

STATE OF CONNECTICUT

STATE DEPARTMENT ON AGING

LONG TERM CARE OMBUDSMAN PROGRAM

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AGING COMMITTEE

PUBLIC HEARING

FEBRUARY 26, 2013

TESTIMONY OF NANCY SHAFFER, STATE OMBUDSMAN

Good morning Senator Ayala and Representative Serra and distinguished members of the Aging Committee. My name is Nancy Shaffer and I am the State Long Term Care Ombudsman. The Long Term Care Ombudsman Program is mandated by the Older American's Act and Connecticut General Statutes 17b-400 through 17b-406 to provide services to protect the health, safety, welfare and rights of residents of long term care facilities. As the State Ombudsman it is my responsibility to facilitate public comment and represent the interests of residents in order to recommend changes to the laws, regulations, policies and actions which affect residents' quality of life and care. As State Ombudsman I serve as a member of the Long Term Care Advisory Council, the Money Follows the Person Steering Committee and I am a member of the CT Elder Action Network (CEAN). As mandated by the Older American's Act, the State Ombudsman has an independent voice representing residents of skilled nursing homes, assisted living facilities and residential care homes. I appreciate this opportunity to testify today on a number of proposals before this Committee. Further, I commend the esteemed members of the Aging Committee for raising these proposals, many of which are focused on consumer issues and identifying and improving quality of life and care. Effective January 1, 2013, the Long Term Care Ombudsman Program is now under the umbrella administration of the newly created State Department on Aging.

S.B. No. 886 AN ACT CONCERNING AGING IN PLACE.

The Aging in Place Task Force (Special Act 12-6) met during the last half of 2012. The Task Force was charged with studying issues related to aging in place initiatives, including:

1. Infrastructure and transportation improvements
2. Zoning changes to facilitate home care
3. Enhanced nutrition programs and delivery options
4. Improve fraud and abuse protections

5. Expansion of home medical care options
6. Tax incentives
7. Incentives for private insurance

Chaired by Senator Edith Prague and Representative Joe Serra, and joined by Senator Kevin Kelly and Representative John Frey, ranking members of the Aging Committee, and staffed by the Commission on Aging, the Task Force had an ambitious agenda. I'm glad to say, as an appointed Task Force member designated by Commissioner Roderick Bremby, that the workgroup tackled the above issues and submitted recommendations to the General Assembly which will better allow Connecticut to meet the needs of residents who wish to age in place.

A significant barrier to aging in place in Connecticut is transportation. S.B. 886 seeks to enhance transportation services by requiring Department of Transportation to give preference in the matching grant program to municipalities that take a regional approach to transportation. S.B. 886 also provides tax incentives to individuals for long-term care insurance policies. The Bill makes changes in zoning regulations allowing single family zones to be permitted home sharing with up to four adult persons and it expands the definition of "family" to allow for accessory apartments for person sixty years of age or older, persons with disabilities or their caregivers. S.B. 886 also expands upon the current "mandated reporters" of abuse and neglect of persons sixty years and older. All of these recommendations are submitted in an effort to support aging in place for Connecticut's residents and the Ombudsman Program wholeheartedly supports S.B. 886.

S.B. No. 936 AN ACT CONCERNING STREAMLINING APPROVAL FOR NURSING HOMES TO SHELTER DISPLACED RESIDENTS.

This proposal allows providers of nursing home care opportunity to admit residents during a state of emergency in Connecticut. Essentially it provides protection for long-term care providers to admit in an expeditious manner those displaced individuals who need care. The State has had ample experience with recent devastating weather events and has learned the detrimental impact to frail and vulnerable individuals when left without adequate shelter, medical care and life provisions. Many of our municipal agents have related stories about the individuals to whom they provided care during Storm Irene, Hurricane Sandy and our recent blizzard. They detail the inadequate care inherent to a setting not designed for providing for the significant needs of some individuals. Oxygen, medical treatments and medications, mobility and care issues all can become serious matters when trained caregivers and equipment are not available. It is essential to have safeguards in place to care for individuals in such emergencies. When an individual is admitted to a nursing home, even under these circumstances, that person must be accorded all their rights under federal and state law. It is worth noting that the Ombudsman Program has received some complaints from families of individuals who were

admitted for a short term stay to nursing homes as result of the detrimental health effects of weather emergencies. Protecting their rights, whether for a short term or longer term stay, is the responsibility of the Ombudsman Program.

H.B. 6395 AN ACT CONCERNING THE EXPANSION OF A SMALL NURSING HOME PILOT PROGRAM.

There is currently legislation, Public Act 08-91, which provides for one small house nursing home pilot project. H.B. 6395 extends the opportunity to build such a nursing home to another provider. The small house nursing home is an excellent model for providing care and services in a patient-centered manner. The Ombudsman Program supports this legislation on behalf of residents. At a time when Governor Malloy has set a goal to modernize Connecticut's long term supports and services, this legislation supports the Governor's initiatives.

H.B. No. 6396 AN ACT CONCERNING LIVABLE COMMUNITIES.

This proposal again underscores the State of Connecticut's commitment to provide supports and services to residents to enable them to age in place. The bill requires the Commission on Aging (CoA), a vital component of Connecticut's modernization efforts, to serve as a forum for best practices and a clearinghouse for resources. This initiative will help municipal and state leaders design livable communities which in turn will enable individuals to age in place. The Ombudsman fully supports this proposal. The Commission on Aging is well-positioned to administer this undertaking.

H.B. No. 6462 AN ACT CONCERNING A PILOT PROGRAM TO EXPAND THE DUTIES OF THE STATE LONG-TERM CARE OMBUDSMAN.

Firstly, I want to extend my deep gratitude to the Aging Committee and especially Senator Kelly for raising this bill. I appreciate the wisdom and foresight Senator Kelly has brought to this issue. And it has been an honor to work with him to develop a thoughtful approach to expanding the advocacy work of the Ombudsman Program to individuals in the community.

For more than ten years Long Term Care Ombudsman Programs (LTCOP's) around the country have been discussing the need for advocacy on behalf of individuals receiving home and community based care. This national dialog acknowledges that long-term care services, consumer options, and the health care delivery system are in significant transition. In Connecticut this is especially true as we move into the immediate future of modernization of our State's long-term services and supports. Our nursing homes are going through many changes. In the last few months we have had another nursing home close, just yesterday the five Connecticut Healthbridge nursing homes filed for bankruptcy in a New Jersey court. And there are other Connecticut nursing homes in bankruptcy and/or receivership. Consumers

express the distinct desire that they don't want to live in a nursing home but want to remain in their homes with necessary services. It is only natural that the role of the Ombudsman evolves along with all of this transformation.

The Ombudsman Program is committed to the modernization of Connecticut's long-term care services and supports. At an individual level, Regional Ombudsmen assist facility-based residents in their interest to return to community living through the Money Follows the Person (MFP) Program. A few years ago, the LTCOP's Regional Ombudsmen and Volunteer Resident Advocates played an integral role in providing outreach and education to residents, Resident Councils and families. The Ombudsman Program partnered with Money Follows the Person during a nursing home closure and directed the MFP efforts to assist residents with transitioning. As a result of the LTCOP role in that activity thirty percent of the residents of that home transitioned to the community, the highest rate for MFP transitions during a single closure. At the State level, as State Ombudsman, I serve as a member of the MFP Steering Committee, advocating for systems change and informing policy.

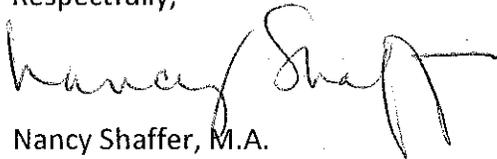
In order to do justice to the variety of issues involved in an expansion of the Connecticut Ombudsman Program, it is prudent to carefully identify those issues and develop a strategic plan suited to the mandate of the Long Term Care Ombudsman Program and the needs of Connecticut's residents. This research should identify potential conflicts of interest in carrying out the Program's mission as outlined in the Older American's Act. We must identify partners in this expansion and develop appropriate Memoranda of Understanding. And resources must be identified which will enable the Program to carry out its newly identified roles and functions. Potential funding sources must be identified. The Institute of Medicine recommends one full time Ombudsman to every 2,000 beds and does not recommend a Program move into community advocacy work until that ratio is met. Currently the Connecticut LTCOP has one full time Ombudsman to almost 4,000 beds. Even with the shrinking number of long term beds in the State, an analysis of Ombudsman resources in an expansion to community residents is essential.

Lastly, I recommend to the Committee a language change to the current proposal. Section 1 (c) of the proposal states that the "working group shall (1) conduct research into best practices nation-wide **for response to complaints of abuse and neglect** filed by recipients of home and community-based care." I suggest that the language mirror that of the Older American's Act and Connecticut General Statute 17b-400-406, and state "the working group shall (1) conduct research into best practices nation-wide **to identify, investigate and resolve complaints** filed by recipients of home and community-based care." This allows for a broader look at the concerns of the consumer and gives opportunity for the workgroup to identify the scope of Ombudsman work in the community. There are currently twelve State Ombudsman Programs with

responsibility for serving recipients of home and community based care. Of these, nine handle only care complaints, the other three handle all types of issues.

Finally, I ask the Aging Committee to reconsider language in some of the proposals before you to include the Commissioner of the Department on Aging. As the head of this new department, the new Commissioner is responsible to administer all laws under the jurisdiction of the Department on Aging. There are a number of proposals which require the Commissioners of the Department of Public Health and the Department of Social Services to consult with one another and develop plans related to elders. For example, S.B. No. 936 An Act Concerning Streamlining Approval for Nursing Homes to Shelter Displaced Residents, S.B. No. 937 An Act Concerning Care for Elderly Persons in a Home Setting Rather than a Nursing Home Facility, and S.B. No. 939 An Act Concerning a Registry of Criminal Offenders Whose Victims are Elderly include references to the DPH and the DSS Commissioners. It may be appropriate to include the Commissioner of the Department on Aging as well.

Respectfully,

A handwritten signature in cursive script, appearing to read "Nancy Shaffer". The signature is written in dark ink and is positioned above the typed name.

Nancy Shaffer, M.A.

State Ombudsman