

Washington State Long-Term Care
OMBUDSMAN PROGRAM

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VIA EMAIL

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July 19, 2024

The Honorable Bernard Sanders, Chair
The Honorable Bill Cassidy, MD, Ranking Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable Bob Casey, Chairman
The Honorable Mike Braun, Ranking Member
Special Committee on Aging
United States Senate

Dear Committee Members:

On behalf of the Washington State Long-Term Care Ombudsman Program, I write to provide comments and recommendations on the staff-level bipartisan discussion draft to reauthorize the Older Americans Act (“Discussion Draft”).

I strongly support all of the proposed amendments in the Discussion Draft regarding Long-Term Care Ombudsman Programs. We thank the Committees for considering these updates, which are needed to ensure that the work of long-term care ombudsman programs across the country can continue to adapt to the growing needs of a diverse population of long-term care residents, families, and others who seek our assistance in advocating for the health, safety, welfare, and rights of residents.

Below I offer recommendations to improve the proposed language in the Discussion Draft regarding long-term care ombudsman programs. Also offered is a recommendation regarding the proposed deletion of the term “behavioral health” as this area impacts many residents of long-term care facilities. Finally, I recommend that the authorization of funds for long-term care ombudsman programs is reflective of the growth of the population served by these programs and the many new settings in which long-term care ombudsman provide vital services to older Americans and others.



1. For purposes of brevity and clarity, minor technical changes should be made to the proposed language in Sec. 703.

We offer the following recommended changes (shown in blacklines below) in order to clarify that the study should assess three distinct areas and offer recommendations in each of these areas.

(a) IN GENERAL.—The Assistant Secretary shall seek to enter into a contract with the National Academies of Sciences, Engineering, and Medicine (referred to in this section as the “National Academies”) to conduct a study on the State Long-Term Care Ombudsman programs carried out under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) ~~including an assessment of the effectiveness of such programs and any related challenges, and recommendations. The study shall include an assessment of the current (as of the date on which the contract is entered into) recommended staff-to-bed ratio for such programs, as appropriate.~~ The study shall:

- (1) assess the effectiveness of such programs, the current recommendations for staff-to-bed ratio for such programs (as of the date the contract is executed), and any related challenges; and
- (2) include relevant recommendations in each of these areas.

2. The National Director of the Office of Long-Term Care Ombudsman Programs should be maintained and fulfilled as a full-time position that is separate from, and in addition to, the National Resource Coordinator position.

As set forth in the proposed amendments to Section 201(d)(2)(A) / 42 U.S.C. 3011(d)(2)(A), we agree that this position must be full-time, especially because of this position’s duties regarding funding. Among many other duties, this Director is responsible for reviewing and making recommendations to the Assistant Secretary regarding state plans and the requirement that federal ombudsman funds made available to the State agency must “be used to supplement and not supplant other Federal, State, and local funds extended to support” long-term care ombudsman programs. See 42 U.S. Code § 3027(a)(9)(B) *as cited in* 42 U.S.C.A. § 3011(d)(3)(B)(ii). With the drastic increase over the years of long-term care beds and the increased demands on long-term care ombudsman programs, the need for this Director position to be full-time is unquestionable.

We also acknowledge that, understandably, the Discussion Draft does not address the position of National Resource Coordinator for long-term care ombudsman programs. We would like to take this opportunity to inform the Committee that *both positions* are critical to the success and effectiveness of long-term care ombudsman programs across the country. The many statutory duties of the Director position are set forth in the Older Americans Act. As a complement to the Director’s duties, the National Resource Coordinator position provides irreplaceable technical support and expertise about the daily operations of ombudsman programs. As the Committees continue to work on amendments, we implore them to take whatever steps are appropriate to ensure that both of these positions are maintained and not inadvertently combined into one director position.

3. For purposes of accuracy, minor technical changes should be made to the proposed language in Sec. 201(e)(2)(A) / 42 U.S.C.A. 3011(e)(2)(A)(v).

We offer the following recommended changes (shown in blacklines below) in order to reflect the wide variety of court proceedings that impact long-term care residents and other older adults. We note that in the group of entities listed, some *proactively file guardianship cases* (such as adult protective services), whereas others may represent respondents in opposition to, or settlement of, such cases. Therefore, we recommend eliminating “defense of” while also broadening the language used to describe these cases.

(v) establishing an information clearinghouse to collect, maintain, and disseminate information concerning best practices and resources for training, technical assistance, and other activities, which may include training resources for paralegals or law students who are under the direct supervision of an attorney to assist Long-Term Care Ombudsman programs, adult protective services programs, and other legal services relating to ~~defense of guardianship, conservatorship, and other court-ordered proceedings regarding decision-making~~ and the matters described in clause (ii)(I).

4. For purposes of accuracy, minor technical changes should be made to the proposed language in Sec. 201(f) / 42 U.S.C.A. 3011(f).

We note that the proposed changes have deleted the term “behavior health” and replaced it with alternative language. We believe these changes could inadvertently narrow the scope of the services referenced in this section. Therefore, we offer the following recommended changes (shown in blacklines below), which include maintaining the current language in the OAA of “behavioral health” while also adding the proposed new language in the Discussion Draft.

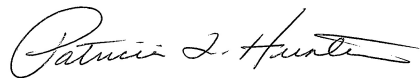
The Assistant Secretary may designate an officer or employee who shall be responsible for the administration of services ~~for~~ related to mental health, behavioral health, and substance use disorders, and cognitive impairments authorized under this Act and serve as an effective and visible advocate for the related needs of older individuals within the Department of Health and Human Services, including by ensuring that relevant information disseminated and research conducted or supported by the Department takes into consideration such services.

5. The reauthorization of the Older Americans Act should reflect the need for increased ombudsman staffing, training, and supervision.

We applaud Senator Casey's pledge to support at least tripling of the annual funding levels for long-term care ombudsman programs. For too long, long-term care ombudsman programs have struggled with skeleton staff while trying to meet the needs of an ever-growing population of long-term care residents and a well-funded lobby of long-term care providers with immense sway in state legislatures. At the same time, the COVID pandemic decimated the ranks of ombudsman volunteers, thus creating the need to shore up staffing and recruit new volunteers in an unprecedented manner. We implore the Committees to do everything their power to significantly increase the funding for our programs.

Thank you very much for the opportunity to provide this input.

Sincerely,

A handwritten signature in cursive script that reads "Patricia J. Hunter". The signature is written in black ink and is positioned above the typed name.

Patricia Hunter, MSW
Washington State Long-Term Care Ombuds