



Minor's Right to Refuse Admission to Inpatient Treatment Facility

Prepared by: Steve McCarthy, Staff Attorney

Wisconsin law controls the procedural requirements for the voluntary admission of a minor for inpatient treatment. Under Wisconsin law, "voluntary" admission does not necessarily require a minor's consent to the inpatient treatment. Rather, the term applies to admission sought by either a minor or the minor's parent or guardian, as opposed to admission sought through state-ordered involuntary or emergency commitment procedures, such as those found under s. 51.15, 51.20, or 48.13, Stats.

The procedural requirements and corresponding minor's rights vary depending on whether the minor is under the age of 14 or is age 14 or older and whether the minor is being admitted for either: (1) mental illness or developmental disability; or (2) alcohol and other drug abuse.

INPATIENT ADMISSION OF A MINOR UNDER THE AGE OF 14 FOR MENTAL ILLNESS OR DEVELOPMENTAL DISABILITY

Generally, a minor has no right to refuse admission to an inpatient treatment facility for mental illness or developmental disability before the minor's 14th birthday. The application for admission of a minor under the age of 14 for mental illness or developmental disability must be executed by the minor's parent or guardian, and the minor's consent is not required. However, any statement or conduct by a minor under the age of 14 who is the subject of an application for admission for mental illness or developmental disability indicating that the minor does not agree to admission to the facility must be noted on the face of the application.¹

INPATIENT ADMISSION OF A MINOR AGE 14 OR OLDER FOR MENTAL ILLNESS OR DEVELOPMENTAL DISABILITY

Generally, a minor age 14 or older who refuses to consent to admission to an inpatient treatment facility for mental illness or developmental disability has more opportunity for input and court review of his or her admission for treatment. Below is a description of the various procedures and rights that apply to a minor age 14 or older who refuses to consent to admission to an inpatient treatment facility for mental illness or developmental disability.

Application for Admission to an Inpatient Treatment Facility

The application for admission of a minor age 14 or older for mental illness or developmental disability must be executed by both the minor's parent or guardian **and** the minor. In other words, the minor's consent is generally required. However, state law explicitly provides that if the minor refuses to execute the application (refuses consent for admission), then the minor's parent or guardian may execute the application without the minor's consent. If an application is executed without the minor's consent, a petition must be filed with the court for review of the admission.²

Admission on Approval of Application

Once an application for admission is executed, with or without the minor's consent, the treatment director of the facility must determine whether to approve the admission, but **admission is not**

mandatory. Rather, approval must be based on an “informed professional opinion that the minor is in need of psychiatric services or services for developmental disability...that the treatment facility offers inpatient therapy or treatment that is appropriate for the minor’s needs, and that inpatient care in the facility is the least restrictive therapy or treatment consistent with the minor’s needs.”³

Inpatient treatment facilities may develop their own policies, within the parameters of state law, for handling admission and discharge. Some facilities may admit patients only on a voluntary basis for a variety of reasons, including concerns about safety risks posed to others by unwilling patients and concerns about ineffective treatment imposed upon unwilling patients. Therefore, in some cases, the practical effect of a 14-year old or older minor’s refusal to consent to treatment is that the minor is not admitted to an inpatient treatment facility.

If the treatment director approves the admission, the minor may be immediately admitted to the inpatient treatment facility. Wisconsin law then requires court review of the petition and certain petitions for discharge.⁴

INPATIENT ADMISSION OF A MINOR OF ANY AGE FOR ALCOHOL AND OTHER DRUG ABUSE

A minor patient of any age admitted for alcohol and other drug abuse is generally treated under the law in the same manner as a minor patient under the age of 14 admitted for mental illness or developmental disability. Many of the procedural requirements described above, including requirements for application by a parent or guardian, an admission decision by a treatment facility director, petition review by a court, and discharge, generally apply to a minor patient age 14 or older admitted for alcohol and other drug abuse, except that a minor patient admitted for alcohol and other drug abuse, regardless of age, has the same limits as a minor patient under the age of 14 admitted for mental illness or developmental disability to refuse to consent to such treatment. In other words, a minor of any age admitted for alcohol and other drug abuse has no right to refuse admission to request discharge from an inpatient treatment facility if the minor’s parent or guardian consents to such treatment.⁵

CONCLUSION

A minor under the age of 14 may be admitted to an inpatient treatment facility for mental illness or developmental disability without the minor’s consent, and a minor of any age may be admitted to an inpatient treatment facility for alcohol and other drug abuse without the minor’s consent.

Similarly, a minor age 14 or older may be admitted to an inpatient treatment facility for mental illness or developmental disability without the minor’s consent, except that such a minor’s refusal to consent to treatment may trigger certain court involvement and may influence an inpatient treatment facility director’s decision whether or not to permit or deny admission for the minor’s inpatient treatment.

¹ s. 51.13 (1) (a), Stats.

² s. 51.13 (1) (b), Stats.

³ s. 51.13 (1) (em), Stats.

⁴ ss. 51.13 (1) (e), (4), and (7) (b) 3., Stats.

⁵ ss. 51.13 (1) (bm), 51.17 (7) (b) 2., and 51.48, Stats.