

Assisted Living in Wisconsin from the Perspective of a State Long Term Care Ombudsman



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State Long Term Care Ombudsman

State of Wisconsin Board on Aging and Long
Term Care

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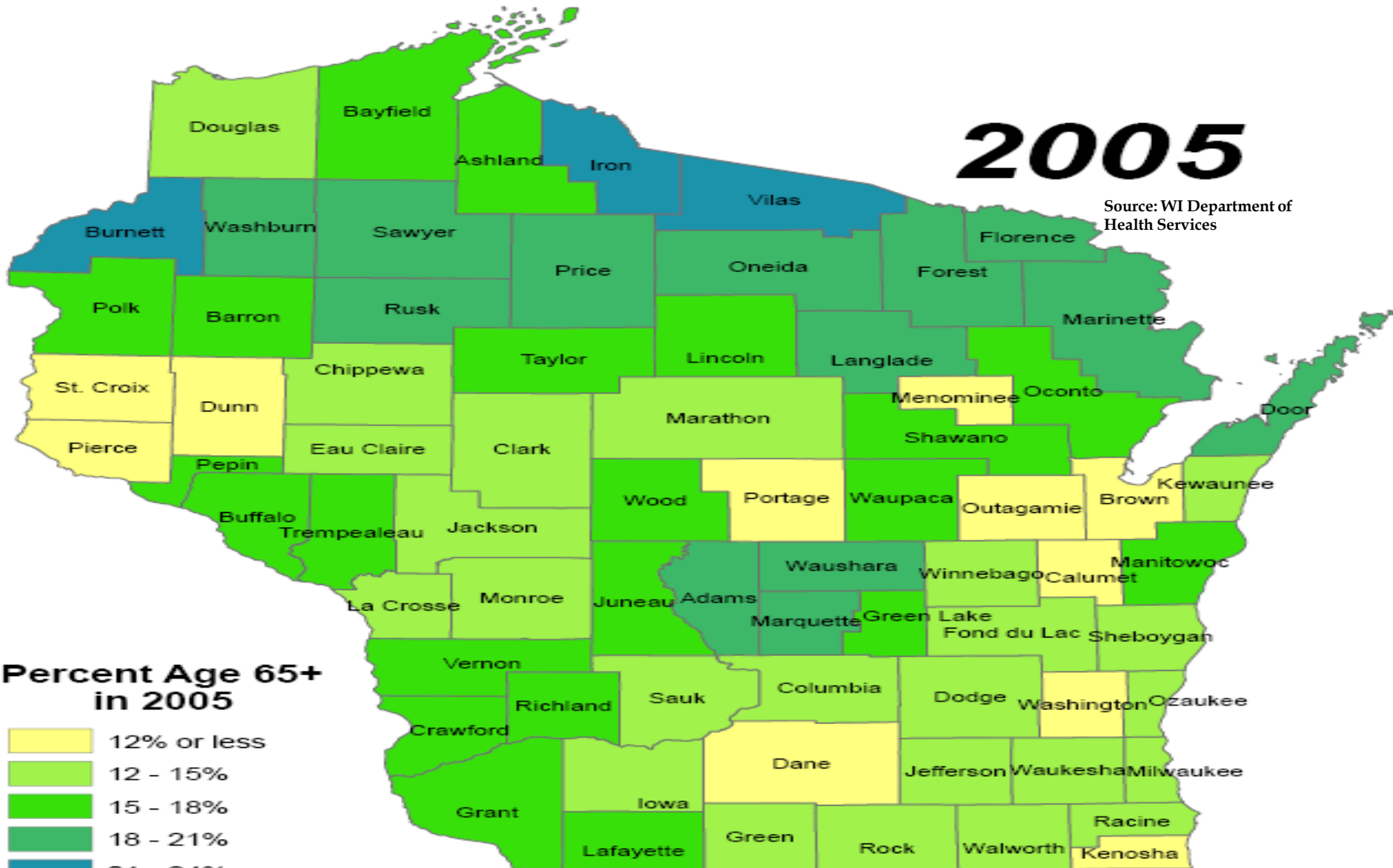
Wisconsin's Long Term Care Ombudsman Program



- ❧ The Board was created by the WI State Legislature in 1981. In 1982 the Board assumed the functions of the former Governor's Nursing Home Ombudsman Program.
- ❧ Appointed by the Governor, an independent seven-member citizen board of directors advises the Governor and Legislature on long term care issues and policy. Each Board member goes through a Senate confirmation.
- ❧ 15 Professional Regional Ombudsmen serve all of Wisconsin's 72 counties. Ombudsman ratio: 1:6,000 consumers
- ❧ One Relocation Ombudsman Specialist is dedicated to those residents who are being relocated due to closing or replacement facilities.
- ❧ Over 120 Volunteer Ombudsman in 26 Wisconsin counties.

2005

Source: WI Department of Health Services

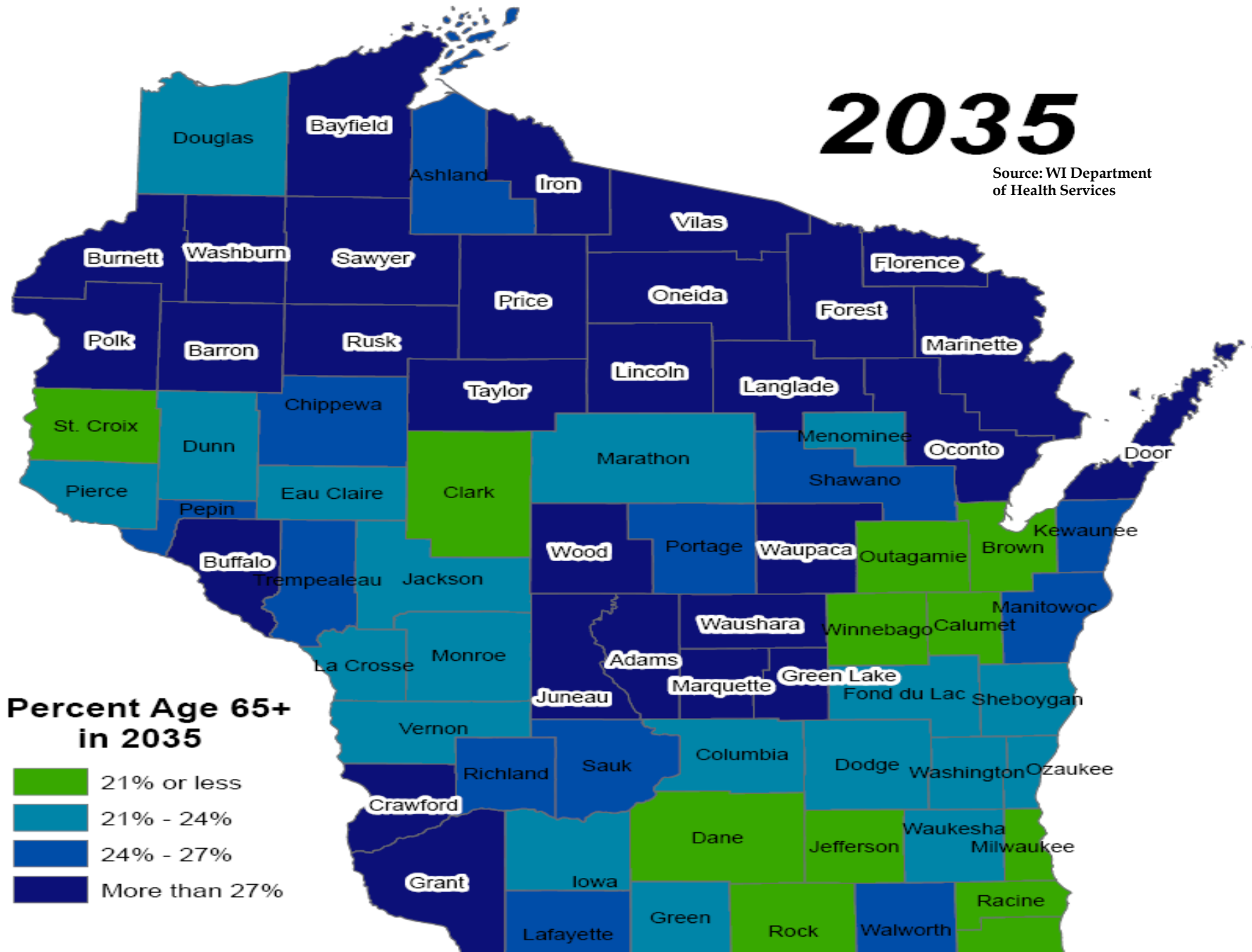


Percent Age 65+ in 2005

- 12% or less
- 12 - 15%
- 15 - 18%
- 18 - 21%
- 21 - 24%
- 24 - 27%
- More than 27%

2035

Source: WI Department of Health Services



Wisconsin Comparison of Long Term Care Options

Source: WI Board on Aging and Long Term Care



	Broad Definition	Basic Services Included	Regulatory & Advocacy Oversight
<p>Home & Community-Based Care (Family Care)</p> <p>Chapter DHS 10</p> <p>Self-Directed Supports - IRIS</p>	<p>Members receive services where they live. Comprehensive for persons age 18 and older who meet state Medicaid eligibility requirements.</p>	<p>Case management and care coordination, supportive home care, skilled nursing, therapies, employment skills training and pre-vocational training for younger members.</p>	<p>Enrollment via ADRC's; care coordination and services provided through Managed Care Organizations (MCO's) as contracted with DHS.</p> <p>Advocacy and rights protections via the Long Term Care Ombudsman Program for members age 60 and older, via Disability Rights of WI for members age 18 - 59.</p> <p>Self-directed supports under IRIS managed via IRIS Consultant Agency (ICA), with budget managed via the IRIS Financial Services Agency.</p>
<p>Residential Care Apartment Complex (RCAC)</p> <p>Chapter DHS 89</p>	<p>An apartment that includes a kitchen, living area, bedroom and private bathroom. Limitations on tenants with guardianships, activated powers of attorney for health care.</p>	<p>Required: meals, housekeeping, laundry, arranging medical appointments and transportation. May provide up to 28 hours per week of personal care and/or nursing services. (These are generally provided for a fee above the monthly rent.)</p>	<p>"Registered" or "Certified" by the Department of Health Services (DHS).</p> <p>No on-site or annual inspections required, unless certified.</p> <p>No requirement for DHS to investigate tenant complaints, unless certified.</p> <p>Advocacy and rights protections via the Long Term Care Ombudsman Program for tenants age 60 and older.</p>

Wisconsin Comparison of Long Term Care Options

Source: Wisconsin Board on Aging and Long Term Care

Long Term Care Option	Broad Definition	Basic Services Included	Regulatory & Advocacy Oversight
Adult Family Home (AFH) Chapter DHS 88	Where 3 or 4 adults, not related to the operator, reside and receive care, treatment and/or services above room and board.	Assistance or supervision with activities of daily living (ADL's). Not more than 7 hours per week of nursing care.	Licensed by the Department of Health Services (DHS). License inspection every 24 months. Division of Quality Assurance investigates complaints. Advocacy and rights protections via the Long Term Care Ombudsman Program for residents age 60 and older.
Community Based Residential Facility (CBRF) Chapter DHS 83	Where 5 or more adults reside, who are not related to the operator, in which care, treatment and/or services above room and board are provided.	3 meals per day, plus snacks. Social programs. Assistance or supervision with activities of daily living (ADL's). Not more than 3 hours per week of skilled nursing care.	Licensed by the Department of Health Services (DHS). License inspection every 24 months. DQA investigates complaints. Advocacy and rights protections via the Long Term Care Ombudsman Program for residents age 60 and older.
Nursing Home Chapter DHS 132	A facility licensed to provide skilled nursing care.	3 meals per day, plus snacks. 24 hour skilled nursing care. Rehabilitative services. Services to meet the psychosocial, emotional and/or physical needs of the resident.	Licensed by the Department of Health Services (DHS). Inspected annually by the Division of Quality Assurance (DQA). DQA investigates complaints. Advocacy and rights protections via the Long Term Care Ombudsman Program for residents age 60 and older.

Providers Regulated by the Department of Health Services Division of Quality Assurance

Facility Type

Nursing Home	398
CBRFs	1507
Adult Family Homes	1504
RCACs	301
Total	3709

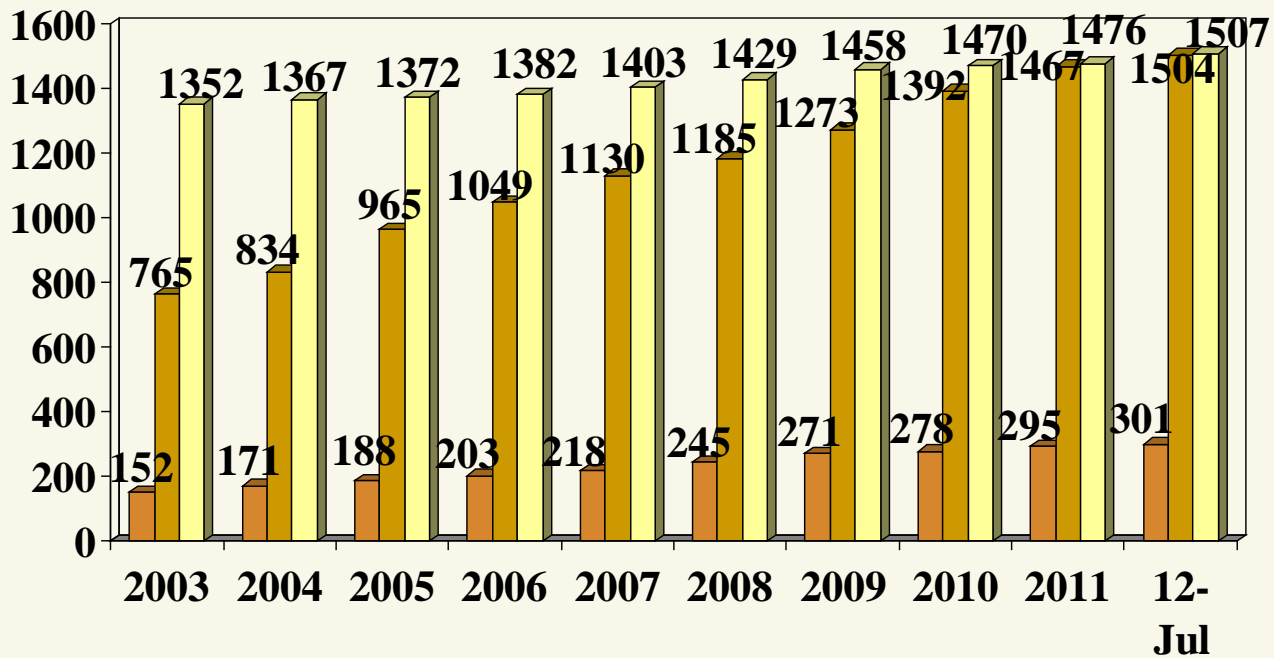
Source: WI Department of Health Services

The Long Term Care Ombudsman's Client is Always and Only....

- ❧ The Resident or Member Who:
 - ❧ Is age 60+
 - ❧ Resides in a Nursing Home, or
 - ❧ Resides in a Community Based Residential Facility, or
 - ❧ Resides in a Adult Family Home, or
 - ❧ Resides in a Residential Care Apartment Complex, or
 - ❧ Receives funding through COP/CIP, or
 - ❧ Receives funding through Family Care/Partnership.

Assisted Living Trend in number of facilities

Source: WI Department of Health Services

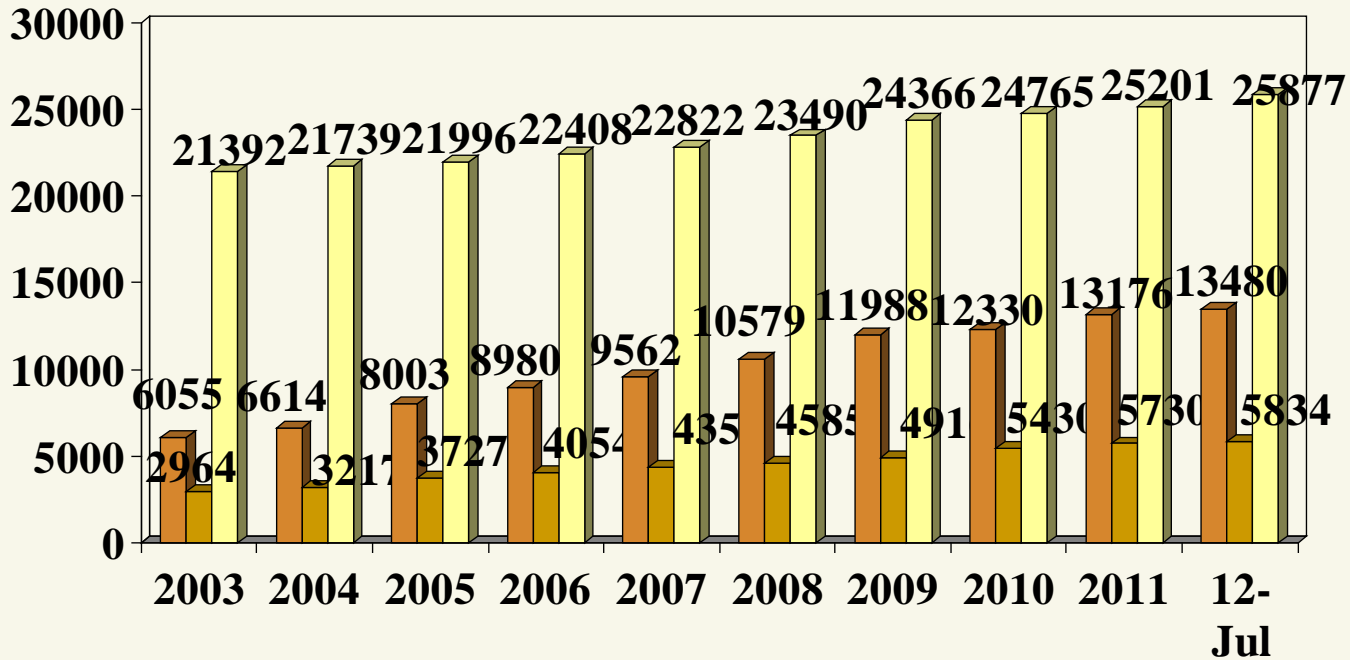


RCAC AFH CBRF

Assisted Living

Trend in capacity for residents

Source: WI Department of Health Services

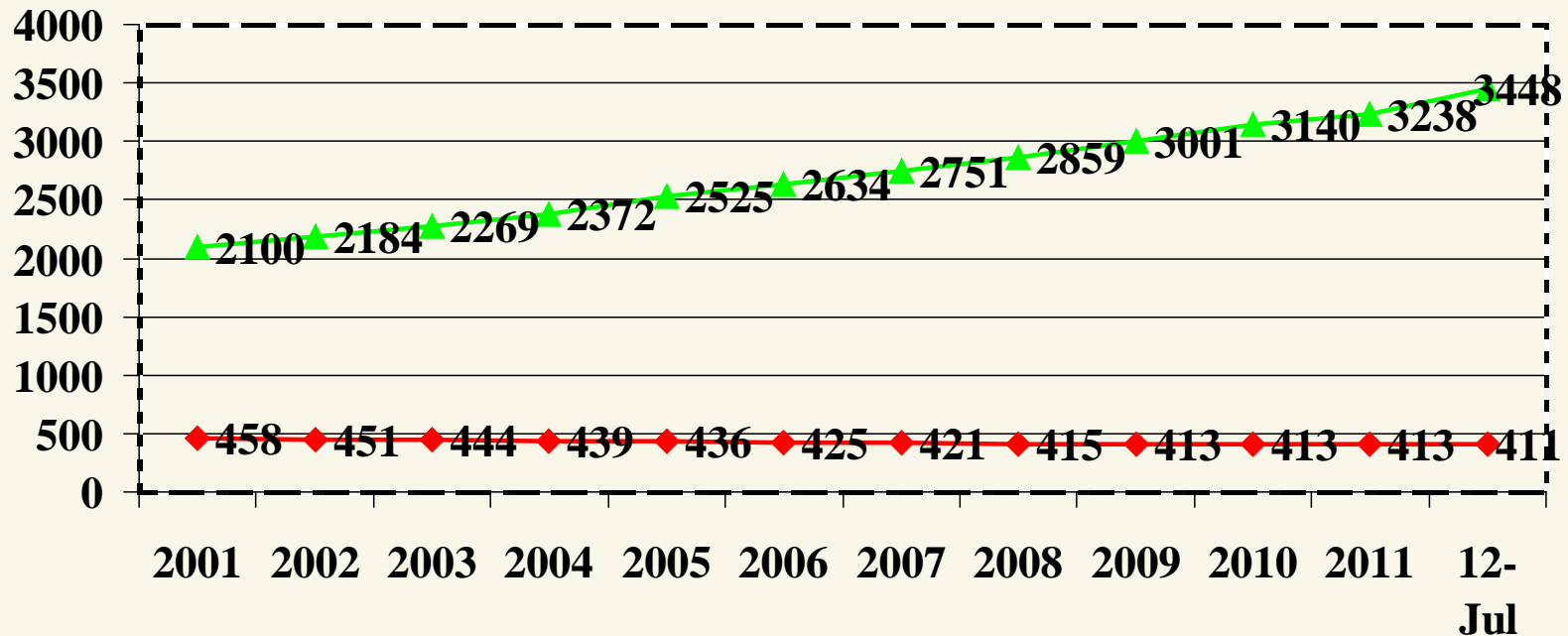


RCAC AFH CBRF

AL vs. LTC

Trend in number of facilities

Source: WI Department of Health Services



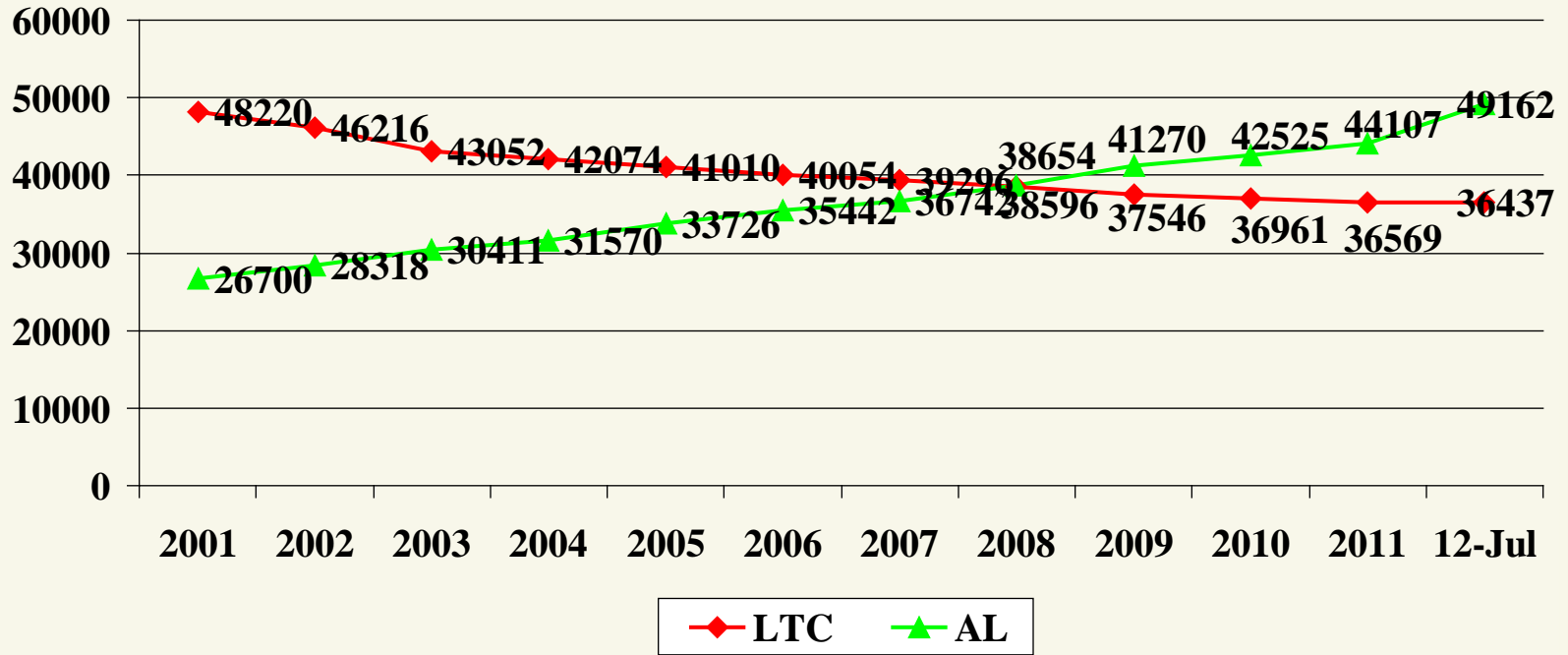
◆ LTC - NH, FDD

▲ AL - CBRF, AFH, RCAC

AL vs. LTC

Trend in capacity for residents

Source: WI Department of Health Services



Most Common Rights Complaints in Assisted Living



- ❧ Right to be transferred or discharged only after notice per Ch. 132, Ch. 89, Ch. 88 Ch. 83 for specified reasons and with full participation in discharge planning
- ❧ Right to be free from verbal, sexual, physical and mental exploitation and abuse
- ❧ Right to exercise individual liberties and to lead a dignified existence (choice)
- ❧ Right regarding health care risks and benefits, including right to self-determination (care and treatment)
- ❧ Rights to information and to manage own personal and financial affairs
- ❧ Rights to privacy in medical and personal care, in correspondence and visits, in treatment of personal records and belongings

Examples of Typical Ombudsman Problems in Assisted Living



- ❧ Resident/Tenant/Member rights are violated
- ❧ Inadequate care/services
- ❧ Roommate or resident conflicts
- ❧ Residents with behavior symptoms
- ❧ Family conflicts/dysfunction
- ❧ Involuntary discharges
- ❧ Inadequate supplies or equipment
- ❧ Lack of respect for choice
- ❧ Abuse allegations
- ❧ Staff/Care Team attitudes
- ❧ Guardianship and HCPOA issues
- ❧ Aging network/system problems
- ❧ Closings, replacement, relocations
- ❧ Regulatory process conflicts with expectations
- ❧ Discrimination
- ❧ Benefits challenges
- ❧ Access to information

Examples of Serious Assisted Living Violations with Enforcement



- ❧ A hospice resident did not receive medication as prescribed to address labored breathing and anxiety. The resident had difficulty swallowing and the medication was not crushed as directed by the physician. Instead, the caregiver placed the medication under the resident's tongue where it did not dissolve and was later "fished out" by caregivers. Staff did not contact the hospice agency or the physician. The resident died within 2 hours.
- ❧ A resident with dementia didn't receive needed supervision and left the facility on 2 occasions, walking along a 4-lane highway to a neighbor's house. The neighbor called the police, who returned the resident to the facility.
- ❧ A resident who required supervision and assistance with toileting was left alone and in the bathroom and sustained a head injury.

Wisconsin Coalition for Collaborative Excellence in Assisted Living (WCCEAL)

Source: WI Department of Health Services



Outcome of Implementing WI AL Regulatory Model - 2004

- ❧ Significantly reduced workload backlog
- ❧ Industry saw value in the recognition of an “abbreviated survey”
- ❧ Regulatory surveyors helped improved the industry as a regulator and consultant
- ❧ Non-compliant - corrected or got out of business
- ❧ Laid the foundation for improved collaboration
- ❧ Associations helped members improve compliance
- ❧ Put Division of Quality assurance (DQA) on the national map for regulating assisted living
- ❧ Improved the WI Assisted Living industry!

Consumer & Advocate Feedback

- ❧ Residents/Tenants
- ❧ Families/legal rep.
- ❧ Staff, Case Managers
- ❧ Councils, surveys, grievance process, questionnaires
- ❧ The AL community would put mechanisms into place to improve

WCCEAL

Source: WI Department of Health Services



- ❧ W.C.C.E.A.L. – A change in regulatory framework for assisted living facilities.
 - ❧ Partnership with University of Wisconsin
 - ❧ Stakeholder Support
 - ❧ The Next Generation of the Wisconsin Survey Process
 - ❧ Revised Department of Health Services (DHS) 83 for Community Based Residential Facilities
 - ❧ Enhanced Training requirements
 - ❧ Train-the-Trainer Program
 - ❧ Administrator Training (83.15) – one course approved.

Proposal - less frequent reviews of communities with good compliance

Source: WI Department of Health Services



Criteria

- Community qualifies for an abbreviated survey and;
- Community is a member of a major association in good standing (WALA, LAW, WICAL, RSA of WI,) and;
- Community has implemented a “provider association”, “department approved”, quality improvement program that adopts standards of practice and;
- Community has signed a “self attestation” document that they are in substantial compliance of the regulations.

WCCEAL

Source: WI Department of Health Services



DHS will use information from these reports for.....

- ❧ ongoing evaluation of the WCCEAL association's Quality Indicator (QI) and Quality Assurance (QA) approvals.
- ❧ justifying less oversight to WCCEAL qualifying participants to legislators, advocates, funding agencies, and the public.
- ❧ deploying resources to improve the assisted living industry and supporting participants of WCCEAL.
- ❧ Reports on satisfaction and quality indicators for:

As part of the QI/QA approval DHS will want to see....

- ❧ Overall WCCEAL
- ❧ Overall by Association
- ❧ Overall by peer grouping (i.e. by client group, by size, by other demographics)

Ombudsman Concerns about the future of Assisted Living



- ❧ With an Ombudsman ratio 1:6,000, we cannot get into our assisted living facilities due to the many concerns in our nursing homes (IOM study in 1995 reference)
- ❧ There have been no recent increases in our Older American Act dollars and state budget declines
- ❧ Closures of assisted living facilities have been on the rise
- ❧ The required level of care of individuals being admitted into Assisted Living facilities has been increasing
- ❧ Managed Care issues
- ❧ “Fit and Qualified” concerns

Future Challenges in Assisting Living

- ❧ Need increase staffing for Ombudsman Services.
- ❧ Continued growth in Assisted Living facilities.
- ❧ As residents age and the complexities of their care increases, Assisted Living providers will need to prepare to provide care and services.
- ❧ Training. Facilities use of distance learning in training staff.
- ❧ Emergency Preparedness. Ensuring Assisted Living providers are prepared for all hazards.
- ❧ Family Care. Contract reductions creating involuntary discharges.
- ❧ Falls in assisted living facilities continue to be a major concern.



There is only one
success...to be able to
spend your life in your
own way.

Christopher Morley, Author

Questions?



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Appendix



Role of the State Ombudsman

- ❧ **The Older Americans Act (OAA) 42 USC 3058g- State Long Term Care Ombudsman Program**
- ❧ **(a) Establishment**
- ❧ **(1) In general**
- ❧ In order to be eligible to receive an allotment under section 3058b of this title from funds appropriated under section 3058a of this title and made available to carry out this subpart, a State agency shall, in accordance with this section-
- ❧ **(A)** establish and operate an Office of the State Long Term Care Ombudsman; and
- ❧ **(B)** carry out through the Office a State Long-Term Care Ombudsman Program.

Ombudsman Program Authorization

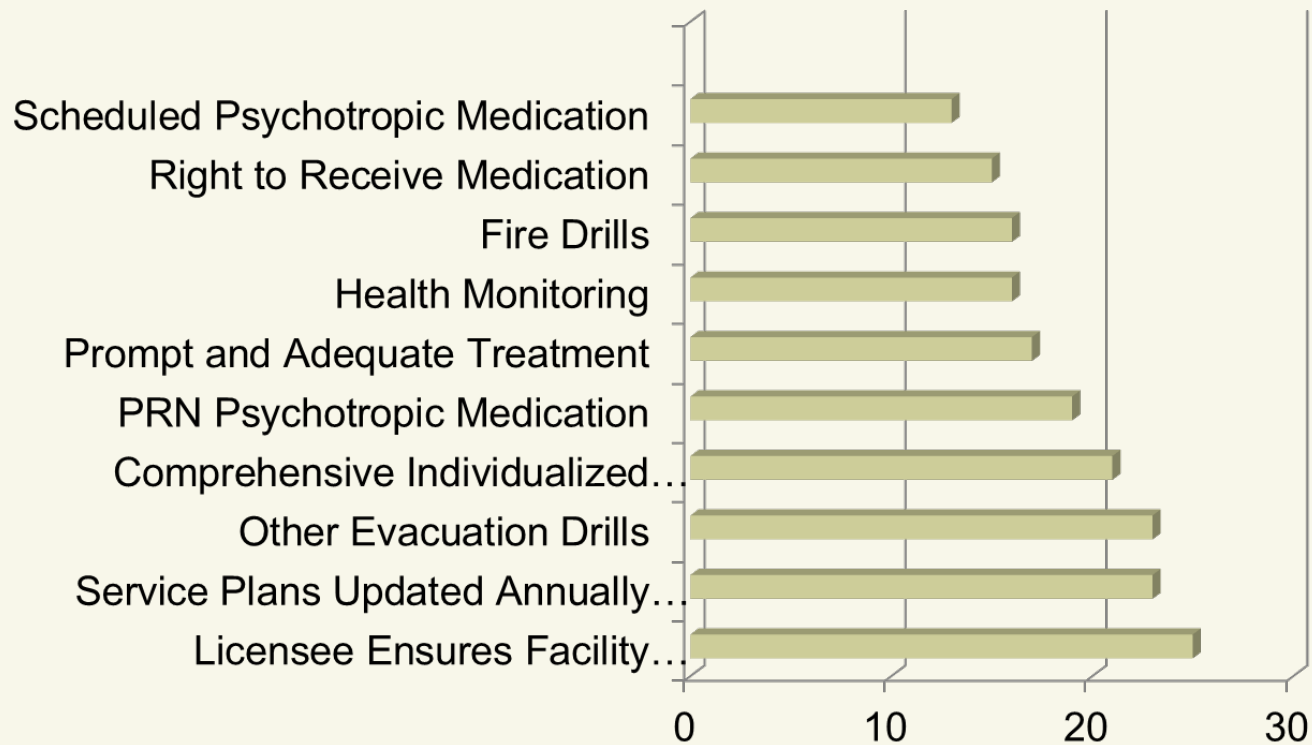
- ⌘ Congressional authorization through the Older Americans Act, providing for unrestricted access by residents to Ombudsman program services
- ⌘ Additionally, provides unrestricted access of Ombudsman to residents/tenants / members "at any time and without notice" (This is a state statute)
- ⌘ Resident/tenant/member identity and concerns held confidential, unless permission is granted for disclosure
- ⌘ Facilities must assure "private and unrestricted communication"
- ⌘ Independent advocate for residents/tenants/members in resolving concerns relating to providers, individuals, regulators or other parties

Why is an Ombudsman Important?

- ❧ Wisconsin residents/tenants/members have described 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"

Top Ten CBRF Cites July 2012

Source: WI Department of Health Services



Examples of Serious Assisted Living Violations with Enforcement



- ❧ A resident with a seizure disorder was at high risk for falls and fell more than 20 times in a year. Six falls resulted in injuries, including a head injury requiring stitches. The facility had not developed interventions to address falls. (CBRF)
- ❧ A facility did not ensure a resident was free from chemical restraints. The facility did not assess a resident's anxiety or behavioral symptoms. Lorazepam (psychoactive medication) was administered more than 100 times in a 4-month period. The resident experienced multiple falls, including falls with injury. (CBRF)
- ❧ Residents were forced to get out of bed by 4:30am for showering and to get dressed to accommodate facility staffing patterns.