



1-844-DIS-VOTE  
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**Public Comment to Wisconsin Election Commission  
Wisconsin Disability Vote Coalition, March 2, 2021  
Barbara Beckert, Disability Rights Wisconsin**

The Wisconsin Disability Vote Coalition is a non-partisan effort to help ensure full participation in the entire electoral process of voters with disabilities, including registering to vote, casting a vote, and accessing polling places. Thank you for the opportunity to share public comments today regarding your discussion of voting for care facility residents.

We ask the Wisconsin Election Commission and legislators to take every action possible to support and uphold the voting rights of residents of nursing homes, group homes and other congregate facilities and ensure they have an opportunity to cast a ballot, including the right to any accommodations they need.

Special Voting Deputies can be an important resource to help support residents in registering to vote and casting a ballot; however, the current program has significant gaps, which the pandemic has elevated.

As noted by WEC staff in their helpful analysis, many care facilities continue to have restrictions in place to protect the health of their residents, and may not admit SVDs. I heard yesterday that an Adult Protective Services official was turned away from visiting a resident who had contacted them due to COVID restrictions – that reinforces the likelihood that SVDs will be turned away.

Given the calendar it will be challenging for SVDs to make two visits and to time them in a way that allows SVDs to register voters, and/or to allow sufficient time for absentee ballots to be mailed to residents if SVDs are not admitted, and for residents to complete and return them. The current statute indicates that the second SVD visit can take place as late as the Monday before the election, and clerks cannot mail out absentee ballots until that

second visit occurs. This has the potential to disenfranchise care facility voters.

As noted by staff, the SVD process must move forward as soon as possible. In addition, it is important that care facility staff have the support and training to assist residents with their right to vote. SVDs should be an option for supporting residents with voting, but not the only option. Limiting voting to assistance from SVDs would leave behind some residents of care facilities – we don't know how many, but believe the number is significant. Even if SVDs visit a facility, they will not see all eligible residents.

### **Looking Forward: Support Voting Rights of Care Facility Residents**

We support the recommendation for WEC staff to work with stakeholders to review the current voting options for residents of care facility residents and identify the gaps and opportunities for improvement. Longer term, Wisconsin should do more to support the right of care facility residents to vote.

Federal law requires that Medicare/Medicaid certified long term care facilities affirm and support the right of residents to vote. Disability and aging advocates are concerned that recent legislative proposals may conflict with that requirement by making it a felony for care facility staff to share information about applying for an absentee ballot.

The Disability Vote Coalition is reviewing the current process for supporting care facility residents with voting. We wanted to note some of the gaps.

No process is currently in place to provide clerks with a list of all eligible care facilities in their community. There is no mechanism to ensure that all eligible care facilities are supported by SVDs, and to assess if the program is successful in ensuring that care facility residents are receiving the assistance they need with voter registration, with applying for an absentee ballot, and casting their vote. We recommend developing a plan to assess the SVD program and to get input from residents and other stakeholders. In addition, we recommend collaboration with the Department of Health Services to provide clerks with a comprehensive and up to date list of care facilities in their community.

The chart below shows the number of potentially eligible care facilities and beds in Wisconsin, as of February 9<sup>th</sup>, 2021. Although not all residents may

be eligible to vote, the presence of over 87,000 beds suggests that the current program is leaving behind many care facility residents.

<b>Facility Type</b>	<b>Facilities</b>	<b>Beds</b>
Nursing Home	360	28,057
CBRF	1,655	34,375
AFH	2,137	8,254
RCAC	349	16,598
	4,501	87,284

The *Wisconsin Election Commission November 3<sup>rd</sup> Data Report* indicates that in November 2020, 22,303 active registered voters who previously were served by SVDs requested a by-mail absentee ballot. This compared with November 2016, when the Special Voting Deputy population size was 21,701. While these numbers may not be comprehensive, they are the only estimates we have of the number of SVD voters. Given the number of facility beds, it appears that the SVD program is not reaching all eligible residents.

Facilities are only eligible to receive SVDs if they have 5 or more residents who are registered to vote and at least one absentee ballot request on file. However, there is no protocol to ensure that residents are offered assistance with voter registration and absentee ballot requests. It is likely that residents of smaller facilities are left behind. A protocol should be in place to offer new residents assistance with voter registration and with requests for absentee ballots. This could include offering assistance with voter registration as part of the intake process. Care facility care plan/chart for each resident should indicate whether an individual wishes to vote in upcoming elections, so assistance filing an absentee ballot request and ongoing voting support can be provided.

Facility staff have an important role to play in assisting residents who wish to vote and would like assistance. Many residents of care facilities do not have family to assist them or may not want assistance from family. Because of disability, they may need assistance with requesting an absentee ballot, registering to vote, and completing a ballot. Living in a care facility should not strip them of this right. Staff should be able to help residents who want assistance with registering to vote and requesting a ballot. If requested by the voter, staff can assist them in filling out a mail in ballot or accompany

them to the polling place. A voter is allowed to have someone assist them with completing their ballot, but the ballot must be completed as directed by the voter. It would be illegal for a staff person, a family member, guardian or anyone else to complete a ballot not as directed by the voter.

We ask Commissioners to affirm the right of care facility residents to cast a ballot and to receive assistance as desired with this process. Wisconsinites should not lose their right to vote privately and independently because they live in a group home or nursing home. We are concerned that current efforts to criminalize staff assistance to residents will put this right at risk. We endorse the staff recommendation to review the current process for supporting the voting rights of care facilities to identify gaps and opportunities for improvement.

Thank you for your consideration and your service.

**About the Wisconsin Disability Vote Coalition**

*The WDVC is a non-partisan effort to help ensure full participation in the entire electoral process of voters with disabilities, including registering to vote, casting a vote, and accessing polling places. Members include people with disabilities, and community agencies including Access to Independence, Wisconsin Council of the Blind and Visually Impaired, NAMI Wisconsin, People First Wisconsin, Mental Health America, Wisconsin Association of the Deaf, Wisconsin Coalition of Independent Living Centers, and many others. The Coalition is coordinated by Disability Rights Wisconsin and Wisconsin Board for People with Developmental Disabilities.*