

Testimony for the House Committee on Human Services

on

H.265, An act relating to the State Long-Term Care Ombudsman

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Thank you for the opportunity to testify on this bill. DAIL supports this bill as introduced, subject to some minor modifications.

Older Americans Act Services

As the State Unit on Aging and Disabilities, DAIL supports the Older Americans Act (OAA) services in the State. In furtherance of the Act's objectives to assist those 60 and older, OAA funding supports a wide range of programs designed to help older Vermonters remain as independent as possible and to experience a high quality of life. At the local level, services are provided through Vermont's five Area Agencies on Aging (AAA). These include case management; nutrition services and programs; health promotion and disease prevention; information, referral and assistance; legal assistance; and family caregiver support.

State Long Term Care Ombudsman Program

Title VII of the OAA establishes the requirement that the State agency establish the State Long-Term Care Ombudsman Program, a person-centered consumer protection service. DAIL operates the Office of the State Long Term Care Ombudsman Program (SLTCOP) through contracts with Vermont Legal Aid. The SLTCOP is charged with protecting the safety, welfare and rights of Vermonters in long-term care facilities, as well as those receiving long-term services and supports through the Choices for Care program in home- and community-based settings. One of the Program's primary responsibilities is to investigate and resolve complaints on behalf of individuals. It also provides information and consultations to individuals, family members, providers, the public, and other community partners. Staff within the Office of the Long-Term Care Ombudsman includes a full-time director (the State Long Term Care Ombudsman) and regional ombudsmen. A volunteer coordinator works with certified volunteers, who are assigned to specific long-term care facilities throughout the state.

Despite the program's existence since the 1970s, when it was established to respond to widespread reports of abuse in nursing facilities, until recently there were no regulations to fully implement the program and provide a consistent level of consumer protection across all states. In 2015, the Administration for Community

Living/Administration on Aging (the federal agency) promulgated federal OAA regulations governing State Long-Term Care Ombudsman Programs.

ACL determined that these regulations were necessary for several reasons, including the following:

1. Some OAA provisions needed additional clarity;
2. Some OAA provisions had raised questions about implementation;
3. ACL compliance review of, and technical assistance engagements with, states had highlighted difficulty of ACL's ability to determine compliance in carrying out basic program requirements;
4. OAA requires ACL to promulgate regulations related to conflict of interest provisions; and
5. Media attention to LTCOP deficits (e.g. questions about permissible communications with the Legislature).

These regulations have required some states, including Vermont, to review and revisit and revise their statutes and policies to address these issues. These LTCOP regulations operationalize OAA provisions, which are uncharacteristic of ways SUAs and AAAs operate other OAA programs. Examples include:

1. Ombudsman responsibility to designate representatives;
2. Stringent disclosure limitations;
3. Conflict of interest requirements; and
4. Responsibility to perform systems advocacy functions

The LTCOP Rule is part of OAA Grant compliance requirements of states. Delayed implementation was afforded to assist impacted states with training and technical assistance. With your permission, I will walk through the bill, noting which provisions are being proposed to achieve compliance with the federal regulations.