



**Amery Regional
Medical Center**

www.amerymedicalcenter.org

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Amery, WI 54001
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Behavioral Health Center
ARMC West Campus
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Clear Lake Clinic
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137 First Avenue
Luck, WI 54853
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Luck PT & Fitness
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the Fitness Center
220 N Keller Avenue
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Turtle Lake Medical Clinic
550 Martin Avenue
Turtle Lake, WI 54889
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Wound Healing Center
ARMC West Campus
230 Deronda Street
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October 14, 2010

Representative Ann Hraychuck
Representative Sandy Pasch
Mr. David Riemer

RE: Making Parity Real: Current legal barriers to accessing psychiatric care for older adults deemed incapacitated or incompetent.

Dear Ms. Hraychuck, Ms. Pasch, and Mr. Riemer:

Thank you for your efforts to make parity real and improve access and quality of mental health care for Wisconsin residents. I wanted to make you aware of legal barriers in accessing inpatient psychiatric care for Wisconsin older adults who are incapacitated due to dementia or other cognitive deficits.

Did you know that currently in Wisconsin a patient's legal guardian or activated health care power of attorney (HPOA) can authorize the removal of a feeding tube or discontinue life support measures which ultimately result in the ward's death, and yet they cannot authorize inpatient psychiatric treatment for their ward? This policy clearly demonstrates that fear, stigma and myths regarding mental health treatment still prevail in our state.

Currently WI Chapter 155 and 55 prohibit a guardian or HPOA from admitting a patient to inpatient care unless the ward consents or "does not protest" - that same ward who has been determined to be unable to make appropriate decisions regarding their health care! Unfortunately, those who are most in need of psychiatric care, and especially those with dementia, do not recognize their need for psychiatric care and thus often will not consent or will say they want to "go home" not realizing they haven't lived in their own home for years. It defies logic that we would first determine that the individual is incapable of understanding and consenting to medical treatment and then require that individual to give consent in order to access mental health treatment.

People often state the way around this problem is to allow the individual escalate to the point that they are in imminent danger to themselves or others and initiate involuntary commitment through WI Chapter 51.15. This position places the patient and others at risk of physical harm, does not allow for the patient to receive treatment in the least restrictive manner, results in unnecessary court costs, and results in the unfortunate situation of a confused elder being taken for medical treatment in handcuffs transported by law enforcement.

In addition, several judges and county mental health directors have taken the position that Chapter 51 excludes individuals with a diagnosis of dementia.



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It is my opinion that this is a misinterpretation of the statute. Dementia is NOT excluded in the definition of a "mental illness" which is the requirement for commitment. However, later in the statute, dementia is excluded in the definition of "severe and persistent mental illness" which is the requirement to be admitted to a CSP program. Inconsistencies in the interpretation of Chapter 51 in this regard results in inconsistent application of the statute across counties.

The practical implication of all this is that older adults who could benefit from inpatient psychiatric care to stabilize their symptoms of psychosis, agitation and aggression cannot access care voluntarily or involuntarily. This leads to patients who are at risk of hurting themselves or others being left to be managed in their homes or in nursing homes which are inadequately staffed and ill equipped to deal with such symptoms.

With this in mind, I respectfully ask that you as representatives of the citizens of Wisconsin take the following three legislative actions to assure equal access to psychiatric care for older adults:

- 1) Amend Wisconsin Chapter 155 to allow a Health Care Power Attorney (HPOA) to be specifically given the authority to make decisions regarding inpatient psychiatric care including psychotropic medications just as the HPOA is able to make other important health care decisions.
- 2) Amend Wisconsin 55 to specifically grant a guardian of person the authority to independently authorize inpatient psychiatric care including psychotropic medications for their wards just as they make other important medical decisions.
- 3) Amend Wisconsin Chapter 51 to clarify that dementia specifically IS included in the diagnosis of a mental illness for purposes of emergency detention and commitment for individuals with dementia who present an imminent risk to themselves or others.

If I can provide more information or assist in making these changes in order to provide better access to care for our older adults please do not hesitate to contact me at 715-268-0102. Thank you for your consideration of these issues and others that affect the mental health of our citizens.

Sincerely:

Colleen Erb, Psy.D.
Licensed Psychologist
Program Director
Amery Regional Behavioral Health Center