



STATE OF CONNECTICUT

DEPARTMENT OF SOCIAL SERVICES

LONG TERM CARE OMBUDSMAN PROGRAM

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Human Services Committee

Public Hearing

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Good morning Senator Harris, Representative Villano and members of the Human Services Committee. My name is Nancy Shaffer and I am the State Long Term Care Ombudsman. Thank you for this opportunity to comment on Raised Bill No. 5910: AN ACT CONCERNING LEGISLATIVE OVERSIGHT OF THE DEPARTMENT OF SOCIAL SERVICES.

In particular today I will focus on Section 5 of Raised Bill No. 5910, which refers to a study by the Secretary of the Office of Policy and Management to determine the feasibility of transferring the Office of the Long Term Care Ombudsman from the Department of Social Services to the Office of the Healthcare Advocate. Section 5 also states that such study "shall include, but not be limited to, consideration of the powers and duties that would be transferred."

The Long Term Care Ombudsman Program (LTCOP) is a crucial program provided for by the Older American's Act. The mandate of the LTCOP is to assist individual long term care residents and their families to voice their concerns regarding conditions affecting the quality of their care/quality of life. The State Ombudsman also works with long term care stakeholders, consumers, legislators and state agencies to develop policy and legislation that will improve long term care systems in Connecticut. Inherent in the role of the State Ombudsman, is the responsibility to ensure that the Program functions independently.

This bill was only just brought to my attention a week ago and thus our Program had no opportunity for input. Potential conflicts of interest arise no matter what the setting for the LTCOP, including I believe even the Office of the Healthcare Advocate. Historically, concerns regarding the potential for conflict of interest with funding sources have been raised with placement of the LTCOP. However, similar conflict of interest would remain even if placement of the Office was with the Office of the Healthcare Advocate. Payor sources for consumers may come from Medicare, Medicaid, or private insurance including long term care and managed care insurance.

My predecessors, along with this legislative body, legal counsel, other advocates and state agency heads worked diligently over the years to provide the foundation for an independent Connecticut Long Term Care Ombudsman Program.

- In 1999, the CT General Assembly unanimously passed Public Act 99-176. The legislators recognized the importance of preserving the independent operation of the program and provided essential checks and balances under the law.
- In 2000, Assistant Attorney General, Thomas Ring, provided comment on the draft regulations of the State Long Term Care Ombudsman Program. At that time, per Mr. Ring, the interpretation of the word "independence" as it appears in the statute is that the Program should be "free from interference or control over the administration, advocacy, and budget decisions of the Office made in accordance with applicable statutes, regulations and policies, and over the legitimate performance of duties of the Office."
- The American Bar Association recommends: "The State Long Term Care Ombudsman has full authority and accountability for all aspects of the LTCOP at all levels within the state. This includes the ability to designate, and de-designate local entities and representatives of the program, establish program policy and maintain program standards." In addition, the American Bar Association in a 2000 presentation on "Ombudsmen in the New Millennium" recommended sufficient stature in the organization to be taken seriously by senior officials; and placement in an organization at the highest level.

It is natural for me today, to come before you with my testimony, which I wrote and which was not subject to review or editing by anyone, and which I am now able to provide to this committee. This sadly is not the case for some of my State Ombudsman colleagues across the country. Some State Ombudsman still today are not allowed by their host agency to give their own testimony before their legislatures, and if allowed to testify, some State Ombudsman are not allowed to provide the testimony without it first being reviewed and approved by said host agency.

Because states are so diverse, the Administration on Aging encourages variability and flexibility in organizational placement, program approach and operation, as well as utilization of human resources in implementing the ombudsman program. Some important characteristics of Offices of the State Ombudsman are promoted and encouraged by the National Association of State Ombudsman Programs:

- An office with the authority to criticize governmental agencies and officials within its jurisdiction, to recommend corrective action;
- An office with the power to issue public reports concerning its findings and recommendations; and
- An office directed by an official of high stature.

The real question, that I strongly believe should be at the very heart of this discussion, is how best can Connecticut meet its mandate to protect the health, safety, welfare and rights of long term care residents. As an advocate for quality of life and quality of care issues for long term care residents for more than twenty years, I believe a study authorized by this legislature could address issues of administrative housing of the

Program. However, more important, is the question as to how best can Connecticut strengthen the Long Term Care Ombudsman Program to ensure its advocacy work. At the current ratio of 1 Ombudsman to 4,000 residents, CT falls far below the Institute of Medicine's recommended advocacy level of 1 Ombudsman to 2,000 residents. Are the current staffing levels and available resources of the LTCOP adequate to meet the mandate to protect the health, safety, welfare and rights of all of CT's long term residents? I am sure we all will agree that vigilance, timeliness and presence are very much needed in our long term care facilities to assure residents rights and health and well being are maintained. I respectfully ask this committee to consider:

- Recommendations of the University of CT study of the Long Term Care Ombudsman Program, released in the fall of 2007
- Await recommendations of the Southern CT State University study of the Department of Aging
- Any study regarding the placement of the LTCOP should be an open-ended study asking the question "where is the best placement of the LTCOP?" And most importantly, please consider the issues of strengthening the Program's resources to meet its mandate.

Lastly, I would like to provide comment on Raised Bill No. 662: AN ACT CONCERNING MEDICAID ELIGIBILITY AND REIMBURSEMENT, Sec. 16.

As State Ombudsman, I wholeheartedly endorse the establishment of a pilot program, identical in manner to the Money Follows the Person demonstration project except that persons would not need to meet the six month institutionalization eligibility requirement. Other advocates will speak as well about the details of this pilot program. I believe it makes good common sense as well as good fiscal sense to develop such a pilot program.

Connecticut is in a unique position, a perfect storm if you will. We have the rich data collected from the Long Term Care Needs Assessment. We know that beyond a doubt CT consumers want choice in long term care and that they prefer to remain in their communities rather than live in a nursing home. There is a clear message from consumers that they want and expect higher quality of care and quality of life to be delivered by our long term care system. The Money Follows the Person Program will come to fruition in the near future. All of this points to change, change in how we define and provide long term care. Are we going to sit back and simply adjust the current systems, make modifications here and there or are we going to embrace change and revolutionize the look of long term care in Connecticut? The challenge I believe is that it is time for us to think outside the box and transform the systems of long term care. The Money Follows the Person pilot program outlined in 662 is innovative, I hope that you will pass this legislation.