

**Testimony of Joseph Rodrigues**  
**California State Long-Term Care Ombudsman & First Vice President**  
**National Association of State Long-Term Care Ombudsman Programs**  
**1300 National Drive, Suite 200**  
**Sacramento, California 95834**  
**916-419-7510**  
[jrodrigu@aging.ca.gov](mailto:jrodrigu@aging.ca.gov)

**Older Americans Act Reauthorization Listening Forum**  
**Administration on Aging**  
**U. S. Department of Health and Human Services**  
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Assistant Secretary Greenlee and Administration on Aging Staff:

Thank you for this opportunity to testify on the reauthorization of the Older Americans Act (OAA). My name is Joe Rodrigues. I am the California State Long-Term Care Ombudsman and today I am representing the National Association of State Long-Term Care Ombudsman Programs (NASOP).

Since 1978, the LTC Ombudsman Program has been a core program of the OAA. It is the only program in the Act that specifically serves residents of nursing homes and residential care facilities. We all appreciate and value the importance of living in one's own home. The OAA provides critically needed home and community based services that delay institutionalization. However, some elders can no longer live safely in their own homes and must move at some point in their lives to either an assisted living facility or a nursing home. These residents rely on the advocacy services of the Ombudsman Program.

Each year, the LTC Ombudsman Program resolves hundreds of thousands of complaints made by or on behalf of residents. Nationally, 77 percent of these complaints are resolved or partially resolved to the satisfaction of residents.

As long-term care services and supports have grown in scope and complexity, the LTC Ombudsman Program has not always grown with them. While the mandate to serve residents in assisted living was added to our mission by the 1981 amendments to the OAA, there was no new authorization for this function. Nationally, while ombudsmen visited 79 percent of all nursing homes on a quarterly basis, only 46 percent of all board and care, assisted living and similar homes received a quarterly visit.

As Dr. Arthur Flemming once commented about residents of long-term care facilities, "These are real people, with real problems." In board and care and assisted living facilities, the five most frequent complaints nationally made to the Ombudsman Program were about the quality, quantity, variation and choice of food; medications and their

administration and organization; inadequate or no discharge/eviction notice or planning; equipment or building hazards; and lack of respect for residents and poor staff attitudes.

Throughout the country, it becomes increasingly difficult for LTC Ombudsman Programs to serve residents in assisted living. A lack of federal oversight of assisted living facilities means that we do not have clear definitions for the services delivered by these facilities and there is inconsistency in how these homes are regulated. Diminished resources and funding from states coupled with the tremendous growth in the number of assisted living facilities present challenges to LTC Ombudsman Programs which need to ensure that residents have regular and timely access to representatives of the program. In my own state of California, I have seen the number of assisted living and board and care facilities grow from 6,000 in 2002 to almost 8,000 today. At the same time, we have lost more than 40 percent of paid Ombudsman staff and approximately 30 percent of volunteer cadre. To effectively advocate for these residents, we need the Act to address the growth in demand for our services in assisted living facilities.

The LTC Ombudsman Program offers significant consumer protections to residents. The complexity and diversity, especially in age, of nursing home residents is growing. LTC Ombudsmen want to be leaders in bringing culture change to these facilities so that care is resident centered, resident directed and based upon meaningful relationships with caregivers.

Ombudsmen throughout the country report having contact with more and more individuals who cannot speak for themselves and have no legally authorized representative to speak on their behalf. We ask that provisions in Title VII of the OAA be made to address the needs of individuals without a legal representative or surrogate decision maker.

Our association seeks additional clarification in the Act regarding organizational conflicts of interest. As many State LTC Ombudsman Programs are located in agencies with responsibilities including regulation of long-term services and supports and adult protective services, conflicts of interest need to be resolved and communication channels must be clearly defined so that the interests of residents remain at the center of an ombudsman's work.

Finally, NASOP wants to acknowledge the importance and value of the National Ombudsman Resource Center. The Center provides valuable and reliable technical assistance and support to state and local Ombudsman Programs. The caliber and quality of their trainings for ombudsmen are unrivaled. State Ombudsmen turn to the Center for their research and training needs. We hope that the Act continues to strengthen the role and availability of resources through the Center.

On behalf of NASOP, thank you for this opportunity to share our perspectives on the reauthorization of the OAA.