

ISSUE: *WLC: 0061/2* relating to psychiatric and behavioral care and treatment for individuals with dementia

LeadingAge Wisconsin Position: Support Legislation – Oppose Department of Health Services (DHS) Recommendation of 2-Year Sunset

BACKGROUND: WLC: 0061/2 was developed and recommended by the Legislative Council Special Committee on Legal Interventions for Persons with Alzheimer’s Disease and Related Dementias. The special committee was created in part to respond to the May 18, 2012 Wisconsin Supreme Court decision in *Fond du Lac County v. Helen E.F.* which held that the “emergency detention” and involuntary commitment procedures under Chapter 51, Wis. Stats., the Mental Health Act, are inappropriate for persons with Alzheimer’s Disease. Under the court ruling, individuals suffering from Alzheimer’s Disease or related dementias cannot be involuntarily committed under Chapter 51. The Court decision also stated the Chapter 55 protective placement system was more appropriate for the care and treatment of individuals with dementia and the special committee was directed to create an emergency protective placement system under Chapter 55 for those individuals. That system is incorporated in WLC: 0061/2.

WLC: 0061/2 was approved by the special committee on a 15-0 vote, with one member not voting. The bill draft was approved for introduction by the Joint Legislative Council February 13, 2013 on a 21-1 vote, with Representative Scott Suder (R-Abbotsford) casting the dissenting vote. WLC: 0061/2 has yet to be formally introduced as a bill in the 2013-15 legislative session.

WLC: 0061/2 does all of the following:

- Specifies that individuals with dementia are not subject to emergency detention and involuntary commitment procedures under Chapter 51.
- Creates a new Chapter 55 subchapter “Psychiatric and Behavioral Care and Treatment for Individuals With Dementia” which establishes procedures within the protective placement system for the provision of behavioral and psychiatric evaluation, diagnosis, services and treatment, including involuntary administration of psychotropic medications, to individuals with dementia.

- Requires each county to identify at least one location as a “dementia crisis unit” for the purpose of emergency and temporary protective placement for behavioral or psychiatric evaluation, diagnosis, services or treatment for individuals with dementia.
- Creates procedures within the new subchapter under which individuals with dementia may be protectively placed or transferred to “dementia crisis units,” in a planned manner or in an emergency situation, for the purpose of behavioral or psychiatric evaluation, diagnosis, services, or treatment.
- Creates a procedure under which involuntary administration of psychotropic medications may be provided as an emergency protective service to an individual with dementia.

Arguments in Support of WLC: 0061/2

1. Chapter 51 establishes the procedures and criteria to detain an individual who is a danger to him/herself or others on an emergency basis but that individual must be either mentally ill, drug dependent, or developmentally disabled and must be capable of being medically rehabilitated. Since dementia is a permanent disability, the Supreme Court ruled the Chapter 51 involuntary commitment system was inappropriate for individuals with dementia. The Supreme Court decision went on to state that the Chapter 55 protective placement system was more appropriate for individuals with dementia. However, as currently constructed, Chapter 55 does not contain an involuntary commitment procedure which would address situations where individuals with dementia, whether in a nursing home, an assisted living facility, or in their own home, become a danger to themselves or others. WLC: 0061/2 addresses the shortcomings in both chapters as they relate to persons with dementia.
2. Many nursing homes and assisted living facilities provide excellent care for persons with dementia. However, most are not equipped to respond appropriately when the behaviors of their residents turn life-threatening. WLC: 0061/2 gives those long-term care facilities the option to become “dementia care units” and possibly minimize the transfer trauma that negatively affects residents with dementia when they are forced to move “off-site” for needed care.
3. It was not within the directive to the special committee to discuss the implementation costs of this new system. Therefore, long-term care facilities which might be interested in becoming “dementia care units” will need to know how such units will be reimbursed and what additional services will be required to be provided before they can determine whether to offer their services as a “dementia care unit.” However, if long-term care facilities were to receive reimbursement incentives to become dementia care units, they still might generate savings to the State because they can provide services that are both less expensive than the state’s mental health institutes or psychiatric hospitals and in a setting more appropriate for the dementia client population.

4. LeadingAge Wisconsin applauds the DHS in undertaking a redesign of the care delivery system for individuals with dementia. But we oppose the Department's recommendation to sunset in two years the new emergency protective placement system created for individuals with dementia under WLC: 0061/2. We believe it would be counterproductive for both providers and clients to blow up a new system after only two years in operation.

LeadingAge Wisconsin, formerly WAHSA, is a statewide membership association of not-for-profit organizations principally serving seniors and persons with a disability. Membership is comprised of 188 religious, fraternal, private and governmental organizations which own, operate and/or sponsor 185 nursing homes, 9 facilities for the developmentally disabled (FDD), 182 assisted living facilities, 114 apartment complexes for seniors, and over 300 community service agencies which provide programs ranging from Alzheimer's support, adult and child day care, home health, home care, and hospice to Meals on Wheels. LeadingAge Wisconsin members employ over 38,000 individuals who provide compassionate care and service to over 48,000 residents/tenants/clients each day. For more information, please contact John Sauer (jsauer@LeadingAgeWI.org), LeadingAge Wisconsin President/CEO, Tom Ramsey (tramsey@LeadingAgeWI.org), LeadingAge Wisconsin Vice President of Public Policy & Advocacy or Brian Schoeneck (bschoeneck@LeadingAgeWI.org), LeadingAge Wisconsin Vice President of Financial and Regulatory Services, at (608)-255-7060.

March 13, 2013