

**Testimony in Support of AB 400**

Assembly Committee on Criminal Justice and Public Safety

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Disability Rights Wisconsin is the designated Protection and Advocacy System for people with disabilities in Wisconsin. A major part of our charge is to protect our constituencies from abuse and neglect. DRW also houses a Victim Advocacy Program that works directly with survivors of crime with disabilities across the state. In that work we regularly work with adult protective service agencies and law enforcement agencies when our clients experience abuse or neglect. We strongly support AB 400 because it will ensure that all allegations of abuse and neglect of at-risk-adults will be investigated. Current law permits adult protective service agencies to decide on a case-by-case basis whether an investigation will occur. Of necessity, this means that some reports do not get investigated.

Our experience with abuse and neglect of at-risk-adults is, sadly, significant. We do our own investigations of abuse and neglect when we learn of incidents where we do not believe the service system (APS, CPS, DHS, DCF and/or Family Care MCOs) has responded effectively. In addition, our victim advocacy program regularly engages with law enforcement in support of victims of abuse and neglect.

We regularly monitor the Department of Health Services' Division of Quality Assurance's monthly release of "statements of deficiency" for the community-based facilities it regulates.<sup>1</sup> Many of these deficiencies are instances of abuse, neglect or serious rights violations of at-risk adults. Unfortunately, the sheer volume of these deficiencies has risen dramatically since the DQA has resumed in-person surveys following the initial wave of COVID. For example. In December of 2020 (when DQA had suspended regular surveys of facilities) DQA reported 67 statements of deficiency related to 59 facilities. In June of 2021 those numbers were 316 and 209, respectively. Based on our preliminary review of the June data, at least 8 facilities were cited for serious abuse or neglect of their residents. These results show that if you don't investigate abuse and neglect you don't find it. That doesn't mean it isn't happening.

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<sup>1</sup> DQA regulates community-based facilities with more than 2 beds. Facilities with 1-2 beds are overseen by the managed care organizations that serve the Family Care long term care program. MCOs do not have any formal regulatory powers.

And the type of abuse or neglect that is occurring is highly disturbing. Here are two examples from DQA's June release:

- A person with mental illness in the care of a 4-bed adult family home died under circumstances indicating medical neglect. The person missed medical appointments prior to their death and was found to be severely underweight and to have pressure injuries postmortem. The facility failed to notify the guardian or treating physician of the person's rapid physical decline.
- A person with schizoaffective disorder, borderline intellectual functioning and a history of falling was left unattended (despite having 1 to 1 staffing requirement) and fell off of a couch while staff was cleaning. About two hours later, incoming staff noticed resident appeared to have suffered a stroke." Management directed staff to transport the resident to hospital in a private vehicle rather than calling 911. On the way to the hospital, the resident lost consciousness and turned blue. At hospital, they were revived and discovered to have broken their spine. The resident died in hospital 4 days later.

Equally alarming is the rate at which Wisconsin is losing its community-based facilities—community based residential facilities and adult family homes. There are currently 16 CBRFs in the process of closing. We are aware of at least eighty-five 3-4 bed AFH closures so far in calendar year 2021, thirty-two in the month of July alone. Inability to hire/retain staff is the main reason they for closing. No agency keeps track of what is happening among the 1-2 bed AFHs, but our anecdotal experience is that they too are unable to maintain staffing.

The dwindling supply of residential placement opportunities means that people are being placed farther from their home communities and farther from the friends and loved ones whose eyes provide one of the most effective abuse and neglect prevention weapons in our arsenal.

Because of the workforce crisis we are experiencing in Wisconsin, more facilities are likely to close, and the remaining ones are likely to be short-staffed on a more frequent basis. Family members caring for loved ones at home are becoming more stressed due to COVID and fewer opportunities for respite. Under these circumstances more people are likely to experience abuse and neglect. We are on a downward spiral in Wisconsin that requires shifts in many policies. AB 400 is one such small shift. A qualified person must look at every complaint of

abuse or neglect of an adult-at-risk. Without such a mandate the numbers of complaints that will not be investigated is likely to grow.

Others have appropriately pointed out that this bill simply makes the adult-at-risk reporting system equivalent to the elder abuse reporting system, which has always required that all allegations of abuse or neglect be responded to. Obviously, younger adults with disabilities are no less valued members of society and are deserving of the same protection as our vulnerable elders.

One serious deficiency in AB 400 (and its Senate counterpart) is its failure to include additional funding to county adult protective services agencies to support this critical work. Quality investigations take time and expertise, and county protective services agencies are already stretched very thin. We can afford this. Wisconsin is expected to run a nearly \$2-billion-dollar surplus in FY 2021.<sup>2</sup> A small part of the current surplus would fund the support counties need to respond to abuse and neglect of some the most vulnerable people in our state. We urge members to amend this bill to include an appropriation sufficient to fund the costs of implementing it.

Thank you for the opportunity to testify in support of this important bill.

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<sup>2</sup> “The final estimate of 2020-21 tax collections (projected on June 8) was \$19,253.8 million. Actual collections were \$319.0 million, or 1.7%, above the estimated amount.” Legislative Fiscal Bureau, Sept. 2, 2021.