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Testimony of Otis L. Woods  
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Special Committee on Legal Interventions for  
Persons with Alzheimer's disease and Related Dementias

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Thank you Chairman Knodl and other distinguished members of the committee for inviting me to speak at today's committee meeting on the Legal Interventions for Persons with Alzheimer's disease and Related Dementias. I am Otis Woods, the Administrator of the Division of Quality Assurance within the Department of Health Services. The Division of Quality Assurance is responsible for the regulation and licensing of 46 health care and residential programs in Wisconsin that provide acute health care, long-term care, assisted living care, mental health and substance abuse services, and caregiver background checks and investigations.

I'm here at the request of the committee to provide information on the impact of the Wisconsin Supreme Court ruling that upheld a decision issued by the Court of Appeals finding that persons with only a dementia or Alzheimer's disease cannot be involuntarily committed for treatment under Chapter 51 of the Wisconsin Statutes. The Supreme Court stated that individuals with only dementia or Alzheimer's disease are more appropriately treated under the protective placement provisions in Chapter 55. Chapter 55 is designed for long-term management of disorders that are unlikely to subside such as Alzheimer's disease and other degenerative brain disorders.

In the past, some residents with Alzheimer's disease or other types of dementia have been removed from nursing homes and assisted living facilities when their behaviors have become injurious to themselves or to others and committed under Chapter 51. Often these residents are admitted to an inpatient psychiatric facility or hospital which can do little to change the course of a progressive disease like dementia. Many residents remain in these facilities for long periods of time because alternate placement is difficult to find.

As a result of this ruling, persons with Alzheimer's disease or other dementia and no mental health diagnosis may no longer be involuntarily committed to a psychiatric facility or hospital under Chapter 51. Residents involuntarily removed from a nursing home or an assisted living facility may be returned to the facility. Wisconsin statute and administrative code require nursing homes and community based residential facilities to only discharge a resident to a facility that will accept the resident. Before a resident can be involuntarily discharged the facility must provide the resident or their representative with a proper notice of discharge, inform the resident of their right to appeal the discharge with the Division of Quality Assurance and help the resident find acceptable placement.

Facilities that self-identify as a treatment facility for dementia or admit persons with dementia are responsible under Wisconsin administrative code to properly care for and manage the resident's needs within the facility. Facilities need to provide the appropriate treatment, including staff training, to respond to the individual's behaviors within the facility.

Multiple resources and training opportunities exist to improve caregiver and provider ability to understand and respond to challenging behaviors and reduce the need for emergency commitment. Persons who have a sudden change in behavior are often experiencing a medical change in condition, such as pain due to a urinary tract infection or injury; or change in the environment, such as a new resident, and the individual is unable to adjust. Either situation requires comprehensive evaluation by the appropriate caregiver and prompt treatment.

There are a variety of resources available to assist facilities and caregivers address the needs of persons with dementia. Many counties have specially trained staff to help facilities understand and cope with challenging behaviors. The Alzheimer's Association, Greater Wisconsin Chapter, and the Alzheimer's & Dementia Alliance of Wisconsin provide guidance, education and support and advocacy for persons with Alzheimer's disease.

The Wisconsin Board on Aging and Long Term Care, Ombudsman Program, provides advocacy services to residents and technical assistance to nursing homes and assisted living facilities. Ombudsmen are available to work with facilities, residents and their families to achieve quality care and quality of life.

The Department of Health Services/Division of Quality Assurance website, [Alzheimer's disease and Dementia Resources](#), offers training materials, assessment tools and links to publications on dementia care. The website includes a two-part webcast explaining a person-directed approach to dementia care that creates an environment designed to reduce challenging behaviors from occurring. If these behaviors occur, the program shows how to identify the source and correct the problem to prevent the need to remove the person from their home.

In 2007, the Wisconsin Health Care Association and Leading/Age Wisconsin developed the Wisconsin Clinical Resource Center (WCRC) project. The WCRC website is a user-friendly resource available to nursing homes to provide key information about eight care areas along with access to companion training materials. The care area modules include: dementia & distressed behavior, pain management, pressure ulcer prevention & treatment, falls & fall risk, urinary incontinence, dehydration and fluid maintenance, depressions and restraints.

The module for dementia and distressed behavior includes guidelines and tools for assessment, care planning, monitoring and evaluation of resident behavioral needs, the American Medical Directors Association (AMDA) Clinical Practice Guidelines for Dementia in the Long Term Care Setting and other environmental recommendations designed to optimize the quality of life for individuals with dementia. Through December 2012 the Wisconsin Department of Health Services/Division of Quality Assurance has awarded \$437,435 in CMP funding and \$161,435 in Medicaid funding to support this project.

The Committee submitted questions which I will now address:

3. Many state statutes and administrative code provisions relating to long-term care (LTC) facilities contain special provisions for facilities serving persons who are developmentally disabled. For example, s. DHS 132.695. In general, how were these alternate procedures arrived at and implemented?

The additional requirements at s. DHS 132.695 were developed in January 1987 to provide standards for the care and treatment of persons with developmental disabilities living in nursing homes.

Have they been effective?

Yes, the rules have ensured that persons who are developmentally disabled receive an individualized program of active treatment to help the resident attain their highest physical, social and vocational level of functioning. Currently nursing homes no longer provide long term care for developmentally disabled individuals in need of active treatment.

Could a similar process be used to create alternate procedures for residents serving persons with dementia?

Yes, a similar process could be used to develop rules for nursing homes caring for persons with Alzheimer's and related dementias. Other states have developed rules for specialized dementia units to respond to the growing number and special needs of persons with dementia. The standards may include provisions such as:

- Dedicated staff assigned to the unit, higher staff ratios
- Dementia-specific training for all staff who work on the unit, e.g., nurses, nurse aides, housekeepers, social services and activity staff and food service staff
- Specialized training in the use of non-pharmacological interventions in response to behaviors
- An accelerated activity program providing a minimum of 8 hours per day, 7 days a week
- A physical environment that accommodates behaviors, maximizes functional abilities, promotes safety and encourages resident independence
- A secure out-of-doors space to provide residents with the opportunity for daily, routine outdoor activities, weather permitting

5. When a resident with dementia exhibits challenging behaviors, what are the biggest challenges facing a LTC facility in which that resident is housed?

The biggest challenge facing facilities is the need – and the requirement – to protect residents with challenging behaviors from harming themselves and from harming other residents. Proactively, to prevent behaviors from escalating, there is a need for staff training to understand and develop treatment plans that respond promptly to the resident's needs and decrease or eliminate difficult behaviors. In some instances, there is also a need for additional staff to properly supervise a resident (1:1; even 2:1) so that staff can quickly react to prevent a resident whose behavior has escalated from harming self or other residents.

Could any of these challenges be addressed with changes to the state regulation of LTC facilities, or are the challenges strictly derived from federal law and from other factors such as a scarcity of resources?

Broad federal and state regulations already exist requiring nursing homes to supervise residents to prevent accidents and injuries and to manage residents' behaviors to prevent harm to self, others, or to property. More prescriptive state regulations would provide greater uniformity and guidance in how to meet these challenges. However, facilities that don't respond promptly to

implement interventions when a resident show signs of injurious behavior and the resident harms themselves or another resident may be cited with a violation.

6. Please describe, briefly, the process followed by DQA to inspect and license nursing homes and other LTC facilities. Does DQA monitor or evaluate the appropriateness of the use of emergency detention by nursing homes? Please provide thoughts on how the state can promote the adoption of the “person-centered” model of care in LTC facilities.

Nursing home surveyors inspect and recertify federally-funded nursing homes every 9 to 15 months and conduct intervening complaint surveys within 2 -60 days of receiving a complaint based on how the complaint has been triaged. All surveys look at a sample of residents and evaluate the care that is and has been provided to these residents. DQA does not monitor or evaluate the appropriateness of emergency detention, per se, but does evaluate the steps a facility has taken to manage a resident with challenging behaviors and the effectiveness of these steps in preventing harm to self or to other residents.

Please provide thoughts on how the state can promote the adoption of the “person-centered” model of care in LTC facilities.

The Division of Quality Assurance has worked collaboratively with nursing home representatives over the past several years to provide training opportunities for nursing homes on culture change, including the development of a person-centered approach to providing care in nursing homes. Through the FOCUS conferences sponsored by Wisconsin health care providers and the Department of Health Services/Division of Quality Assurance, a number of nationally recognized leaders in the culture change movement and in person centered care have provided training in a variety of areas including:

- Specialized assessment tools that create quality of life and care for residents and refocusing behaviors
- Strategies to make bathing a pleasurable experience for persons with dementia
- Principles of person center care, including the development of decentralizing self-led treatment teams
- How to develop the “household” model to provide care replacing the “institutional” model
- The Green House concept creating a deep culture change in the nursing home environment
- Multidisciplinary panel discussions, including nursing home representatives and DQA staff to dispel the myths and barriers of regulation to culture change
- Dining practices designed to improve and enhance the dining experience by providing attention to atmosphere, socialization, appetizing food choices with appealing presentation
- How to introduce dignity into the dining experience and enhance the service for residents
- How to design an activity program that meets the needs and interests of the residents, including developing activity assessment, and interest profiles

In 2005, the Department of Health Services/Division of Quality Assurance also worked with a team of Wisconsin stakeholders to form the Wisconsin Coalition of Person-Directed Care to promote person-directed culture in nursing homes. The Coalition includes representative from nursing homes, Directors of Nursing, activity professionals, nursing home trade associations, Metastar (Wisconsin’s Quality Improvement organization) and DQA. The coalition provides information on culture change, training and networking opportunities.

As I stated earlier, in 2007, the Wisconsin Health Care Association and Leading/Age Wisconsin, through funding from the Wisconsin Department of Health Services/Division of Quality Assurance, developed the Wisconsin Clinical Resource Center (WCRC) project. The WCRC website is designed as a user-friendly resource to provide key information about eight care areas along with access to companion training materials. The care area modules include: dementia & distressed behavior, pain management, pressure ulcer prevention & treatment, falls & fall risk, urinary incontinence, dehydration and fluid maintenance, depressions and restraints.

Each care area module provides companion training materials, guidelines, related regulations and additional resources for learning. Website development and training activities have been guided by the WCRC Advisory Group and DQA representatives. The module for dementia and distressed behavior includes guidelines and tools for assessment, care planning, monitoring and evaluation of resident behavioral needs, the American Medical Directors Association (AMDA) Clinical Practice Guidelines for Dementia in the Long Term Care Setting and other environmental recommendations designed to optimize the quality of life for individuals with dementia. Through December 2012 the Department has awarded \$437,435 in CMP funding and \$161,435 in Medicaid funding to support this project.

7. It has been suggested that nursing homes be required to attempt to address challenging behaviors of residents with dementia with medical evaluation and behavioral strategies before they may seek emergency detention. How could this requirement be enforced?

Facilities that self-identify as a treatment facility for dementia or admit persons with dementia are responsible under Wisconsin administrative code and federal regulations to properly care for and manage a resident's needs within the facility. Residents who show a sudden change in behavior are often experiencing a medical change in condition, such as pain due to an infection or injury and are unable to verbalize their needs. In some cases the resident is responding to a change in their environment, such as a new resident, and the individual is unable to adjust. Either situation requires comprehensive evaluation by facility staff and appropriate follow up.

The Division of Quality Assurance surveys nursing homes annually for compliance with the state and federal regulations, including the care provided to persons with dementia. In addition, there are multiple resources and training opportunities available to facilities to improve caregiver and provider ability to understand and respond to challenging behaviors and reduce the need to transfer the resident to a different facility.

As I indicated earlier in my testimony, The Department of Health Services/Division of Quality Assurance website, [Alzheimer's disease and Dementia Resources](#), offers training materials, assessment tools and links to publications on dementia care. The website includes a two-part webcast explaining a person-directed approach to dementia care that creates an environment designed to reduce challenging behaviors from occurring. If these behaviors occur, the program shows how to identify the source and correct the problem to prevent the need to remove the person from their home.

As I stated in my testimony, many counties have specially trained staff to help facilities understand and cope with challenging behaviors. The Alzheimer's Association, Greater Wisconsin Chapter, and the Alzheimer's & Dementia Alliance of Wisconsin provide guidance, education and support and advocacy for persons with Alzheimer's disease.

As I stated in my previous testimony, the Wisconsin Board on Aging and Long Term Care, Ombudsman Program, provides advocacy services to residents and technical assistance to nursing homes and assisted living facilities. Ombudsmen are available to work with facilities, residents and their families to achieve quality care and quality of life.

Thank you for this opportunity to provide information to the committee on the Legal Interventions for Persons with Alzheimer's disease and Related Dementias. I would be happy to answer any question that you may have at this time.