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February 15, 2006

To: Senator Mayo, Representative Pingree,
and members of the Health and Human Services Committee

From G. Dean Crocker, Child Welfare Services Ombudsman
Richard Estabrook, Chief Advocate, Office of Advocacy
Brenda Gallant, RN, State Long-term Care Ombudsman

Re: Report on Ombudsman and Advocacy Programs, PL 05, Ch 412, Sec 11

Ombudsman and Advocacy Programs Report

This report is submitted pursuant to Chapter 412 of Public Law 2005 which mandated that the Child Welfare Services Ombudsman, the Long-term Care Ombudsman, and the Office of Advocacy work collaboratively to develop recommendations to maximize their independence, effectiveness and ability to provide consumer advocacy and ombudsman services. Chapter 412, Section 11 states the following:

Sec. 11. Review of advocacy and ombudsman issues. The child welfare ombudsman program established in the Maine Revised Statutes, Title 22, section 4087-A, the long-term care ombudsman program established pursuant to Title 22, section 5106, subsection 11-C and the Office of Advocacy within the Department of Health and Human Services shall work collaboratively to develop recommendations to maximize their independence, effectiveness and ability to provide consumer advocacy and ombudsman services and long-term budget stability. Those entities shall report their recommendations to the Joint Standing Committee on Health and Human Services no later than February 15, 2006. The committee may report out a bill regarding the ombudsman and advocacy programs to the Second Regular Session of the 122nd Legislature.

Recommendations

To fulfill their mandate, the participants held several meetings to explore how best to serve consumers. Based on thoughtful discussion, the following recommendations are respectfully submitted for your consideration.

1. **The Office of Advocacy recommends** an administrative move to the Department of Administrative and Financial Services [DAFS] from the Department of Health and Human Services [DHHS]. To promote the efficiency and effectiveness of the Office of Advocacy, their staff should continue to be housed within DHHS offices. When a vacancy occurs in the Chief Advocate position, it is recommended that the Consumer Advisory Board make the selection of the Chief Advocate. The Consumer Advisory Board may seek the advice of the Commissioners of DHHS and DAFS in selecting the Chief Advocate.

2. **The Child Welfare Services Ombudsman recommends** the following:
 - [1] That the group of children eligible for ombudsman services should be expanded to include children and families served by Children's Behavioral Health Services in DHHS. There will need to be a fiscal note if the responsibility of the Ombudsman for Child Welfare Services is expanded to include all Children's Behavioral Health clients. Children's Behavioral Health serves approximately twenty thousand children and their families. Twenty thousand is more than double the current number of children and families served by the child welfare services ombudsman program. If the Joint Committee on Health and Human Services [HHSC] elects to recommend this expansion, it can be partially funded with MaineCare match funds, similar to funding that is provided for current child welfare services ombudsman clients.
 - [2] To ensure the maximum ability to provide quality services, state contracts for child welfare ombudsman services should be made for a period of no less than 5 years and renewable thereafter, based on satisfactory contract performance. This will financially stabilize the program and allow for focused child welfare ombudsman services.

3. **No changes are recommended for the Long-term Care Ombudsman Program.** LTCOP was incorporated as a non-profit corporation in 1995. Thus, LTCOP is not within state government. Since its incorporation, LTCOP has had a contract with DHHS, Office of Elder Services, to fulfill the state's obligation under the federal Older Americans Act, which requires each state to have a Long-term Care

Ombudsman Program. Based on its structure and design, the Maine Long-term Care Ombudsman Program is recognized nationwide as a model program. This model maximizes LTCOP's independence and enhances its ability to advocate for long-term care consumers. LTCOP currently has a 5-year contract period, renewed annually, in response to the RFP process [Requests for Proposals].

Guiding Principles

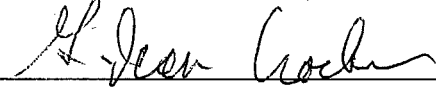
The following guiding principles were developed to shape the above recommendations.

- **Stability** is necessary if we are to assure quality in ombudsman and advocacy services. Stability helps to ensure [1] the ability to attract and retain quality staff; [2] the development of well-trained and experienced staff in the advocacy and ombudsman programs; and [3] the availability of easily recognized contact information to facilitate consumer and family connection with needed advocacy and ombudsman services that remains consistent over a period of years.
- **Stability and continuity** also ensure that consumers become aware of advocacy and ombudsman resources through both formal outreach efforts and informal communication among consumers. On-going current program efforts support consumer empowerment in the protection of their rights and recognize the importance of the informal consumer-to-consumer network.
- **Stability and program longevity** recognize the importance of historical knowledge and acknowledges that the resolution of some issues require a long-term sustained effort.
- **Client centered advocacy** promotes and preserves the ability to act solely on behalf of the consumer and is supported by no direct connection to the state agency serving the consumer that may be the focus of a program's work.
- **Program accountability** is assured by a number of contractual and statutory provisions. The Executive Department has the authority to remove "for cause" the Chief Advocate of the Office of Advocacy, and to terminate a contract with an agency established to carry out the duties of the long-term care ombudsman or the child

welfare ombudsman. State statutes established the Office of Advocacy, the Child Welfare Services Ombudsman, and the Long-term Care Ombudsman Program and demonstrate the necessity to sustain and maintain independent client-centered advocacy and ombudsman programs. The Office of Advocacy provides civil service process protections for discipline of members of the Office of Advocacy, and prohibits discipline for the performance of advocacy.

Thank you for this opportunity to report to you about the need for independent, financially viable advocacy and ombudsman programs that are devoted to protecting the rights of vulnerable Maine citizens.

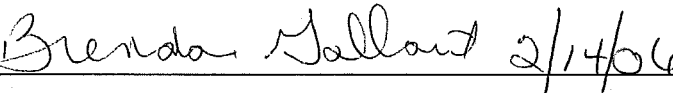
Submitted by:

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G. Dean Crocker, Child Welfare Services Ombudsman

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Richard Estabrook, Esq. Chief Advocate, Office of Advocacy

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Brenda Gallant, RN, State Long-term Care Ombudsman Program