

Julie,

I want to again express my appreciation to the Chair and the Committee for its consideration of this bill and for allowing me the opportunity to testify. Below are the responses to the Chair's request to identify not only the Department's proposed changes to the bill as introduced but also those provisions of the bill that are mandated by the federal law and/or regulations. Finally, I have also included the Department's responses to the remaining questions posed by Committee members and have provided a summary statement of the State's responsibilities to the Ombudsman program, as more fully set forth in 45 CFR §1324.15.

I. The Department's proposed changes to the bill as introduced:

<b>Page, line(s) of bill as introduced</b>	<b>Language as introduced</b>	<b>Change proposed by DAIL</b>
Page 1, line 18	"Long-term care" means care or services	"Long-term care" means services and supports
Page 2, line 2	Vermont's Global Commitment to Health Section 1115 Medicaid demonstration	Vermont's Global Commitment to Health Section 1115 demonstration
Page 3, lines 1-3	...receives long-term care services through the Choices for Care program contained within Vermont's Global Commitment to Health Section 1115 Medicaid demonstration	...receives long-term care through the Choices for Care program contained within Vermont's Global Commitment to Health Section 1115 demonstration
Page 5, line 10	establish by rule procedures	establish procedures
Page 6, line 5	services in the state	long-term care in the State
Page 7, line 14	(3)	(4)
Page 8, lines 6-7	Toward that end, long-term care facilities...	Long-term care facilities...
Page 8, line 15	long-term care services	long-term care
Page 12, lines 12-14	...provides long-term care services through the Choices for Care program contained within Vermont's Global Commitment to Health Section 1115 Medicaid demonstration	...provides long-term care through the Choices for Care program contained within Vermont's Global Commitment to Health Section 1115 demonstration
Page 12, lines 19-21	...provides long-term care services through the Choices for Care program contained within	...provides long-term care through the Choices for Care program contained within Vermont's Global

	Vermont's Global Commitment to Health Section 1115 Medicaid demonstration	Commitment to Health Section 1115 demonstration
Page 13, lines 17-19	...provides services through the Choices for Care program contained within Vermont's Global Commitment to Health Section 1115 Medicaid demonstration	...provides long-term care through the Choices for Care program contained within Vermont's Global Commitment to Health Section 1115 demonstration
Page 14, lines 3-5	...provides services through the Choices for Care program contained within Vermont's Global Commitment to Health Section 1115 Medicaid demonstration	...provides long-term care through the Choices for Care program contained within Vermont's Global Commitment to Health Section 1115 demonstration
Page 15, lines 9-11	...provides services through the Choices for Care program contained within Vermont's Global Commitment to Health Section 1115 Medicaid demonstration	...provides long-term care through the Choices for Care program contained within Vermont's Global Commitment to Health Section 1115 demonstration

II. Provisions mandated by federal law or regulations:

<b>Page, line(s) of bill as introduced</b>	<b>Subject</b>	<b>Citation to authority mandating the changes (e.g. federal law or regulations)</b>
Page 1, line 18	Long-term care involves the provision of "services and supports"	Global Commitment to Health Section 1115 Demonstration
Page 2, line 2	Vermont's global commitment to Health Demonstration does not use the term "Medicaid"	Global Commitment to Health Section 1115 Demonstration
Page 2, line 3	"Long-term care facility"	See Older Americans Act, §102(a)(35)
Page 2, line 14	"Representatives of the Office of the State Long-Term Care Ombudsman"	45 CFR § 1324.1
Page 2, line 20	"Resident"	42 U.S.C. § 3058(f) defines a resident as "an older individual who resides in a

		long-term care facility.”
Page 3, line 17	“State Long-Term Care Ombudsman”	45 CFR § 1324.1
Page 4, line 3	“Willful interference”	45 CFR § 1324.1
Page 5, line 6	Office policies and procedures	45 CFR § 1324.11(e)
Page 5, line 19	Functions and responsibilities of the Ombudsman	45 CFR § 1324.13
Page 6, lines 17-18	Functions and responsibilities of the Ombudsman	45 CFR § 1324.13
Page 7, lines 14-17	Lobbying	45 CFR § 1324.11 (e)(5)(i) & 45 CFR § 1324.13(a)(7)
Page 8, lines 14-20; Page 9, lines 1-2	H.I.P.A.A.	42 U.S.C. § 3058g(b); 45 CFR § 1324.11(e)(2)(vii)
Page 9, lines 8-9	Ombudsman’s authority to delegate is limited	45 CFR § 1324.11(e)(3)
Page 9, line 18	State agency responsibilities	45 CFR § 1324.15
Page 10, line 3	Disclosure of information	45 CFR § 1324.13
Page 10, lines 8-10	Extent of Ombudsman disclosure of files, records, etc. maintained by the program	45 CFR § 1324.13(e)(1)-(3);
Page 10, line 18	Ombudsman may not delegate the authority to make or delegate determinations concerning the disclosure of files, records, etc. maintained by the program.	45 CFR § 1324.11(e)(3); Section 712 (d) of the OAA (42 U.S.C. § 3058g(d));
Page 11, lines 1-21, Page 12, line 1	Informed consent to disclosure; methods of communicating consent	45 CFR § 1324.11(e)(3)(ii) & (iii)
Page 12, line 8	“willful interference” and sanctions for violations	45 CFR § 1324.1; 45 CFR § 1324.15
Page 13, lines 7-21; Page 14, lines 1-18	Organizational conflicts of interest	45 CFR § 1324.21(a) & (b)
Page 14, line 21	Policies and procedures regarding individual conflicts of interest	45 CFR § 1324.21(d)(2)-(4)
Page 14, lines 19-21; Page 15, lines 1-21; Page 16, lines 1-11	Individual conflicts of interest; examples	45 CFR § 1324.21(c)(2)
Page 17, lines 5-7	A process for periodic	45 CFR § 1324.21

	review and identification of conflicts	
Page 17, lines 8-21; Page 18, lines 1-8	Qualifications of legal representation of the Ombudsman program	45 CFR § 1324.15(j)
Page 18, lines 13-14	Ombudsman and representatives of the Office are exempt from mandatory reporter requirements as set forth in 33 V.S.A. Chapter 69	45 CFR § 1324.11(e)(3)(iv)

III. Responses to remaining questions posed by Committee members:

**Question 1: Representative Wood asked whether the OAA authorizes the provision of Ombudsman services in home- and community based settings, or solely in long-term care facilities.**

Answer: While the OAA authorizes the provision of Ombudsman services to individuals who reside in a long-term care facility, Vermont, through the use of GC dollars, funds the provision of Ombudsman services to those over the age of 18 receiving long-term care through the Choices for Care program.

**Question 2: If an individual suspects that her neighbor, who receives home- and community based services through the Choices for Care program, is being neglected by his caregiver, and reports this information to the Ombudsman, will the Ombudsman visit the neighbor’s home to investigate the allegations?**

Answer: Although the Ombudsman is funded, with Global Commitment dollars, to serve those who receive home- and community-based services through the Choices for Care program, the Ombudsman, or representatives of the Office, would visit the neighbor’s home only if the resident or his representative invited the Ombudsman to the home.

IV. As the proposed amendment to 33 V.S.A. § 7505, Cooperation of State Agencies, merely references 45 CFR §1324.15, the Chair requested a one sentence statement summarizing the content of the federal requirement. That statement follows:

“The State’s responsibilities related to the Ombudsman program include the following: ensuring that the Ombudsman program has sufficient authority and access to fully perform its functions, opportunities for training, and available and competent legal counsel; and providing fiscal monitoring and elder rights leadership.”

I hope the above responses meet your needs. If you require any additional information, please do not hesitate to communicate with me.

Sincerely,

Stuart

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