term care.
5. A state governmental agency other than those specified in subds. 1. to 4. with functions relating to protecting health and safety.

(h) “Treatment without consent” means the administration of medication to an individual who has not provided informed consent, or the performance of psychosurgery, electroconvulsive therapy, or experimental research on an individual who has not provided informed consent, with the knowledge that no lawful authority exists for the administration or performance.

(i) “Unreasonable confinement or restraint” includes the intentional and unreasonable confinement of an individual in a locked room, involuntary separation of an individual from his or her living area, use on an individual of physical restraining devices, or the provision of unnecessary or excessive medication to an individual, but does not include the use of these methods or devices in entities regulated by the department if the methods or devices are employed in conformance with state and federal standards governing confinement and restraint.

Wis. Stats., 55.01 Definitions. In this chapter:

(1) “Abuse” has the meaning given in s. 46.90 (1) (a).

(1d) “Activated power of attorney for health care” means a power of attorney for health care that has taken effect in the manner specified in s. 155.05 (2).

(1e) “Adult at risk” means any adult who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs and who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.

(1f) “Adult-at-risk agency” means the agency designated by the county board of supervisors under s. 55.043 (1d) to receive, respond to, and investigate reports of abuse, neglect, self-neglect, and financial exploitation under s. 55.043.