



Medical Incapacity holds & Dementia holds

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Medical Incapacity Holds

- For situations in which **medically hospitalized patients** who lack decisional capacity in the hospital may request, demand, or attempt to leave the hospital despite grave risk to themselves.
- Examples: Cognitive impairment or delirium due TBI, stroke, seizure, infection, cancer, post operative effects, or dementia.
- Individuals may leave against medical advice (AMA), protected by common law “right to self determination”.
- Physicians face decision on allowing patient to leave AMA or holding them against their will.




Issues with lack of Medical Incapacity Hold law in Nevada

- Often physicians detain these individuals on the basis that they lack capacity, but in few states have laws that address this matter directly.
- Multiple hospitals in Nevada report struggling with this issue in policy and in practice
 - Leads to inappropriate use of involuntary psychiatric holds
 - Problems developing policy and procedures without basis in law
 - Face risk for liability for false imprisonment



Dementia Holds

- ▶ Concept introduced by multiple stakeholders from Mobile Outreach Safety Teams, law enforcement, and hospitals to address gap in ability to detain **individuals in community who are a danger to self or others or unable to care for self, and do not have an underlying mental illness.**
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Issues and Opportunities to Support Individuals with Dementia in the community

- Gathered input from stakeholders and specialists focused on dementia and identified multiple issues and opportunities for collaboration.
 - **Early Intervention:** No mechanism in place for systematic early identification of individuals with dementia in the hospitals.
 - **In-home response:** Need for mobile crisis response to work to keep individuals in their home
 - **Hospital training:** Hospitals lack training to identify individuals who have mild symptoms of dementia and misdiagnose older adults with dementia who are experiencing other issues.
 - **Return to home:** Providing supports that allow individuals to retain autonomy and stay in their homes.




Emergency detainment for individuals experiencing crisis

- Gap in the system for individuals experiencing medical issues or dementia and are a danger to self or others or are unable to care for self, but who do not have mental illness.
- Law enforcement, Mobile Outreach Safety Teams, and hospitals do not believe they have legal means of detaining individuals for evaluations.
- Individuals are at times left in crisis, arrested, or inappropriately detained on mental health crisis hold.



Additional gaps in the system

- ▶ Courts deny petitions for involuntary admission due to dementia with no mental illness
 - ▶ Hospitals sometimes inappropriately release individuals who lack capacity to consent to treatment or inappropriately have these individuals consent to treatment due delayed means of guardianship.
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Wisconsin

- ▶ Wisconsin Supreme Court care [Helen E.F. decision](#) issued in May 2012. In the *Helen E.F. decision*, the Court held that Helen, a person with dementia but with no accompanying mental illness could not be involuntarily committed for treatment under Chapter 51 of the Wisconsin Statutes, which addresses mental illness, substance use disorders, and developmental disabilities.
- ▶ *Special Legislative Committee on Legal Interventions for Persons with Alzheimer's Disease and Related Dementias*
- ▶ *2013 Summit*
- ▶ *2018 survey and strategic plan development*
- ▶ *Wisconsin Dementia Care Redesign Plan*
- ▶ *2019-2023 Wisconsin State Dementia Plan*
<https://www.dhs.wisconsin.gov/dementia/history.htm>



Wisconsin

- ▶ Crisis response objectives in strategic plan::
 - ▶ • Increase dementia-related knowledge and competency of crisis response professionals.
 - ▶ • Develop a uniform system of dementia-related crisis response with priority on treating and managing crisis in place.
- ▶ Utilize protective placement under Chapter 55 for persons with dementia in crisis



Protective Placement

- ▶ Emergency protective placement: “means on intervening in an emergency situation if it is probable that a person as a result of an incapacity is unable to provide for her or her own care or custody. Situation must create a substantial risk of physician harm to the person or others if protective action is not immediately taken.”
<https://www.dhs.wisconsin.gov/publications/p00445.pdf>
- ▶ May be transport to medical facility, or facility or home for residential care or custody.
- ▶ Can only be placed by law enforcement, fire fighter, guardian, authorized county rep (such as APS or crisis system)
- ▶ 72 hour hold, can be extended to 30 days with court order



Protective placement form

- ▶ <https://www.wicourts.gov/formdisplay/GN-4000.pdf?formNumber=GN-4000&formType=Form&formatId=2&language=en>
- ▶ “It appears probable that the individual is so totally incapable of providing for the individual’s own care or custody as to create a substantial risk of serious physical harm to the individual or others as a result of a developmental disability, degenerative brain disorder, serious and persistent mental illness or other like incapacities if not immediately placed in an appropriate medical or protective placement facility.”




Initial Conclusions



1. Current practices in dementia crisis response do not conform with Nevada law
2. Issues in the hospital and community are similar in need for detainment and evaluation for issues involved in lack of capacity around decision making related to medical conditions.
3. Don't use the term "dementia hold".
 - Unnecessarily pejorative and stigmatizing for individuals who are diagnosis with dementia.
 - Also is inaccurate as it does not capture other medical conditions impacting capacity to make decisions.



Conclusions continued



4. Develop multi-system collaboration/ statewide workgroup to address gaps and needs in community and develop uniform system of dementia related crisis response with priority on managing and treating crisis in place



Thank you!

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