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**The California Long-Term Care Ombudsman Association
is requesting \$7,299,680 in general funds
for the Local Long-Term Care Ombudsman Programs**

The California Long-Term Care Ombudsman Program

History

The Long-Term Care (LTC) Ombudsman Program provides advocacy services to protect the health, safety, welfare, and rights of residents of skilled nursing facilities (SNF) and residential care facilities for the elderly (RCFE) (also known as assisted living facilities) through investigation and resolution of individual resident complaints. Unannounced visits to facilities, not in response to a complaint, provide opportunities for Ombudsman representatives to observe conditions in facilities, identify problems and concerns of residents, and resolve these problems quickly and efficiently. The LTC Ombudsman Program is mandated by federal and State law to advocate for and protect the rights of residents living in long-term care facilities. California's LTC Ombudsman program started in 1979 with the passage of the Mello-Granlund Older Californian's Act.

Over the past three decades, the role of the LTC Ombudsman Program has greatly increased from the original intent of the Older Americans Act. In 1986, AB 3988 (Papan, Chapter 769, Statutes of 1986) made California Ombudsmen legally responsible for receiving and investigating reports of suspected abuse and neglect in long-term care facilities. California is one of only five states that require its Ombudsmen to investigate complaints of abuse and neglect.

Prevention is the hallmark of Ombudsman Programs. Regular visitation and observation of conditions in facilities is vital to identifying problems, which left unresolved, can result in serious quality of care and life concerns. For example, through their regular presence in facilities, Ombudsmen are able to detect issues such as overmedication/sedation of residents, insufficient staffing, negligent care, insufficient food supply, and unhygienic living conditions. Ombudsman can take steps to resolve these issues before residents are injured or suffer harmful consequences. Ombudsman services of advocacy and intervention help ensure the best possible opportunity for improving quality of care and quality of life for residents.

Although prevention through unannounced visits and investigations of abuse and neglect complaints are a major focus of California's LTC Ombudsman Program, Ombudsmen have several other roles to fill due to California mandates. When these mandates were enacted in the 1980's and 1990's, they were un-funded and continue to be severely under-funded.

- Cal. Probate Code 4675 – A representative of the Long-Term Care Ombudsman Program must witness the Advance Health Care Directive whenever it is executed in a skilled nursing facility.
- California law requires the Long-Term Care Ombudsman Program witness transfers of property in excess of \$100 when transfer takes place in a long-term health care facility.
- AB 2100 – The Long-Term Care Ombudsman Program must report abuse cases to the local district attorney with consent of the resident or the resident's legal representative.
- Maintain and staff a 24-hour, 7-day per week crisis line.

Funding – Resources, Budget Cuts and Impact

The LTC Ombudsman Program is federally funded under Title III-B and VII of the Older Americans Act to cover the costs associated with the federal mandates as established in federal law. Despite the growing workload the 2017/18 federal funds for the program was reduced by \$114,744. The U.S. Administration on Aging has disallowed the use of federal funds for "State-mandated" activities that a State Long-Term Care Ombudsman Program may have. i.e., witnessing Advance Health Care Directives (AHCD). The costs of California's Ombudsman mandates must be borne by the State.

In 2016/17 Ombudsman programs successfully witnessed 2,344 AHCDs. To maximize efficiency some programs have scaled back witnessing activities, to only on those occasions when an Ombudsman is in the facility in response to a complaint investigation. This has resulted in 40% of the local programs reporting 2 or more residents dying prior to an Ombudsman being available to meet with the resident. Because Ombudsmen activities are directed to living residents, we do not collect data on outcomes, due to the lack of a legally binding AHCD.

California has a state Ombudsman office and thirty-five regional programs. Due to the varied structures of the Ombudsman programs (either as a direct service provider or contracted service provider), funding levels for these programs vary from county to county and from one Area Agency on Aging to the next. Local funding is based on regional priorities. This causes competition for funding between services for elderly and pits Ombudsman activities against other programs for the aging and against services for children.

Local funding outside of the AAA (city, county and charitable donations) has had a steady decline in recent years, from a high of \$3M in 2006 (LAO Budget Analysis: Improving Long-Term Care 2006) to last year's \$1.8M. As local programs spend less time in the community, providing free educational events to the public on topics relating to resident's rights and best practices for long-term care they receive less exposure and less funding support.

With declining federal funds and inconsistency in local support, Ombudsman program activities are forced to rely on state funding as the primary source of program support.

Increasing funds to the local programs continues to prove to be a sound investment. In 2015, with the introduction of the additional \$2.4M in the 2015/16 budget (\$1M in general funds, \$400k SNF bed fee and OTO \$1M state SNF citations) unannounced visits to SNFs increased by 7%, RCFEs visits increased by 5% and an additional 1,200 complaint cases were investigated and resolved with a 71% resident satisfaction score.

Despite these increases in unannounced visits, a remaining 26% of SNFs and 56% of RCFEs did not receive the federal minimum standard of 1 visit per quarter. The decrease in number of eyes and ears in these facilities has had a direct impact on the state licensing agencies responsible for oversight with an increased work load.

Impact on State Licensing Agencies

The California Department of Social Services Community Care Licensing Division April 2016 reported receiving 15,746 complaints in RCFEs, a 19% increase since 2012.

The California Department of Public Health provided testimony during the 2016 legislative budget hearings and reported in their annual report a steady increase in the number of both jeopardy and non-immediate jeopardy complaints. Since 2013 the department has experienced a 21% increase in non-jeopardy complaints, with a 9% increase in 2016.

Historically non-immediate jeopardy complaints are responded to by the local Ombudsman program. While in the facility, Ombudsmen answer questions and resolve concerns of the residents and their family members. With fewer Ombudsmen in facilities, families must call the Ombudsman offices. With the reduction in office staff, complaint response time is increasing. The longer response times from an Ombudsman results in residents and family members turning to the licensing agencies for assistance.

Ombudsman Program Designation Standards

To ensure that local Ombudsman Programs meet federal and state requirements the program shall provide adequate personnel which include a full-time Program Coordinator. Local Programs are to have sufficient staff to

answer the calls in person during normal business hours. To respond to the 24hour CRISIS line a local Program Ombudsman must be available at all times. If the local LTCOP cannot provide immediate assistance, complainants should be referred, as the situation dictates and with the consent of the resident or legal representative, to the local offices of the Department of Social Service, Community Care Licensing Division; the Department of Public health, Licensing and Certification program; the Department of Justice, Bureau of Medi-Cal Fraud and Elder Abuse; and /or local law enforcement.

Volunteers

Due to the flat funding in recent years, local programs have needed to rely more on volunteers to investigate abuse and neglect cases that full-time staff would normally handle. The California's Elder Abuse Investigators: Ombudsman Shackled by Conflicting Laws and Duties California Senate Office of Oversight and Outcomes 2009 study found that half of California's local ombudsman programs depend on volunteers to play a role in abuse and neglect investigations. The greater the number of complaints received by a local ombudsman program, the more likely the program is to allow volunteers to conduct the abuse and neglect investigations. In 2016 all but 5 Ombudsman programs utilize volunteers for elder abuse complaints.

In 2009, in response to the loss of general funds, local programs reduced staff by 50%. Remaining staff were moved from supervisory positions into field complaint investigators. The 2015-16 increase in funding was not used to replace those supervising positions but for field investigators to keep up with the growing number of complaints.

The on-going reduction in supervisors has resulted in a steady reduction in volunteer Ombudsmen. In 2004, the program had 1,300 certified volunteers. In July 2017, the state office reported that programs had 723 volunteers, the lowest number in the program's history. Last year 17 Ombudsman programs recruited 0 or 1 new volunteer. These programs reported difficulty in recruiting volunteers willing to investigate elder abuse complaints. An additional challenge with the lack of supervisors, program coordinators must delay responding to complaints to provide the required 36 hours of class room training and three weeks of supervised fieldwork. In comparison, the four programs with the greatest increase in volunteers have a staff person dedicated to volunteer recruitment, training and retention.

The ASK: The California Long-Term Care Ombudsman Association is requesting \$7,299,680 in general funds for Local Long-Term Care Ombudsman Programs.

A 1991 study by the Office of the Inspector General Successful Ombudsman Programs, Department of Health and Human Services (1991) states successful state Ombudsman programs share a number of characteristics (here after referred to as **The Study**):

Frequent visits to facilities

The Study states that the most successful state ombudsman programs make weekly visits to long term care facilities. The visits are proactive and enable the residents to become familiar with the ombudsmen. Ombudsmen use the visits to speak with residents and develop trust as well as identify complaints and violations. Their presence is two-fold: to identify and resolve complaints and prevent future problems.

Quarterly visits: hours required for 100% facility coverage: travel, time for Ombudsman initiated complaint investigations and documentation. Therefore, 16 hours per SNF per quarter x 1,252 facilities plus 8 hours per RCFE per quarter x 7,386 facilities for a total of 316,480 hours.

Currently 25% of work is completed by volunteers and 75% by paid staff. Volunteers will donate 79,120 hours and the remaining 237,360 hours of paid staff at \$30 per hour will cost an estimated \$7,120,800.

Effective in recruiting, training, and retaining volunteers

The Study demonstrates that states with top Ombudsman programs have good recruitment programs that attract the right volunteers. It is also shown that paid staff members are vital to the success of volunteer programs. Paid staff are needed to develop volunteer training programs and recruit, supervise and support volunteers.

Programs estimate that the staff hours needed for a recruit during their first year of service, initial recruitment, 36-hour class room training, 3 weeks of supervised field work, monthly on-going training, on-going documentation review and supervision = 100 hours per volunteer for the first year of a volunteer's service. Therefore, 100 hours x 10 new volunteers x 35 local programs= 350 new volunteers requiring an addition \$1,050,000.

Programs estimate that the ideal number of staff hours needed to support, train and supervise after first year of service = 20 hours per volunteer per year. Creating a statewide need for 20 hours x 723 current volunteers for a total of 49,460 hours of paid staff at \$30 per hour = \$1,483,800.

A study funded by the California Health Care Foundation, California's Term Care Ombudsman Program: Assessing the Volunteer Experience (March 2007), found the need for greater preparation of volunteers. "Only 44 percent of volunteers (surveyed) felt 'very prepared' to function in their role because of the training and mentoring they received."

Programs know the need for training and supervision of volunteers is necessary for strong retention of volunteers. However, programs consistently focus limited resources on complaint management at the growing expense of less than ideal volunteer support.

Public Awareness

The Study states that successful Ombudsman programs are highly publicized and accessible in the community. This includes consultations and trainings to facility staff/administration, written materials, toll-free numbers, community outreach efforts and media exposure.

Staff hours needed to complete consultations and trainings to facilities, staff and administrators. Per the 2015/16 Annual Report from the Office of the State Long-Term Care Ombudsman: Ombudsman completed 14,134 consultations at approximately 20 minutes each for a total of 430 staff hours. The report also states that Ombudsman provided 1,215 trainings at approximately 90 minutes each for a total of 1,823 hours.

Complaint Investigations

The Study continues, that the most successful state programs respond on-site to potentially life-threatening complaints within 24-48 hours. Higher rates of resolution of complaints are another indicator of successful Ombudsman programs. Per the Study, successful Ombudsman programs have 75% closure rate of complaints within 12 months.

The 2005 Legislative Analysis Report, Improving Long-Term Care calculates the cost per complaint for the LTC Ombudsman Program at \$172. Programs estimate current expenditure per complaint is \$188.

Conclusion

Adequately funded LTC Ombudsman programs would utilize volunteers for unannounced facility visits, individual consultations, most witnessing activities and non-elder abuse complaints investigations. Staff would complete the elder abuse investigations, communication with licensing and law enforcement agencies, facility consultations, community event trainings, volunteer support and recruitment activities and documentation review.

With a modest investment in General Funds, Governor Brown has an ideal opportunity to use the LTC Ombudsman Program in his efforts to fulfill California's promise of quality life and care for persons living within the long-term care system. With early Ombudsman intervention, costly state agency intervention can be avoided. With increased visits provided by more Ombudsman trained "eyes and ears" facilities residents will receive better care, allowing them to continue living in RCFEs, primarily paid through private funds thus avoiding unnecessary hospitalizations and the need for higher levels of SNF care, primarily funded via the Medi-Cal system.

The requested funding will allow the LTC Ombudsman Program to once again meet their federal and state mandates, will be an important step to rebuilding the State's commitment to protecting vulnerable residents of long term care facilities and begin the critical process of ramping up Ombudsman services considering the rapidly growing California senior population.



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- **\$3,451,680 will enable the local programs to conduct vital federally (Administration on Aging) recommended quarterly unannounced visits to all 8,842 long term care facilities in California** (Currently only 46% of all facilities receive these recommended visits.)
- **\$420,000 will enable the programs to focus on volunteer recruitment**
- **\$1,128,000 will enable the programs to investigate 6,000 more complaints per year** (generated through the additional 4,476 quarterly unannounced facility visits.)
- **\$2,300,000 to adjust the local annual program base to \$100,000** (this \$65,000 per program increase will ensure each of the 35 programs will have one full-time Ombudsman Program Coordinator and a staff person to focus on recruitment, supervision and retention of volunteers)

	Facilities currently not receiving quarterly visits	Hours per visit (including travel & documentation)	Hours per year to visit once a quarter
Quarterly Monitoring Visits of Skilled Nursing Facilities	318	16 hrs	20,352 hrs
Quarterly Monitoring Visits of RCFE Facilities	4,158	8 hrs	133,056 hrs
Total Hours Needed to Meet Quarterly Monitoring Visits			153,408 hrs

Additional hours needed to meet quarterly unannounced visit mandate	
Average volunteer to staff ratio	0.25
Volunteer Hours	38,352 hrs
Staff Hours	115,056 hrs
Average Hourly Wage and Benefits	\$30
Additional staff salary needed to achieve quarterly visits to 8,638 LTC licensed facilities	\$3,451,680
Staff hours needed to focus on volunteer recruitment	14,000 hrs
Staff salary to recruit/train/supervise volunteers	\$420,000
Investigate resident and ombudsman reported complaints	6,000
Cost to investigate single complaints	\$188
Cost to investigate additional complaints identified	\$1,128,000
Cost to adjust local program base to \$100k	\$2,300,000
Cost to conduct quarterly unannounced facility visits, support volunteers, investigate additional complaints and other State and Federally Mandated Ombudsman activities	\$7,299,680

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