



**Testimony prepared for the  
Senate Special Committee on Aging  
Hearing on  
Ensuring Quality Oversight in Assisted Living  
2:00 PM, November 2, 2011**

Voices for Quality Care (LTC), Inc. (Voices) is a regional, non-profit, all-volunteer long-term care citizen advocacy organization of people who need long-term care services, their friends and families, resident and family councils, advocates, and concerned citizens working for quality long-term care services in all settings in Florida, Maine, Maryland, and Washington DC. We do not *speak for* the people who need long-term care services and their friends and families, we *are* the people who need long-term care and their friends and families. We appreciate the opportunity to submit testimony for the Senate Special Committee on Aging Hearing on Ensuring Quality Oversight in Assisted Living held November 2, 2011.

Voices runs a 24/7 helpline for people with long-term care issues. Because our (888) toll-free phone number is nationwide, and because it is featured on our web site, we receive calls for assistance from people in states other than the 4 in which we have volunteer members. We are constantly and continually in touch with what is happening "on the floors" and "in the beds" in long-term care situations. Our perspective is not one of in theory and from a distance. Our work is up close and in practice.

While a substantial amount of information was presented at this Hearing, one thing seemed to be missing. That was a definition of an ombudsman and a description of the critical nature of the Ombudsman Programs around the country. This is not surprising. This program, which has been with us since 1965, can often be described by the old cliché, "I have done so much with so little for so long that I can now do anything with nothing."

As advocates, there are two critical programs that we rely on for the provision of quality care and the enforcement of federal and state laws and regulations governing that care for people living in Assisted Living Facilities. Those are the Survey Agencies that operate under the Center for Medicare & Medicaid Services in the Department of Health and Human Services and the Long-Term Care Ombudsman Programs under the direction of the Administration on Aging. For us, the primary difference between these two agencies is that the Survey Agencies, while charged with enforcing laws and regulations, are present in long-term care facilities for just a few days during the annual surveys and on the occasions that a complaint has been filed and requires investigation. It can be as long as 3 months before a complaint lodged with a Survey Agency is

finally investigated. The Ombudsmen, on the other hand, are in the facilities on a regular basis, learn to know the individual residents, and respond to requests for assistance with issues that impact the daily lives of the residents but that are not necessarily addressed in law or regulation. Where the Survey Agencies are impartial, the Ombudsmen are not.

Whereas the nursing homes and assisted living facilities have ample legal assistance and lobbyists looking out for their interests, the people living in these facilities and their families have few of these resources. What's more, they come into the long-term care system as novices with little understanding of their rights, what quality care looks like, or what they are entitled to. Without the help and guidance from a long-term care Ombudsman, they generally don't learn these critical bits of information until they no longer need them. Nor are many assisted living residents really able to advocate for themselves, particularly those who do not have strong families to back them up. While the survey and licensing agencies provide enforcement for federal and state regulations, it is the Ombudsmen who are in the facilities most often. It is the Ombudsmen who meet each resident and advocate for their care and quality of life needs.

**The National Ombudsman Program was created by the Older American's Act in 1965 and has proven itself critical to the people who need long-term care and to those who advocate for them. This Program and this Act need considerably more funding, support, and respect than they currently receive, and far more support in carrying out their mission.**

In the ten years Voices has been in existence, we've seen an intrusion of large publicly owned chains into what once was care provided by small stand-alone non-profit and individually owned for-profit assisted living facilities where those who own, run, and are responsible for the quality of care and quality of life they provide are both local and personally engaged in the daily operations of those facilities. We've also seen major changes in the way care is provided in these facilities. We see an increasing number of these homes now operated as a part of multistate or national private equity funds and REITs and run by large often publicly owned multi-state management companies with little or no connection, obligation, or visibility to the communities in which they own assisted living facilities. These chains are responsible only to Wall Street. Their bottom lines are not good care but good profits. The facility owners and managers are blessed with multiple lawyers, lobbyists, and ample funds for large campaign contributions.

The Ombudsman Programs are basically the only balance for the needs of the people who reside in assisted living facilities. Yet in our advocacy work for people who call in to our helpline for assistance, we are seeing a great variance in the efficiency and effectiveness of the various state and local ombudsman programs. We have not analyzed this phenomenon sufficiently to determine whether it is a result of the increasing political influence of these large chains and their Associations, or the fact that the Administration on Aging, in the past, has not sufficiently enforced the federal regulations governing the operations of the State and Local Long-Term Care Ombudsman Programs.

As an all-volunteer organization with extremely limited funds, we rely when and where we can on these government agencies to fairly and effectively deal with issues brought to us that fall within

their scope of work. Unfortunately, we are increasingly finding that the Ombudsman Programs particularly are not operating independently and according to their federal mandate as to act as resident advocates but are subject to considerable political manipulation. In some states we see seriously erratic differences from one local program to the next to the extent that the quality of the services received by a person contacting an Ombudsman will depend greatly on where in the state they reside. We are seeing this same erratic service across the country from state to state. We have seen the extreme results of political interference in the Florida Ombudsman Program this year. However, Florida is not the only state where political interference with Ombudsmen doing their duties is taking place. Most distressing to us is that we see very few Long-Term Care Ombudsman Programs either on the State or the Local levels that are in full compliance with federal law. We fear it may be very difficult to obtain first hand information on this issue from the Ombudsmen because their jobs are on the line. Very few Ombudsmen have the courage and determination of Brian Lee, former State Ombudsman of Florida, to do their job regardless of political interference.

The circumstances of people living in assisted living facilities were best described by a very honest politician who once told us, "You are advocating for a hidden population. Your people do not vote, they do not write letters to the editor, they do not call their legislators to complain, and what's more, they live behind closed doors. No one really remembers they are there." He was right in all but the voting part. "They" do vote and so do we who love them. We may not have funding for lobbyists. We may not have funding for large campaign contributions. We may not have the influence to operate behind the closed doors of Washington. But, we are Americans and the American Government is our Government. It is time to balance our needs with the needs of the providers.

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