

SENATE AGING COMMITTEE TESTIMONY

CHAIRMAN KOHL AND MEMBERS OF THE COMMITTEE:

On behalf of the nonpartisan 545 member Elder Justice Coalition, I am pleased to participate in today's hearing "*Long-Term Care Workers and Abuse of the Elderly.*" The Coalition recognizes that this is more than a hearing to cover a specific crisis; it is also part of a strong and steady drum beat from this committee and others leaders for Congress to pass meaningful legislation to help combat elder abuse, neglect and exploitation. And we must do it this year.

So we applaud the bipartisan leadership of the Senate Special Committee on Aging that has for several Congresses led the way in promoting elder justice. Over the past decade, important hearings, reports, press conferences, and legislation from this Committee have helped to create an irrefutable case for Congressional action.

Today is another important contribution to this record.

First Mr. Chairman, let me commend you on your steadfast efforts on behalf of elder abuse prevention and in particular for a national criminal background check system for those working in long-term care. As you know, the Elder Justice Coalition is pleased to be a supporter of your bill S. 1577. We hope it has an opportunity to be given complete consideration either as a stand-alone bill, part of the Elder Justice Act, or as part of another piece of legislation.

We also appreciate your co-sponsorship of the Elder Justice Act as well as that of Ranking Member Smith and Senators Lincoln, Clinton, Specter, Collins, Bayh, and Salazar.

As the national advocacy voice for elder justice in America, the Elder Justice Coalition is proud to have many strong members in Wisconsin and Oregon and in all of the states of Senators on this Committee.

We are united in strong belief that more has to be done to combat elder abuse, neglect and exploitation, and soon.

We are in the fourth successive Congress where the comprehensive bipartisan Elder Justice Act awaits action. This seems incomprehensible to many of us.

Mr. Chairman, as you know, Wisconsin has recently taken on the issues of elder abuse through legislation that among other things has expanded the role of elder abuse adult protective service workers to work with law enforcement and other investigative authorities, which is similar to the model the EJA puts forth. We already have some evidence that this is helping the situation, but like many states it needs all of the EJA provisions and the funding to move forward adequately.

It is important for Congress to take action this year to help ensure enactment of the Elder Justice Act (EJA) by the end of the 110th Congress. The EJA is good policy and worthy of wide bipartisan support in both the House and Senate. The pending EJA is the product of much work, negotiation, and concessions by the major stakeholder groups who are involved in elder abuse prevention and elder justice. It is time for Congress to act.

Mr. Chairman, your legislation, the Patient Safety and Abuse Prevention Act is an important element in the effort to help stop the abuse of older Americans. As we are all aware, legislation in 2003 instituted a seven state three-year pilot project to examine ways in which states can implement systems to cost-effectively screen applicants for employment in long term care. The law addressed the disturbing fact that individuals with criminal backgrounds or backgrounds including substantiated abuse are more likely to pose safety risks for frail, highly vulnerable elders and those with disabilities.

Based on data provided by the pilot states each of the programs is successfully excluding individuals with histories of substantiated abuse and criminal backgrounds. That clearly is effective prevention. But these pilots programs will expire in September.

The question seems to be—how to go beyond the pilots, take the successes that have been achieved and move this to a more national system. One approach is embodied in S. 1577: expand the pilot framework into all states between the years 2008 and 2010 and then in 2011 institute a permanent prohibition for providers who knowingly employ an individual with a history of substantiated elder abuse or a criminal conviction for a relevant crime. Other provisions in this bill include funding of the background checks by Medicare and Medicaid. The key point here is the issue of national criminal background checks needs to be addressed by this Congress because it is a significant part of the overarching elder abuse crisis.

Another thing is not in dispute this morning. Elder abuse, neglect, and exploitation are increasing. It can be shown in aggregate numbers. A 2004 Survey of State Adult Protective Services revealed a 19.7 percent increase in the combined total of reports of elder and vulnerable adult abuse and neglect along with a 15.6 percent increase in substantiated cases since 2000.ⁱ

Overall Adult Protective Services (APS) agencies received 566,000 reports of suspected elder and vulnerable adult abuse. We also know of at least 20,000 cases of abuse in nursing homes from the report of the State Long-Term Care Ombudsman Programs funded through the Older Americans Act by the Administration on Aging.

Yet the sad reality is far more elder abuse cases go unreported. We have reports from the Long-Term Care Ombudsmen about abuse in long-term care facilities, but what about Medicare or Medicaid fraud agencies, state licensure or survey offices or even law enforcement? A 2000 Consumers Digest article suggested that only one in 25 cases of financial exploitation is reported suggesting there may be at least 5 million victims a year. This Committee has estimated that there are over 5 million victims of elder abuse each year. Further, according to estimates by Consumer Action, a consumer education and advocacy group, while adults age 60 and older make up 15 percent of the U.S. population, they account for roughly 30 percent of fraud victims.ⁱⁱ Individuals with disabilities are also extremely vulnerable, particularly in long-term care settings.

Mr. Chairman, in Wisconsin, according to 2005 data, there was a 7.5 percent increase in reported abuse and neglect cases from 2004 leading to a total of 4234 cases. Of these cases, 21 were fatal and another 353 were life threatening.

And sadly enough Mr. Chairman and members of the Committee elder abuse cases are current event news—let me share some sample headlines from stories just in the past week:

Arizona Daily Sunday, July 7 - Nursing home RN charged with assault. A nurse in a Flagstaff nursing home was arrested Wednesday evening after allegedly punching a 93 year old patient in the face.

ABC 2 NEWS in Baltimore - Caregiver pleads guilty to embezzlement. In Westminster Maryland a woman hired to clean and run errands for an elderly Westminster woman has pleaded guilty to embezzling nearly \$250,000 from the woman's estate.

From the Ann Arbor Michigan News July 12 - the daughter of a Salem Township woman who froze to death in March has been charged with vulnerable adult abuse for reportedly leaving her mother who had Alzheimer's disease alone for 26 hours. The 45 year old daughter left her 67 year old mother alone starting at noon on March 15 and found her gone when she returned on March 16. The mother was found dead in a ditch five miles from home and she was not wearing a coat.

And it goes on-every day-and is reported in large national newspapers and the regional and local media in your States. It is not hypothetical. It is very real and these are less graphic examples than the norm.

So why do the facts and headlines not catch the attention of this Congress and Administration and lead to action?

The federal commitment is piecemeal in approach and minimal in substance. Consider of all the funds we spend on abuse prevention less than 2 percent goes to elder abuse (Congressional Research Service).

Also not in dispute are demographics. The most common victims of elder abuse are elderly women age 75 years and over often living alone. According to the Profile of Older Americans 2006, half of women 75 and over live alone and older women outnumber older men 21 million to 15 million. We also know the expected growth of the elderly population with the aging of boomers. This will include building on a current demographic that 70 percent of all wealth in the US is controlled by those over 50. Meanwhile financial abuse and exploitation is one of the fastest growing forms of elder abuse.

The Elder Justice Act, S. 1070 and H.R. 1783, represent the most comprehensive approach to helping to stop elder abuse. I submit for the hearing record a summary of the major provisions prepared by the Elder Justice Coalition. Let me just highlight a few of the key provisions of the bill:

1. The Elder Justice Act would provide dedicated funding for adult protective services, the critical program across the nation in assisting victims.
2. It would provide grants to improve ombudsman capacity, conduct pilots, provide support and improve training.
3. Create a National Training Institute for Surveyors of long-term care facilities.
4. Awards grants to establish and operate both stationary and mobile forensic centers and to develop forensic expertise pertaining to elder abuse, neglect and exploitation.
5. Require immediate reporting to law enforcement of crimes in a long-term care facility.
6. Establish an Elder Justice Coordinating Council to foster coordination throughout the federal government on elder abuse topics and an Advisory Board to the Coordinating Council of experts on elder abuse, neglect and exploitation.

Elder abuse takes many forms. It includes physical and emotional abuse, neglect, self-neglect, and financial exploitation. It takes place in homes as well as long-term care facilities.

As we look to the enactment of the Elder Justice Act and S. 1577, Patient Safety and Abuse Prevention Act of 2007, we hope passage will occur sooner rather than later. Simply stated, later means that thousands and thousands more will be abused.

Next year will mark the 30th anniversary of the first acknowledgment by Congress of elder abuse in the hearings of the House Select Committee on Aging.

Do we want to come upon this 30th anniversary with so little to show?

Mr. Chairman, Thank you for all you and this Committee have done to prevent elder abuse. I respectfully ask that you, Mr. Smith, and other members of the Committee make that final push to get these bills passed by the full Senate this year.

Thank you.

ⁱ National Center on Elder Abuse: Abuse of Adults Aged 60+ 2004 Survey of Adult Protective Services
<http://www.elderabusecenter.org/pdf/2-14-06%2060FACT%20SHEET.pdf>

ⁱⁱ Consumer Action Statistic on Elder Fraud <http://aging.senate.gov/issues/elderfraud/index.cfm>