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## **Testimony to the Legislative Council Special Committee on Review of Emergency Detention and Admission of Minors Under Chapter 51**

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**Monday, October 4, 2010**

### **Representative Pasch and Members of the Committee**

**Thank you for inviting us to testify today on the interim findings of the Alzheimer's Challenging Behaviors Task Force (Task Force). The Alzheimer's Association called the Task Force together in April of 2010 after a series of incidents involving older adults with dementia who have exhibited aggressive and agitated behaviors and have been caught up in the legal and involuntary commitment systems. One individual died after being transferred to several different treatment facilities in an effort to find help.**

### **DESCRIPTION OF TASK FORCE**

**The Task Force is composed of over 100 individuals representing a cross section of the legal, medical, behavioral, service provider and caregiver communities. To date, there have been five large Task Force meetings. Additionally, five listening sessions with key stakeholder groups, such as legal, medical, and behavioral health experts, and providers were held. We have also conducted six key informant interviews with a number of experts in the mental health, medical, provider, and law enforcement fields.**

**We plan to produce a formal report in November of this year. What we are reporting today are interim findings, to date.**

### **FINIDNGS**

- 1. Chapter 51 is used as a vehicle to involuntarily medicate older adults with dementia. The psychotropic drugs used on individuals with dementia often include "black box" warnings, recommending against their use in such a manner.**
- 2. Most of the Chapter 51 petitions that have been brought to our attention originate in long-term care facilities that provide care to older adults.**
- 3. The series of events that lead to the origination of a Chapter 51 petition are very disturbing. Police are called to a facility, oftentimes a nursing home; the resident with dementia who has exhibited agitated behavior is charged with disorderly conduct or battery (although we have yet to hear of any serious physical harm that was done to staff or residents); the resident is taken in a squad car to one of several local hospitals for medical**

clearance. Often, the individual does not want to leave and is restrained and handcuffed in order for the law enforcement official to transport him/her. At the hospital emergency room, the individual and police officer are often required to wait in an environment that, to the individual with dementia, is often chaotic and confusing. If the person with dementia is medically cleared, the Chapter 51 petition is originated so the person can be involuntarily committed to a psychiatric facility. In rare occasions, the psychiatric care is found at a private hospital.

More often than not, the individual is transferred to the Mental Health Complex, if they are a Milwaukee County resident. This transfer to another facility, in and of itself, often exacerbates the individual's behavioral issues. Upon arriving at the psychiatric facility, the person may be administered psychotropic medications and be tranquilized. Once again, these medications may have "black box" warnings against their use for people with Alzheimer's disease and other dementias.

4. Behavioral issues relative to dementia care are serious and can be challenging, but there may be an underlying medical cause that has gone untreated. Often, the person is in pain due to conditions such as dental problems, dislocated joints, or even broken bones. From this point of view, the "challenging behavior" may be a form of communication that is going unheeded. The use of psychotropics to control behaviors does nothing to address the underlying medical conditions.
5. There is a large field of research into appropriate treatment modalities regarding agitated behaviors. There are assessment tools, intervention approaches, and treatment practices that are proven to be effective in addressing challenging behaviors. They are not being used widely.
6. Challenging behaviors are best understood as an interaction between a caregiver and a person with dementia, in a specific environment. A person with Alzheimer's often becomes disoriented due to a move, regardless of the distance. A change in environment is almost a guaranteed way to exacerbate the behavior. Chapter 51 is being used as a vehicle to do exactly this, to move a person out of an environment. Oftentimes facilities "close the bed" after the person has been removed from the facility, and do not allow the person to return.
7. There is a clear lack of resources to help address this issue. Mobile crisis teams are understaffed and usually unavailable. Other than the Mental Health Complex, there are no other crisis treatment facilities in Milwaukee County. Psychiatric beds in private hospitals have been diminishing over the years, not increasing. We have also seen the closure of what were formerly known as "Med/Psych" units in hospitals that are able to care for both the medical and psychiatric needs of older adults. Additionally, there is an alarming lack of geriatric psychiatrists able to intervene in these situations.
8. From this point of view, the use of Chapter 51 to intervene in behavioral issues regarding older adults is seen more as a symptom of a bigger problem.
9. Nevertheless, the use of Chapter 51 to detain and force treatment on older adults is inappropriate and dangerous in our opinion and should be stopped.
10. We are seeking data from the Police Department, the County, and the Public Defender's office as to the number of Chapter 51 petitions involving older adults with dementia and challenging behaviors, but so far we don't have this data.
11. We do have data regarding the number of individuals with Alzheimer's. In Milwaukee County alone, more than 16,000 people have Alzheimer's. Research indicates that anywhere between 40-90% of people with dementia will demonstrate agitated behaviors during the course of their disease process. Conservatively, this is more than half of people who have dementia. The number of individuals with Alzheimer's is growing rapidly as the population ages.

- 12. We also have reports that there is a wide variation in the use of Chapter 51 across the State. At least two counties have come to our attention that do not apply Chapter 51 to people with Alzheimer's and will not prosecute.**
- 13. We received testimony that Chapter 55 protective placement is a more appropriate vehicle to use in regard to people with Alzheimer's; however, it is viewed as a more cumbersome procedure, and there is a lack of placement facilities that could receive people using this approach.**

## **RECOMMENDATIONS**

- 1. The current practice for people with Alzheimer's and challenging behaviors is to use the definition of mental illness in the Chapter 51 statute that applies to individuals in need of involuntary commitment. Alzheimer's is not a mental illness, even though the behaviors demonstrated can be interpreted as comparable to the agitation seen in mental illness. Our recommendation is to review the original intent of Chapter 51 and determine if it is an appropriate vehicle to be used for persons with Alzheimer's and age-related dementias.**
- 2. We also recommend that a panel of experts with expertise in Alzheimer's disease, mental health, geriatrics, criminal justice, and health and long-term care be convened to consider what the outcomes would be if Chapter 51 was found to be inappropriate for people with Alzheimer's disease.**

**Thank you for convening this very important Legislative Council study. We look forward to your findings and stand ready to assist in any other way we can to advance your outcomes.**

## **ATTACHMENTS**

**Participant List, Alzheimer's Challenging Behaviors Task Force  
Tasks Completed to Date**