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The Older Americans Act: The Local Impact of the Law and the Upcoming Reauthorization

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Thank you, Chairman Casey, Ranking Member Braun, and distinguished members of the Senate Special Committee on Aging for inviting me here today. My name is Mairead Painter, and I am honored to serve as the State Long-Term Care Ombudsman for Connecticut. I appreciate the opportunity to offer this testimony to you regarding the critical role of Long-Term Care Ombudsman programs in protecting the health, safety, welfare, and rights of residents in long-term care settings.

The term "ombudsman" originates from Sweden, where it means "representative." This concept has been adopted by several countries, including the United States, to ensure transparency and accountability within the government and organizations. As Long-Term Care Ombudsmen, we serve as independent advocates for older adults and individuals with disabilities who reside in nursing homes, assisted living facilities, and other small home settings, such as residential care homes – many of whom cannot advocate for themselves.

My team in Connecticut, though small, is dedicated and formidable. It includes eight Regional Ombudsmen, two Intake Coordinators, one Administrative Assistant, and myself as the State Ombudsman, serving approximately 30,000 residents in 209 nursing homes and about 200 “board and care” facilities – these are inclusive of residential care homes and assisted living communities. Additionally, we have recently expanded our program with state funding to serve approximately 50,000 individuals receiving home and community-based services. This expansion includes one Manager and one Regional Ombudsman.

Looking back, the Long-Term Care Ombudsman Program was established in the 1970s by President Nixon in response to widespread concerns over the conditions in nursing homes.

Media reports and investigations at that time revealed pervasive abuse, neglect, and mismanagement. President Nixon's plan aimed to improve the quality of care in these facilities and address systemic issues such as inadequate care, poor conditions, and lack of accountability. From this initiative, the Long-Term Care Ombudsman Program was born in 1972 as a demonstration program.

In 1973, authority for the long-term care ombudsman demonstration was transferred to the Administration on Aging (AoA), which oversaw the project in several states, and in 1978, the long-term care ombudsman program was statutorily formalized through amendments to the Older Americans Act. In the following years, the ombudsman program was provided a separate authorization of appropriations, incorporated into Title VII of the Older Americans Act, and expanded to cover additional long-term care facilities.

In 2016, nearly 40 years after the functions of the LTCOP were delineated in the Older Americans Act, final regulations went into effect, providing more clarity and additional authority to the Long-Term Care Ombudsman Program in several areas.

All Ombudsman activities are performed on behalf of and at the direction of residents, with strict confidentiality. We provide direct services, including consultation, information about residents' rights, and investigation and resolution of complaints, contingent upon residents' consent. Additionally, we serve as a continuous resource for support. Our non-mandated reporter status reassures residents that their communications with us are confidential—encouraging them to seek our guidance without fear of reprisal.

Our office frequently receives complaints concerning general care issues arising from insufficient staffing, which adversely affects residents' ability to have their basic needs met, such as assistance with getting out of bed to use the bathroom. In some cases, residents are informed that they must rotate which days they can get out of bed at all due to the lack of available staff to assist them daily.

Other complaints pertain to involuntary transfers and discharges. Residents may receive notices indicating they are being discharged from the facility or are instructed to leave immediately, and are sent to a homeless shelter or hotel. Additionally, there are instances where residents are sent to the hospital, and when the hospital is ready to discharge them, the facility refuses to readmit them.

In all these cases, our team works closely with the residents to ensure their rights are upheld and that proper procedures are followed. We strive to ensure that any discharge is conducted safely and appropriately. If residents wish to remain in the facility, we attempt to resolve the issues to maintain their facility as their home.

Despite an increase in additional care settings and models over the years, the Ombudsman program has not seen the corresponding increase in funding to manage this new workload. Many programs receive minimal state funding—some programs, like Tennessee’s, only receive enough state funding to pay the state ombudsman salary. This lack of investment on the state level, coupled with stagnant federal funding, hampers our ability to grow and meet increased demand resulting from older adult population growth and additional care

settings. Without sufficient and stable funding, our capacity to fulfill the program's original intent—identified as a critical need since its establishment in 1972—continues to decline.

Inadequate resources directly impact our ability to support and protect hundreds of thousands of older adults living in our communities and to respond to complaints. For example, half of the states do not have adequate staffing to meet the 1995 Institute of Medicine staffing ratio, which recommended one ombudsman per 2,000 beds. This report, while outdated, provides the most reliable staffing standard for the program to date. Although Connecticut is fortunate to have a relatively higher level of state support, our team members still manage caseloads nearly double the recommended standard. Currently, our program operates with approximately one Regional Ombudsman for every 3,800 long-term care beds. Despite these financial constraints, Ombudsman programs have expanded services to cover additional settings like assisted living facilities and small homes, further straining our resources.

Additionally, the increasing number of residents with complex care needs who depend on our advocacy underscores the necessity for Ombudsmen to be present and responsive. The original program relied heavily on volunteers, but today’s complex care demands and cases often exceed what volunteers feel equipped to handle. Consequently, many volunteer-based programs have been diminished or eliminated. It is no longer feasible to run Ombudsman programs using volunteers as the program’s backbone. We need to reevaluate our reliance on volunteers and how to best utilize their skills while adding more trained, paid Ombudsmen across the nation. Sufficient funding is required to make these staffing changes.

Most critical: funding limitations impede our ability to educate individuals, respond promptly to complaints, and monitor facilities to prevent crises.

To begin to properly fund Ombudsman programs, we respectfully request the following funding for Fiscal Year 2025 for the benefit and safety of long-term care residents across our nation: $65 million for ombudsman services in assisted living facilities under Title VII of the Older Americans Act and $70 million for our current core funding under Title VII of the OAA. Increased and stable funding would enable us to hire additional staff, enhance our education and outreach programs, and provide stronger protections for elder justice.

This critical funding would not only improve residents' quality of life and well-being but also results in cost savings to the greater health care system. The Long-Term Care Ombudsman Program reduces the risk of individuals requiring Medicaid preemptively and reduces unnecessary trips to the hospital emergency room. Significant data show that when individuals feel they have a high quality of life, they report being in an overall better medical condition.

Although Ombudsmen may work as state employees or under the direction of a State Agency Director, our role requires independence and autonomy to effectively advocate on behalf of residents. This includes the ability to speak out on residents' behalf, regardless of where the program is housed, whether within a state agency or decentralized outside of one.

In addition to monitoring and responding to complaints, our program engages in education and outreach both at the facility level and within the broader community. We undertake rigorous systemic and legislative advocacy at state and federal levels to continuously

improve and expand long-term care services and supports for your constituents. Our goal is to empower residents to have a direct voice in policies and legislation that affect them. When this is not feasible, we advocate on their behalf before governmental agencies or policymakers.

Until I became the State Ombudsman in Connecticut, I did not realize how fortunate I was to be part of this ombudsman program. Once I got to know other State Ombudsmen, I began to realize that I have an independence and autonomy that is not only federally mandated under the Older Americans Act but is not possible for some of my peers in other states. For example, at a recent conference, as a Board Member of the National Association of State Long-Term Care Ombudsman Programs, I raised questions related to interference with the Ombudsman office. This inference directly impacts state ombudsmen's efforts to advocate for changes to state or federal laws, comment to the media, or talk with legislators about concerns constituents face.

I can ask these questions because in my state I have the autonomy and support to speak freely on behalf of the individuals I serve. However, the conference was being live-streamed, and I know other State Ombudsmen would be concerned someone from their state might see them ask the question; it could result in consequences when they return to their home state. Some State Ombudsmen have reported that in their state, their comments are controlled by their managers or senior officials, or they are told they cannot make comments to the media or speak to legislators independently at all. This is unsettling because Ombudsmen must have the independence and autonomy this position was intended to have and advocate in a bipartisan way on behalf of the people we serve and truly be their voice. This

is foundational to our position as State Ombudsmen, which was created to represent them and inform all of you.

This leads me to one of the reasons it is essential that the National Director position for the Long-Term Care Ombudsman Program be refilled. Although the current leadership at the Administration for Community Living has been extremely supportive of the program, it is necessary to have an independent voice advocating for our role and needs without any conflict of interest. At the state level, Ombudsmen are not able to be housed within the same agency as Adult Protective Services due to concerns over conflict of interest. However, at the federal level, we report to the same Director. This inherently creates a conflict when trying to advocate for the interests of both programs related to funding and support. As the representative of state ombudsmen across the country, we strongly urge you to reinstate the National Director of the Ombudsman Program. It is crucial that we have an independent national director who can represent ombudsmen without any potential conflicts of interest.

I want to thank you for allowing me to offer this testimony. Many individuals are still unaware of our role, their rights, or the standards of care they should expect when receiving long-term services and supports. As Ombudsmen, our goal is to continue to protect the health, safety, welfare, and rights of all individuals receiving long-term services and supports.

Respectfully,

Mairead Painter, Connecticut State Long Term Care Ombudsman