



The Older Americans Act: Title VII – Vulnerable Elder Rights Protection

State of Wisconsin Board on Aging and Long Term Care Ombudsman Program

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Older Americans Act says:

- 42 USC 3058g(a)(3)(E) the Ombudsman shall “represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents.”



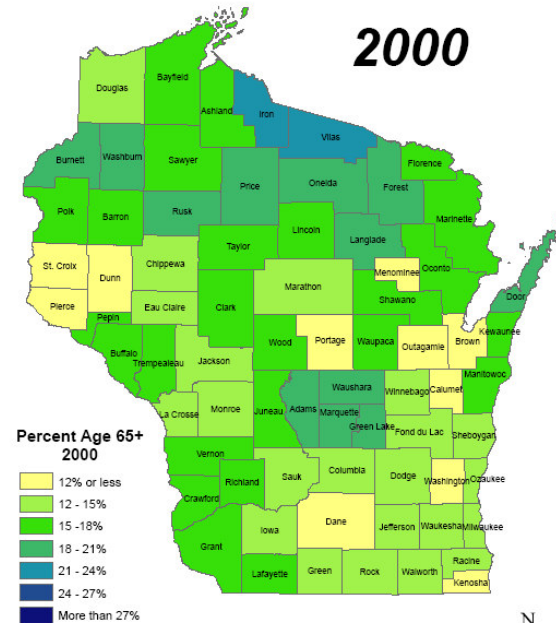
Critical time in long term care

- We really are facing a crisis in long term care in nursing home and assisted living facilities throughout the country. We see on a daily basis individuals who are being abused and neglected within these facilities. Examples include: poor staffing levels, individuals suffering from horrible pressure ulcers, individuals not being fed thereby experiencing starvation and individuals being restrained in their rooms.
- We are not saying all facilities and care are bad. However, we are seeing cruel awful incidents that are affecting human lives.
- Individuals deserve to be treated with dignity and respect. They deserve to receive quality care and to have quality of life when they are vulnerable and frail.
- **Without more funding we are not going to be able to stop these terrible occurrences.**

Bureau of the census provided to the Department of Health Services projections of Population Age 65+ in Wisconsin. This map shows the average range of 12-18% in the year 2000.

Percent of the Population Age 65+

2000

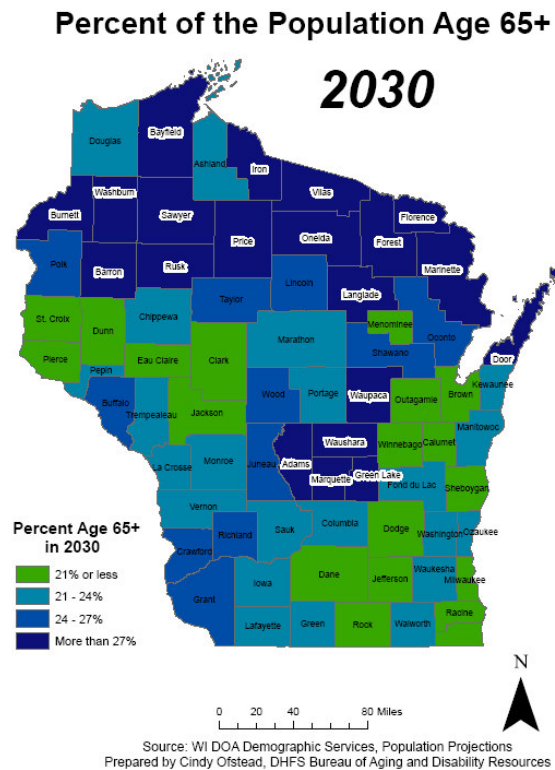
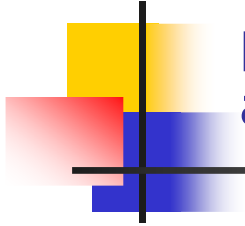


0 20 40 80 Miles



Source: U.S. Bureau of the Census, Census 2000.
Prepared by Cindy Ofstead, DHFS Bureau of Aging and Disability Resources

This is very telling showing how Wisconsin will be affected in 2030. 24-27% of the state will be over 65+. Funding is critical due to the aging population and the services that will be needed. We need to plan ahead and be prepared. We must support and provide the appropriate protections for our aging population!!





The importance of Older Americans Act Funding and why more is needed

- **The FY09 funding levels for the Ombudsman program is at \$16.327 million to support approximately 1,300 paid ombudsmen and their programs nationally) and over 9,100 certified volunteers. The Volunteer Ombudsmen are a valuable resource and the majority of Programs could not function without them. The Ombudsmen would not be able to visit our nursing homes as frequently without our treasured volunteers.**
- **The ratio of paid ombudsmen to total number of long-term care facility beds nationwide was 1: 2,200 in 2007.**
- **In Wisconsin, the ratio of paid Ombudsmen is 1:5,100. The Institute of Medicine, in a study done in 1995, stated that an effective Ombudsman to resident ratio is 1:2,000. Wisconsin is struggling to keep up with the demands of our current consumers and to prepare for the potential number of baby boomers around the corner.**



Importance of Funding- continued

- Additional funding for the National Long Term Care Ombudsman Resource Center (NORC) authorized under Title II along with other resource centers would support technical assistance and training for long-term care ombudsmen to maximize their effectiveness and visibility.
- NORC is a valuable and critical organization that unifies and supports all Ombudsman Programs throughout the nation and also provides support for the Volunteer Ombudsmen.



Title VII: Vulnerable Elder Rights Protection

- **Title VII: Ombudsman Programs-What is an Ombudsman?**
 - **A person who identifies, investigates and resolves complaints made by or on behalf of resident-relating to the health, safety , welfare or rights of the residents**
 - **In addition to their specific mandate to address complaints, ombudsmen also have a broader mandate to protect the safety, welfare and rights of individuals who receive long-term care services. Ombudsmen:**
 - **Help residents seek administrative, legal, and other remedies to protect their rights, health safety and welfare;**
 - **Review and comment on any existing proposed laws, regulations or policies that pertain to the rights and well-being of residents;**
 - **Educate community members concerning the needs of long term care residents;**
 - **Support the development of resident and family councils**



Why is an Ombudsman important?

- Wisconsin residents describe their ombudsman's role:
 - "Protect and maintain my dignity as an individual"
 - "Advocate for my best interest and not the facility"
 - "Help me to have quality life and care in my own home with assistance"
 - "Advocate for my rights and humanity in a long term care setting"
 - "Be a voice for me at the weakest point in my life, and listen to my concerns and wishes."



Examples of why family members turn to the Ombudsman Program for help and assistance

- **An ambulatory resident fell 37 times in a five month period, but the facility did not investigate the falls to determine the cause or update the care plan. Physician was not informed of these falls and the resident is now permanently in a wheelchair.**
- **A non verbal, physically impaired individual was left in the shower unattended, fell and hit his/her head on the wall, sustained a closed head injury and neck fractures. Individual was hospitalized 10 weeks, surgery, mechanical ventilation, a tracheotomy, catheter, feeding tube and paralyzed for LIFE.....**
- **Staff witnessed caregiver swearing at residents, ripping a call pendant from a resident's neck and tugging hard on the resident's catheter which produced immense pain, blood in the catheter bag. The resident ended up in the emergency room with the bladder hemorrhaging and was admitted to the hospital.**
- **A resident with dementia was found outside on a winter morning lying down on the ground for over 90 minutes. Diagnosed with hypothermia and died less than two weeks later.**
- **The role of the Ombudsman in all of these cases was vital. The Ombudsman provided advocacy for the resident and family, training for the facilities on rights, abuse prevention and increased monitoring visits.**



Programs for Prevention of Elder Abuse, Neglect and Exploitation

- **What is Elder Abuse?**

- **Under Title VII, the Elder Abuse FY09 funding was \$5.056 million which is inadequate to provide sufficient protections for our vulnerable aging population.**
- Physical Abuse, Sexual Abuse, Domestic Violence, Psychological Abuse, Financial Exploitation, Neglect and Self-Neglect
- Although estimates vary, it is now believed that between 1 and 2 million people ages 65 and above have been exploited, injured or otherwise mistreated by someone whom they depend on for care.



Example of Sexual Abuse

- In Wisconsin, Ombudsmen do not investigate abuse, however, they may advocate for the victim after the abuse has occurred.
- An individual was charged with three counts of second degree sexual assault stemming from his/her employment at a nursing home. According to the Department of Justice's criminal complaint, the individual was employed as a certified nursing assistant responsible for the care of patients living in the Dementia/Alzheimer's unit of the facility. On three separate occasions in 2007, the employee was seen by three separate co-workers to be fondling female residents. One of the residents was incapable of communicating or showing reaction, however, another resident was seen trying to physically resist the assault.
- **The trauma these individuals encountered will never allow them to lead a normal life. They are receiving counseling, however, with the dementia it can be very challenging.**
- **The Ombudsman was there to provide advocacy for the resident and his/her family and work with the facility on training for prevention.**



An example of Physical Abuse

- The Wisconsin Attorney General recently prosecuted a man who has now entered a guilty plea to 3 charges of Battery. According to the Department of Justice's criminal complaint, this individual was employed as a caregiver at a Nursing Home. The individual was witnessed by another caregiver to be taunting an elderly female patient and then slapping the woman across the face. The witness noted that the individual appeared to be enjoying the situation while the individual was abusing the victim. Further, the individual squeezed the victim's arm to the point that it showed visible bruising on multiple occasions.

The defendant was immediately sentenced to 6 months incarceration followed by 18 months probation. While on probation, the individual will be required to comply with numerous conditions including a prohibition against seeking work as a caregiver. Attorney General Van Hollen said "Elderly citizens in need of care, and their families, place an enormous amount of trust in caregivers to provide compassionate and professional care in the assisted living setting."

The role of the Ombudsman once again to work with the resident and his/her family. The facility was very open to our involvement in education and prevention of abuse.



Authorized under the OAA-but not adequately funded...

- In the OAA there is language which clarified the list of activities States can provide with elder abuse allotments:
 - Public education and outreach on financial literacy, id theft, and financial exploitation
 - Elder abuse shelters and safe havens
 - Services to underserved populations
 - Development of “accountability measures” and evaluation programs to ensure effectiveness of activities



Funding and support needed!

- The Leadership Council of Aging Organizations has called on Congress to provide at least a 12% increase in funding in FY2010.
- The National Association of State Long-Term Care Ombudsman Programs (NASOP) will be strongly advocating for this increase.
- Our greatest concerns include:
 - Many nursing home and assisted living facilities are not receiving adequate visits from Ombudsmen and there are not enough staff to adequately train Volunteer Ombudsmen.
 - The National Ombudsman Resource Center cannot provide enough training and resources due to limited funding.
 - Most of all, we need to protect and provide advocacy services for our aging population and with our current funding we are not able to do this.



Margaret Mead stated:

- **“Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has.”**



Increase Older Americans Act Funding! 12% for FY10!

- For more information please contact:

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State of Wisconsin Board on Aging and Long Term Care

1-800-815-0015 or 608-246-7014

<http://longtermcare.state.wi.us/home/>

The National Association of State Long-Term Care Ombudsman Programs (NASOP) strongly supports increased funding for these vital services.

<http://www.nasop.org/>