



March 01, 2016

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Frank Pallone
Ranking Member
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Upton and Ranking Member Pallone:

The National Academy of Elder Law Attorneys (NAELA) thanks you for holding the hearing, *Examining the Financing and Delivery of Long-Term Care in the U.S.*, on March 1, 2016.

America lacks a coordinated, comprehensive approach to long-term services and supports (LTSS) that demands Congress's urgent attention. We hope the Energy & Commerce Committee will use this hearing as a starting point to develop a solution to a problem that impacts millions of American families.

NAELA is a national, non-profit association comprised of 4,500 attorneys who concentrate on legal issues affecting seniors, people with disabilities, and their families. The mission of NAELA is to establish NAELA members as the premier providers of legal advocacy, guidance, and services to enhance the lives of people with special needs or a chronic illness at any age.

Persons requiring LTSS are extremely vulnerable, needing assistance with two or more activities of daily living (ADL) to live. ADLs include being able to feed oneself, using the bathroom, getting dressed, moving out of bed, or walking. These needs can arise from a myriad of conditions, including cerebral palsy, a spinal-cord injury, multiple sclerosis, or Alzheimer's disease.

Virtually all of those who need LTSS hope they will not become impoverished, can remain at home, and do not become a burden on their families as a result of their condition. Sadly, the current system causes many to lose all of their retirement savings, be unduly sent to an institution, and rely heavily on family caregivers under enormous strain.

The unseen heroes of our LTSS system are American spouses, sons, and daughters who sacrifice their lives to support another. But without a comprehensive program, many face an insurmountable level of stress, often to the point of exhaustion. According to one study by AARP, family caregivers provide approximately four times more in economic terms of unpaid caregiving than Medicaid LTSS provides in paid services.

As presently constructed, options available to finance LTSS are wanting. Neither private long-term care insurance nor Medicaid provide the solutions Americans need. Insurance provides protection to only a few, due to business issues such as the current low interest rates and difficult-to-calculate actuarial assumptions, and to consumer issues such as medical underwriting, risks of premium spikes, and potential loss of coverage due to lapsing a policy.

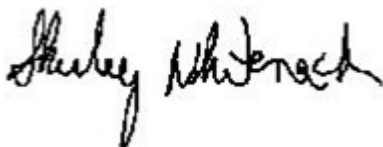
The Medicaid program today plays a critical role covering the majority of paid LTSS and accounts for over half of all LTSS spending. But Americans, facing a LTSS crisis, find that the program has strict means-testing requirements, is institutionally biased, and lacks portability between states. Medicaid is a critical backstop, but we can do better.

NAELA believes that America needs an economically sustainable model for LTSS that protects against impoverishment and provides services in the least restrictive setting. NAELA believes that any new LTSS system should:

- Offer consumers access to a broad array of support options, including a continuum of home and community-based supportive services and residential options.
- Promote independence and dignity across the broad continuum of care by ensuring beneficiaries the right to control and choose what services they receive, how and where they are delivered, and who provides them.
- Recognize a shared responsibility between government, individuals, and the private sector.
- Provide a strong foundation of protection while providing opportunities for personal planning that include a role for private sector options, such as long-term care insurance.
- Support family caregivers and recognize and support the central role families and other informal caregivers play in planning for and providing long-term care.
- Ensure that any changes for future participants don't penalize or leave behind those who need care now.

Thank you for your consideration of this important issue. If you have any questions, please contact David Goldfarb, NAELA's Public Policy Manager (dgoldfarb@naela.org or 703-942-5711 Ext. #232).

Sincerely,



Shirley B. Whitenack
President
National Academy of Elder Law Attorneys