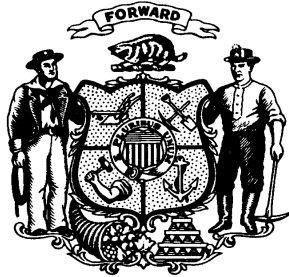


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January 10, 2013

Secretary Dennis Smith
Department of Health Services
1 W. Wilson St.
Madison, WI 53703

Attorney General J.B. Van Hollen
Risser Justice Center
17 W. Main St.
Madison, WI 53703

Re: Guidance for law enforcement and county human services personnel regarding involuntary psychiatric treatment of individuals with dementia.

Dear Secretary Smith and Attorney General Van Hollen:

I write on behalf of the Special Committee on Legal Interventions for Persons With Alzheimer's Disease and Related Dementias to request that your agencies provide clear guidance to educate and inform stakeholders across the state about procedures to be followed for involuntary treatment of individuals with dementia. At a minimum, this information should be provided to county human services departments and law enforcement personnel. This should occur as soon as possible, with an eye toward practical options that may be implemented until the Legislature provides a more permanent solution based in statute.

The Joint Legislative Council created the Special Committee in response to the Wisconsin Supreme Court's decision in *Fond du Lac County v. Helen E.F.*, 2012 WI 50. In that case, the Court stated that involuntary psychiatric care of a person with Alzheimer's Disease is more appropriately provided under the provisions of ch. 55 than those of ch. 51. The Joint Legislative Council directed the Special Committee to review and develop legislation to clarify the application of these statutes to vulnerable adults with dementia.

Accordingly, the Special Committee has developed draft legislation addressing the issue. The proposal, which has been forwarded to the Joint Legislative Council for review, would create provisions in ch. 55 to allow for appropriate involuntary psychiatric care of a person with Alzheimer's Disease under that chapter, as opposed to ch. 51. However, the Special Committee is aware that the Legislature may take several months or longer to act on the proposed legislation.

The Special Committee believes that immediate action is required by DHS and DOJ to clarify the application of chs. 51 and 55 until such time as legislation is enacted. This action is needed because there is a significant confusion among county officials, law enforcement, and

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other stakeholders across the state regarding current options and best practices for involuntary treatment of individuals with dementia after *Helen E.F.* This includes confusion over:

- Whether emergency detention procedures under current ch. 51 remain an option for individuals with dementia who may have a co-occurring psychiatric diagnosis.
- Criteria that may be used by law enforcement and county agencies in determining how to respond when an individual who appears to have dementia exhibits behavior that poses a threat to the health and safety of the individual or others.

In your guidance clarifying the application of chs. 51 and 55, Stats., the Special Committee strongly encourages you to conform as closely as possible to the principles embodied in the Special Committee's recommendations to the Joint Legislative Council. These include the promotion of treatment in place, minimization of trauma for elderly individuals with dementia, and provision of environmentally appropriate placements for involuntary psychiatric treatment of individuals with dementia to the extent possible.

Since the time that *Helen E.F.* was decided, confusion over the application of chs. 51 and 55, Stats., has resulted in a tragic lack of access to necessary care for some vulnerable individuals with dementia for whom the care would otherwise be available. We urge DHS and DOJ to take immediate action to ensure that this does not continue to occur.

Sincerely,

Representative Dan Knodl, Chair
Special Committee on Legal Interventions
for Persons with Alzheimer's Disease and Related
Dementias

DK:tr