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To: Adult Family Homes
Community-Based Residential Facilities
Nursing Homes
Resident Care Apartment Complexes

AFH
CBRF
NH
RCAC

From: Otis Woods, Administrator
Division of Quality Assurance

Residents with Dementia and Challenging Behaviors

Background

A recent decision by the Wisconsin Court of Appeals ruled that persons with only a dementia or Alzheimer's disease diagnosis cannot be involuntarily committed for treatment under Chapter 51 of the Wisconsin Statutes. The decision states that dementia and Alzheimer's disease is not a qualifying mental condition under Chapter 51 and a person solely diagnosed with dementia or Alzheimer's is not a proper subject for commitment or treatment under Chapter 51. Chapter 51 establishes policy and outlines services for persons with mental illness, developmental disabilities and alcoholism and other drug abuse. The Court decision is available as the following link:

<http://www.wicourts.gov/ca/opinion/DisplayDocument.pdf?content=pdf&seqNo=63029>

Impact of the Decision

In the past, residents with Alzheimer's disease or other types of dementia may 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 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 an inpatient psychiatric facility or hospital under Chapter 51. Residents removed from a nursing home or assisted living facility may be returned to the nursing home or assisted living facility for care and treatment. Wisconsin administrative code for nursing homes and community based residential facilities require

facilities to only discharge a resident to a facility that will accept the resident. Relevant state codes are listed at the end of this memorandum.

Provider Responsibilities

Facilities that self-identify as a treatment facility for dementia or admit persons with dementia are responsible under state administrative code to properly care for and manage their needs within the facility. The facility is the resident's home; facilities need to provide the appropriate treatment, including staff training, to respond to the individual's challenging behaviors within the facility. Relevant state codes are listed at the end of this memorandum.

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 there may be a change in the environment, such as a new resident, and the individual is unable adjust. Either situation requires prompt and comprehensive evaluation by the appropriate caregiver and treatment.

Resources

There are a variety of resources available to assist caregivers and facilities address the needs of persons with dementias. Many counties have resources, included specially trained staff, to help facilities understand and cope with challenging behaviors associated with dementia. We recommend that you contact your county or surrounding counties to check on the availability of resources. The Alzheimer's Association, Greater Wisconsin Chapter, and the Alzheimer's & Dementia Alliance of Wisconsin also provide guidance, education and support and advocacy for persons with Alzheimer's disease. Links to these organizations are <http://www.alz.org/gwwi/> <http://www.alzwisc.org/>

The Department of Health Services/Division of Quality Assurance website, [Alzheimer's Disease and Dementia Resources](#), offers training materials, resources and links to publications on aging and dementia care. The website includes a 2-part webcast explaining a person-directed approach to dementia care that creates an environment that reduces challenging behaviors from occurring. If challenging behaviors do occur, the program shows how to identify the source and quickly address the issues to prevent the need to remove the person from their home. The webcast also includes assessment tools, environmental considerations and staff training designed to help providers meet the needs of persons with dementia. The website can be accessed at the following link: <http://www.dhs.wisconsin.gov/aging/genage/alzfcgsp.htm>

Wisconsin Statutes, Chapter 55 - Protective Service System

The needs and services for persons with Alzheimer's disease and other dementias are addressed under the provisions of Chapter 55, Wis. Stats. Persons with Alzheimer's disease and other degenerative brain disorders are eligible for emergency protective services through Chapter 55, Wis. Stats. Every county is required by law to designate at least one medical or protective

placement facility as an intake facility for emergency protective placements. The statute allows for emergency placement in a Chapter 55 designated facility when there is reason to believe that, if emergency protective services are not provided, the resident or others will incur a substantial risk of serious physical harm. Nursing homes and assisted living facilities are recommended to contact their county for the name of the Chapter 55 designated facility in their county or if they are interested in developing or expanding a service to include being designated for chapter 55 bed availability.

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Contact information of staff in DQA to answer questions

- Questions from nursing homes should be directed to the Regional Field Operations Director for the region in which your facility is located. Regional contact information is located at: http://www.dhs.wisconsin.gov/rl_DSL/Contacts/reglmap.htm
- Questions from assisted living facilities should be directed to the Assisted Living Regional Director for the region in which your facility is located. Regional contact information is located at: http://www.dhs.wisconsin.gov/rl_DSL/Contacts/ALSreglmap.htm

Administrative Code

Nursing Homes

DHS 132.60 (1) Unless it is in conflict with the plan of care, each resident shall receive care based upon individual needs.

DHS 132.53 (2) (b) *Alternate placement.* 1. Except for transfers or discharges under par. (a) 2. and 6., for nonpayment or in a medical emergency, no resident may be involuntarily transferred or discharged unless an alternative placement is arranged for the resident. The resident shall be given reasonable advance notice of any planned transfer or discharge and an explanation of the need for and alternatives to the transfer or discharge except when there is a medical emergency. The facility, agency, program or person to which the resident is transferred shall have accepted the resident for transfer in advance of the transfer, except in a medical emergency.

Community-Based Residential Facilities

DHS 83.31 (4) (a) 1. Before a CBRF involuntarily discharges a resident, the licensee shall give the resident or legal representative a 30 day written advance notice. The notice shall explain to the resident or legal representative the need for and possible alternatives to the discharge.
2. The CBRF shall provide assistance in relocating the resident and shall ensure that a living arrangement suitable to meet the needs of the resident is available before discharging the resident.

DHS 83.38 (1) (i) *Behavior management.* The CBRF shall provide services to manage resident's behaviors that may be harmful to themselves or others.

Adult Family Homes

DHS 88.07 (2) (a) The licensee shall provide or arrange for the provision of individualized services specified in a resident's individual service plan that are the licensee's responsibility.

DHS 88.06 (2) (c) 7. A service agreement shall specify all of the following:
Conditions for transfer or discharge and the assistance a licensee will provide in relocating a resident.

Residential Care Apartment Complexes

DHS 89.23 Services. (1) GENERAL REQUIREMENT. A residential care apartment complex shall provide or contract for services that are sufficient and qualified to meet the care needs identified in the tenant service agreements, to meet unscheduled care needs of its tenants and to make emergency assistance available 24 hours a day.

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