



Making My Blood Boil: Frontline Expose on Assisted Living

by [Larry Minnix](#) Published On: Jul 31, 2013

If you did not see the [Frontline exposé about an assisted-living company](#), it is a must-see for boards of directors, senior management, and staff of our organizations.

If you are like me, you will feel powerful, mixed emotions about the *Frontline* PBS episode. You will feel horrified about the human tragedy that is portrayed.

You will be angry because you know that many people watching -- and beyond -- will assume that all assisted living is similar to the *Frontline* depiction. You will feel defensive of good providers who do not deserve to be painted with the same brush that the company in question is painted.

You will, initially, be angry with the media for doing a hatchet job that doesn't portray balance.

You also may have the impulse to blame policymakers and regulators for making the services program too complicated or too lax. You may even blame various associations for allowing bad actors to function in the service-delivery world. After all, nursing homes have been under this kind of microscope for years.

Who Is Responsible?

But, who is really responsible for such stories, and what do WE plan to do about it? Here is my take:

The corporate executives interviewed by *Frontline* blamed residents with Alzheimer's disease for unpredictable behavior. They blamed staff for being human and making mistakes. They even blamed families for understanding the negotiated risk of putting a loved one in an assisted living facility instead of placement in the "dreaded nursing home."

They blamed everyone but themselves, except for issuing the now common "we're not a perfect company" message too often used in similar situations of corporate scandal.

But, the thing that made my blood boil the most is that what happened to these residents should not happen to anyone! And no one should be treated the way that these employees were treated!

The core failing of a company with multiple problems, violations of state regulations, and lawsuits is a corporate culture based on fundamentally poor values.

Laced throughout all of the interviews by former employees and family members was a hidden value of greed over compassion and competence, covered by layers of sweet icing of the trappings of nice facilities.

The Achilles' heel of assisted living is that those who are in it for the money know how to sell sizzle but offer very little steak. Long-term care leaders have, for years, fretted over this potential.

Many of us have complained that assisted living is admitting and keeping residents that they can't care for. These facilities play on the public psychology that families will gravitate to the nice wall sconces, winding staircases, secure gardens, and public-relations trained admissions staff who know that, as one investor-owned chain marketing person told a friend of mine, "if you get them to cry, you know they will buy."

Assisted Living Has the Right Ideas

Assisted living is an important program in the buffet of options that should be made available to seniors and their families. It has all the right ideas:

- Familiar and homelike setting.
- A culture of hospitality.
- A program and environment that appeals to the interests and strengths of residents who have impairments.
- A supportive approach to families.
- Flexibility to design services around the needs and interests of residents.

Assisted living has also enjoyed a relatively regulation-free hand to prove that this sector can self-govern using market-based principles without heavy-handed government intervention.

LeadingAge, and our colleague associations in collaboration with consumer groups, have worked over a decade to help define standards that could follow in overseeing assisted living at the local level.

Many states have recognized the need for additional standards and training for dementia care, including Illinois, Minnesota, Montana, New York, Oregon and Washington. National groups, such as the Center for Excellence in Assisted Living (CEAL), have been working on best practices in dementia care in assisted living.

Assisted living represents the chance to show that professional and sector self responsibility can be effective -- a state of public trust that nursing homes, even with big improvements in quality, do not yet enjoy.

Let us hope that the *Frontline* exposé has not irreparably derailed that privilege.

Unfortunately, regulation is often driven by bad actors who take advantage of the circumstances in which they find themselves. In this case, we cannot let that happen!

So here's what we need to do...and stand for!

Assisted Living Providers: Make Sure Your House is in Order

First, we need to make sure our house is in order. Take the *Frontline* video and ask yourself these questions:

- What are our admissions and discharge policies and procedures?
- What are our staffing levels?
- What kind of training and development program do we have for direct-care people?

- What are our quality standards and how do we know we're achieving them?
- To whom are we accountable for what we deliver, and how does the public know our values and results?

If you find yourself feeling or discussing the tension between filling beds and delivering good quality, you need to have a serious conversation with your board of directors and senior management staff.

You should do this because *Frontline* has exposed that when greed trumps compassion, bad things happen and residents and many others get hurt.

Evaluate Your Culture

Second, evaluate your culture. Indicators of healthy cultures begin with staffing.

Yes, all of our research points to the fact that staffing is the best proxy for quality in nursing homes and assisted living. In fact, the most trusted and supported staff in your organization should be the direct-care people on the night shift between Saturday evening and Sunday morning. Here are some questions to ask:

- When was the last time you checked in with those people to see how things are going?
- When was the last time you made rounds on evenings and nights or weekends?
- Do you have staff satisfaction surveys as well as resident and family satisfaction surveys? Do you act on the results?
- Do you disclose those results to your board and to the public?
- Do you have a culture of ongoing learning opportunities in the arena of contemporary clinical care as well as the often difficult dementia care arena?

Quality-Improvement Programs

Third, do you have a continuous quality improvement program in place beyond the cosmetics of it? Any crafty manager can produce numbers. Not everyone knows how to produce quality and how to measure it.

In less-supervised settings like assisted living, continuous quality improvement is even more critical because of fewer leadership and supervisory people available everyday, 24/7. Does your continuous quality improvement culture include nonpunitive, anonymous mechanisms to report incidents or negative dynamics?

Public Oversight

Fourth, are you active with policymakers, regulators, and consumer groups to make sure that the proper, transparent public oversight is in place. It is not sufficient to defend what we do, however good we may be.

We must go on offense about constantly improving standards that can be publicly disclosed. Are you advocating for policies in your state that assure disclosure about owners and access to them -- even stockholders.

In the not-for-profit sector, ownership accountability is local and transparent. With publicly traded or privately owned organizations, the public often does not know who's behind the curtain.

Are you advocating for mechanisms that oust ineffective leaders and management -- and even governing boards and owners?

We have been working with the Centers for Medicare and Medicaid Services (CMS) on how to deal with chronically bad performing nursing homes. The long-standing tradition has been to punish them, fine the owners, or close them down.

In recent years, we have suggested that punishing residents, families, and employees by closing down a bad actor is punishing the wrong people. Instead, we believe that managers and owners should be relieved of their responsibilities and replaced with competent and compassionate governance and leadership.

You see, the *Frontline* exposé was not generated by the fault of the disease, the residents and families who cope with it, the employees who try to deliver care in a high-pressure situation, or nosy media or hungry lawyers.

No, the *Frontline* exposé results from a failure of leadership. And, it is our responsibility to advocate for corporate structures that are driven first by quality, which should result in business success whether you are a not-for-profit or a for-profit provider.

In the next few days, the *Frontline* story will develop broader public-relations legs -- or not. It could result in the next OBRA 87 -- or the flames could die down quickly. In either case, we cannot treat the *Frontline* exposé as a temporary public-relations crisis, because we all know that assisted living is an accident waiting to happen if we do not take responsibility aggressively for quality and what should happen to people who don't produce it.

No one should be subjected to what we saw on *Frontline*. Quality should be an automatic public expectation. Let's do something about it. Organizations like the one in the *Frontline* episode make my blood boil -- and they should make your blood boil as well!

But, if we don't address the underlying issues involved, we will have no one to blame but ourselves.

From: [John Sauer](#)
To: [John Sauer](#)
Subject: Assisted Living Media Alert (more Info)
Date: Tuesday, July 30, 2013 1:35:07 PM



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Assisted Living Media Alert-- More Info

As noted in our previous email messages to you, *PBS Frontline* Plans will air a documentary on assisted living, *Life and Death in Assisted Living*, at **9:00 p.m. CDT this evening (July 30)**.

Earlier today, LeadingAge Wisconsin received the following email from Alfred Johnson, Director of the Bureau of Assisted Living within the Department of Health Services' Division of Quality Assurance.

Mr. Johnson's email speaks highly of our State's assisted living provider community, notes our commitment to quality care and services, and rightfully says regulators in Wisconsin will focus on providers that chronically fail to meet the needs of their residents and tenants ("Around 7% of the facilities make up the 100% of the enforcement.").

The information should prove helpful as you dialogue with your residents/families, media, Board of Directors and others on the quality of assisted living in our fine State.

Good Morning,

Over the last several weeks, I have read numerous articles on the upcoming documentary.

A recent article <http://www.thefiscaltimes.com/Articles/2013/07/29/Abuse-and-Neglect-in-Assisted-Living-Facilities.aspx#page1>. stated in California there are over 7,500 AL facilities. It notes "the state regulates these homes, yet on the state's website there is nothing but a list of facilities. The consumer can't get detailed reports, data, or any information other than the address of the facilities and the fact that they're licensed."

In Wisconsin there are several ways the public may access information about regulated assisted living communities.

- We have developed a website "Choosing Wisconsin Residential Options". <http://www.dhs.wisconsin.gov/bqaconsumer/ResidOpts/seek.htm>. This website provides a link to information (facility directories, provider quality profiles, state contact information, etc.)
- The Wisconsin DQA provider search application is a great tool we developed that allows the public to check the compliance history of the assisted living communities. Here is a link to the provider search application <http://www.dhs.wisconsin.gov/bqaconsumer/search.htm>.
- We also have the assisted living profile that provides information to the public. <http://www.dhs.wisconsin.gov/bqaconsumer/AssistedLiving/profiles/basics.htm>.
- There is also a website Wisconsin Affordable Assisted Living <http://www.wiaffordableassistedliving.org/what/index.html>.
- Lastly, we developed a document "choosing an assisted living facility". <http://www.dhs.wisconsin.gov/publications/p6/p60579.pdf>.

The article ends with “Instead, he said, our point is that the problems in the industry aren’t being dealt with. And the promise of assisted living – that it really can be a great place for a lot of people, who need help, maybe some supervision, help cooking meals, getting around, help managing their medications – we’re at a point where we’re not seeing that promise fulfilled in the way it could be.”

In Wisconsin we have 3,546 assisted living facilities (1,514 CBRFs, 1590 AFHs, 133 ADC and 309 RCACs). With a total capacity of 50, 714 beds.

In Wisconsin we have a nationally recognized and accepted assisted living regulatory program. Our program is reasonable and consistent. We are committed to ensuring a fair, consistent, professional application of state regulations.

The Bureau of Assisted Living survey process evaluates a facility’s performance and compliance with applicable laws and standards in the areas of resident rights, program services, nutrition and food service, physical environment and safety, medication and staff training. Not only do we conduct onsite surveys, but we also provide focused technical assistance to the assisted living industry.

Over the years we have implemented several initiatives.

Some include:

- Abbreviated Survey Process:
 - A facility meets the criteria for an abbreviated survey if it has not had any enforcement action in the last three years, has not had any substantiated complaints with deficiencies issued in the last three years, and has been licensed for at least three years.
 - For the first six months of 2013, we have conducted 250 abbreviated surveys. 57% of the abbreviated surveys resulted in no deficiencies. 33% of the abbreviated surveys resulted in deficiencies and 10% of the abbreviated surveys resulted in enforcement action.
- Assisted Living Forum
 - On a bi-monthly basis we facilitate the Assisted Living Forum. The Assisted Living Forum brings together assisted living stakeholders from all over the state of Wisconsin in a collaborative spirit to discuss current assisted living issues.
- Wisconsin Coalition for Collaborative Excellence in Assisted Living (WCCEAL)
 - WCCEAL is an innovative collaborative including Wisconsin’s regulatory and public funding agencies (DHS); the Wisconsin state ombudsman’s program; the four assisted living and residential provider associations and the Center for Health Systems Research and Analysis (CHSRA). The provider associations include: LeadingAge Wisconsin; Wisconsin Assisted Living Association (WALA); Wisconsin Center for Assisted Living (WiCAL) and Residential Services Association of Wisconsin (RSA WI).

Goals of the WCCEAL Program:

- Incentivize Assisted Living Communities to strive for excellence through internal quality improvement
- Collaborate with provider associations to develop a comprehensive QI & QA program and to help their members to be successful.
- Collaborate with the CHSRA to improve long-term care and health systems by creating performance measures and developing information and decision support systems.
- Provide regulatory relief for high performing assisted living communities.
- Define the level of excellence that will be recognized by public funding agencies, insurance companies, assisted living communities, advocates, legislators, general public and other key stakeholders.

In summary, there are a percentage of providers who are struggling with providing care to the residents they admit and they struggle with resolving internal conflicts with residents, families, MCO or staff. As a result complaints are on the rise. The good news is that these issues are confined to a small number of providers. 10% of the assisted living facilities make up 100% of the complaints. Around 7% of the facilities make up the 100% of the enforcement. As of June 30, 2013, we conducted over 1110 surveys. 64% of those surveys resulted in no citations.

It is apparent that in Wisconsin, there is work to be done to ensure the regulated Assisted Living industry meets the needs of the people they serve, however based on the regulatory data, the industry as a whole is healthy.

It is my hope to continue to collaborate with you to improve the quality of care provided in the regulated assisted living industry.

Take Care

Alfred C. Johnson

Director

Bureau of Assisted Living

Division of Quality Assurance

Wisconsin Department of Health Services

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From: [John Sauer](#)
To: [John Sauer](#)
Subject: Assisted Living Media Alert
Date: Tuesday, July 30, 2013 1:54:41 PM



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Assisted Living Media Alert

REMINDER: Assisted Living Expose' Airs Tuesday Night

As noted in the July 19th issue of eNews (www.leadingagewi.org/sites/default/files/en1322.pdf, under "PBS Frontline Plans to Air 'Life and Death in Assisted Living' July 30th"), PBS plans to air a documentary on assisted living at **9:00 p.m. CDT this Tuesday (July 30th)** as part of its *Frontline* series.

The focus of the story is Emeritus Senior Living, a for-profit operator and the country's largest assisted living provider. A July 17, 2013 PBS press release announcing the documentary paints this picture of Emeritus:

"Emeritus has the ability to house some 37,000 elderly Americans in more than 400 facilities across the country. Wall Street likes its cash flow. Its top executives have made millions. The company likes the country's demographic trends – elderly Americans in poor health willing to spend tens of thousands of dollars for the chance at safety and care. Indeed, Emeritus holds itself out as the industry leader, one eager to expand further, even internationally. But in some states, regulators have cited the company in the deaths of residents. Other officials have regularly found the company's facilities to be understaffed and their employees to be inadequately trained. Some current and former executives say the push to fill facilities and maximize revenues has left staff overwhelmed and the care of residents endangered."

A.C. Thompson is the *Frontline* correspondent for this documentary. Thompson acknowledges the skilled and dedicated caregivers in assisted living, "professionals who are absolutely committed to providing our parents and grandparents with the best possible care."

"But Emeritus' history – its explosive growth, its move to take in more and more residents with greater and greater health problems, its desire to reward investors – makes for a perfect study of what's taking place in this rapidly expanding corner of the country's health care business," stated Thompson.

"Life and Death in Assisted Living" is a PBS *Frontline* production in partnership with ProPublica, which is described as "an independent nonprofit newsroom that produces investigative journalism in the public interest." ProPublica plans to publish a five-part written series on this topic to run in concert with the PBS broadcast. The series will be released online in hopes of being picked up by newspapers, although it is not known at this time which newspapers plan to run the series (for a LeadingAge update of the pre-broadcast coverage of this broadcast, please go to: www.leadingage.org/July_30_PBS_Frontline_Will_Air_Report_on_Assisted_Living.aspx. On its web site, PBS has divided the story into four parts; Part 1 can be found at: www.pbs.org/wgbh/pages/frontline/social-issues/life-and-death-in-assisted-living/the-emerald-city/#disqus_thread.)

Although the lead anecdote in the PBS broadcast revolves around a resident of a California Emeritus assisted living facility, there is at least a bit of a local flavor to the story – Emeritus operates four assisted

living facilities in Wisconsin: 1) Emeritus at Oakridge, a 16-bed CBRF in Stevens Point; 2) Emeritus at Fox River, a 95-bed CBRF in Appleton; 3) Emeritus at Legacy Gardens, a 73-bed CBRF in Madison; and 4) West Park Place, a 110-bed CBRF in West Allis.

LeadingAge is recommending that members take an “inside out” approach in responding to the documentary by assuring residents, family members and clients of member assisted living facilities of their commitment to quality.

As for external comments, the July 19, 2013 *eNews* issue linked above outlined several approaches LeadingAge Wisconsin members might take if media inquiries are made after the airing of the PBS documentary (or publication of the *ProPublica* written series on assisted living). Here are several other suggestions:

- **Watch the Documentary:** It will be awfully difficult to respond to a resident, family member or reporter about a specific situation touched upon in the documentary if you didn't see the documentary. Your goal should be to quantify to the greatest degree possible how your facility differs from what was shown; distance and differentiate your facility from the poor performers that are the focus of the documentary.
- **Focus on Quality:** If you are a participant in the Wisconsin Coalition for Collaborative Excellence in Assisted Living (WCCEAL), make that point known. WCCEAL is a voluntary, public/private collaborative which includes the Division of Quality Assurance (DQA) in the Department of Health Services (DHS), the Board on Aging and Long-Term Care, the UW-Madison Center for Health Systems Research and Analysis (CHSRA), LeadingAge Wisconsin and three other DHS-approved assisted living provider associations.

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Begun in 2009, WCCEAL seeks to incentivize assisted living facilities to strive for excellence through internal quality improvement. To qualify as a WCCEAL participant, an assisted living facility (CBRF, RCAC, adult family home) must:

1. Qualify for an “abbreviated” survey (i.e., no enforcement activity within the last 3 years; no substantiated complaints, resulting in deficiencies, within the last 3 years; and the assisted living facility must have been licensed, registered or certified for at least 3 years). NOTE: Not all WCCEAL participants qualify for an “abbreviated” survey but only WCCEAL participants which qualify for an “abbreviated” survey also qualify for regulatory relief.
2. Be a member of LeadingAge Wisconsin or one of the other three DHS-approved assisted living provider associations;
3. Implement a “provider association, DHS-approved” quality improvement program that adopts standards of practice; and
4. Sign a “self attestation” document that they are in substantial compliance with the CBRF/RCAC/AFH regulations. WCCEAL participants which qualify for an “abbreviated” survey will be surveyed less frequently by the DQA than non-WCCEAL assisted living providers or WCCEAL participants which don't qualify for an “abbreviated” survey.

LeadingAge Wisconsin members comprise 143 of the 218 WCCEAL participants, or 65.6% of the total.

WCCEAL recently concluded a customer satisfaction survey which asked assisted living residents to rate their WCCEAL facilities in the following areas: Staff, rights, environment, activities, meals and dining, health management/care and overall. In each category, LeadingAge Wisconsin WCCEAL participants rated higher than the non-LeadingAge Wisconsin WCCEAL participants.

LeadingAge Wisconsin WCCEAL participants should highlight their participation in the collaborative (noting in particular if their facility qualifies for an “abbreviated” survey) and the findings from the

WCCEAL customer satisfaction survey as examples of their commitment to quality and quality improvement.

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In addition, WCCEAL participants have begun to file quarterly Quality Improvement (QI) data which also should provide tangible evidence of voluntary quality improvement efforts. But these QI efforts are "old hat" for many LeadingAge Wisconsin members.

The LeadingAge Wisconsin RCAC Quality Improvement Network was created in August 2005 with the goal of developing a set of tools, guidelines and practices which members would share voluntarily, develop, discuss, implement, adapt, modify and fine tune to systematically improve the level of quality in participating member and subscriber RCACs. Of the 84 RCACs operated by LeadingAge Wisconsin members, 68 participate in the RCAC Quality Improvement Network. To date, the network has developed, implemented and later updated 8 clinical quality initiatives, created both a customer and a family satisfaction survey tool (upon which the WCCEAL Customer Satisfaction survey was based), and developed RCAC assessment tools.

Three years later, the LeadingAge Wisconsin CBRF Quality Improvement Network was created to follow in the footsteps of its RCAC counterpart. Of the 91 CBRFs operated by LeadingAge Wisconsin members, 74 participate in the CBRF Quality Improvement Network. To date, 12 CBRF clinical quality initiatives have been developed by the network, as well as 12 modules for standardized assessments, decision-making trees, and Individual Service Plan (ISP) templates.

Members of these voluntary QI networks don't need regulations or media exposes' to drive them toward quality improvement: it's "who they are" and members should not be shy in letting the public know of these efforts.

- **The Nursing Home Model of Regulation Is NOT the Answer:** One of the issues that apparently will be raised in the documentary is the lack of national assisted living standards of care. Indeed, the PBS promo of the documentary flatly states, "Assisted living facilities, unlike nursing homes, are not regulated by the federal government." LeadingAge Wisconsin nursing home providers do not need to be told that the nursing home survey and certification system is broken and beyond repair. However, member assisted living providers should be aware that Wisconsin's assisted living regulatory model, which was created and implemented in 2004 to focus on collaboration, quality improvement, and resource allocation with a focus on poor performers, continues to engender national interest and recognition. Indeed, former DHS Bureau of Assisted Living Director Kevin Coughlin, who spearheaded the regulatory reforms, was named *Governing Magazine's* 2007 "Public Official of the Year" for what the magazine described as managing "to shift the old 'gotcha' relationship between regulator and provider to a collaborative process that has translated into safer homes for the frail and elderly residents in the state's 2,700 assisted-living facilities." National assisted living standards almost assuredly would rekindle that "gotcha" regulatory approach and force Wisconsin to backtrack on the gains it has made in the past decade, to the detriment of the residents LeadingAge Wisconsin members serve.
- **"Don't judge the book by its cover":** As with any journalism report, urge the public and the press not to judge all assisted living or senior services providers by the practices of the entity(ies) depicted in the PBS documentary. Welcome them to your facility so you can show them what quality looks and feels like.

As was indicated in the July 19, 2013 eNews article linked above, members have several choices if contacted by local media to respond to the PBS documentary on assisted living: 1) Issue a "no comment" or simply refuse to respond, which risks a reaction of guilt from the general public; 2) Refer them to LeadingAge Wisconsin President/CEO John Sauer (jsauer@LeadingAgeWI.org or 608-255-7060), who is eager to supply a "global" response to the state of assisted living in Wisconsin (especially as it relates to LeadingAge Wisconsin members) but would prefer to do so after members provide the local response; or 3) Respond directly and proudly on the quality care you provide your residents and distance/differentiate your facility from the facilities depicted in the documentary. The information provided above hopefully will help in formulating a local response.

Please share with LeadingAge Wisconsin staff (either John Sauer, Vice President of Member Services & Innovation jmashak@LeadingAgeWI.org, or Vice President of Public Policy & Advocacy Tom Ramsey tramsey@LeadingAgeWI.org) any media inquiries you receive in response to the PBS broadcast and/or the ProPublica news articles and any response you provided.

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