

**HOUSE OF REPRESENTATIVES
COMPILATION OF PUBLIC COMMENTS**

Submitted to the Committee on Human Services
For HB 4220

Compiled on: Tuesday, April 11, 2023 2:53 PM

Note: Comments received by the committee reflect only the view of the individual(s) submitting the comment, who retain sole responsibility for the content of the comment. Neither the committee nor the Texas House of Representatives takes a position on the views expressed in any comment. The committee compiles the comments received for informational purposes only and does not exercise any editorial control over comments.

Hearing Date: April 11, 2023 8:00 AM

Roach Melissa
Self/Referral/Prior Authorization/Insurance Specialist
Fort Worth, TX

I am very opposed to this. This is not in the best interest of Long-term care residents. Lack of transparency shows lack of responsibility. Long-term care residents don't need this to pass. It's horrible for them.

Michael Batchellor
Caregivers For Compromise
Forney, TX

I oppose this bill.

Joanna Nasr
Self Healthcare
Plano, TX

Against. It is very, very bad for residents to not have access to ombudsmen. As a previous employee of such facilities, I can confirm that abuse of residents becomes a much bigger problem without them having ombudsmen to speak on their behalf.

Brenda Murphy, mrs
Texas Care Givers for Compromise
Arlington, TX

Opposed!!

Lisa Pollok
Self, essential caregiver
San Marcos, TX

I oppose this bill.

Alison Cummings

Self

Little Elm, TX

I oppose this bill. It represents a conflict of interest by changing the intent of the Ombudsman program from representing residents and their families in long-term care facilities to putting the interest of the facilities foremost. This is egregious and creates further hardship for residents and their families. I urge you to vote against this bill.

Terri Isbell

Self

Florence, TX

I strongly oppose this bill

-it makes it harder for loved ones to advocate for the safety and health of residents of long term care

Anita Bishop

NA

Grand Prairie, TX

I oppose this bill, as I believe it works in the interest of the facilities instead of long term care residents.

Laurie Evans

Self

Selma, TX

I oppose this bill

Greg Shelley, Managing Local Ombudsman

Harris County Long-Term Care Ombudsman Program

Houston, TX

Dear House Human Services Committee Members,

My name is Greg Shelley, Managing Local Ombudsman for the Harris County Long-Term Care Ombudsman Program, and I oppose HB4220 for several reasons. First and foremost, the bill would limit the ombudsman program's ability to resolve complaints without seeking intervention from Health and Human Services Long-Term Care Regulation (LTCR). Instead of being able to resolve some complaints "in-house," ombudsmen would be denied access to records needed to complete a thorough and proper investigation and would inevitably lead to more complaints needing to be filed with LTCR, which in itself is already stressed for resources.

Additionally, the administrative burdens added by sections 4 and 5 would unnecessarily strain monetary and staff resources for the ombudsman program. When combined with the bill's attempt to limit access to records, the result weakens what has long been one of the few effective consumer protections for residents of assisted living facilities and nursing homes. When ombudsmen are able to fully and properly investigate complaints on behalf of the residents, the result is often a win-win-win. The resident gets their concerns addressed, the facility is able to improve its relationship with their customer, and LTCR doesn't need to get involved.

HB4220 would likely have no positive impact on long-term care providers' ability to operate successfully. On the other hand, it will likely have a negative impact on the dignity and respect of the residents and their ability to get information related to their own care. It will definitely adversely affect the ombudsman program's financial and staff resources. And, it will most likely increase opportunities to further abuse the system by those select providers who frequently skirt the existing rules, giving them an additional unfair advantage over all those providers who regularly do things correctly and honestly.

Thank you for your service and for your time and consideration.

Beverly Damron
Self / Operations Manager
Palestine, TX

I oppose this bill !
Thank you

Janice Roessler, Mrs.
Self
Fort Worth, TX

I oppose this bill.

Stephanie Smith, Mrs
Self and my father, Gustave Sandstrom
Spring, TX

I am firmly against HB4220. This bill sets a dangerous precedence and serves to represent facilities and not the residents. This bill squashed thorough reporting, and gives the facility the authority to determine which reports are published!

Leave the State of Texas ombudsman program as it stands, to serve and protect the residents.

Nursing homes have become nothing more than facilities to warehouse the elderly until they die. They need to be better investigated and held accountable. The residents need advocates!

Leave the ombudsman program ALONE!

Melinda Polk-Haynie
Self, grant writer
Terrell, TX

I am opposed to this bill. My husband was 49, diagnosed with a terminal illness and in long term care. Covid kept anyone from seeing him for six months. He died alone.

Beverly Hyden
self - self employed
Spring, TX

OPPOSE!

Darla Meister
Self/essential caregiver
Valley Mills, TX

I oppose this Bill. Nothing in this Bill benefits the residents of Long Term Care Facilities. This was written in the sole interest of the facilities. Residents and family members need to be able to seek the help of their Ombudsman when a situation occurs that can not be resolved between the Facility and resident. Ombudsman are crucial in helping Residents stay safe and making sure Facilities follow guidelines correctly.

Laurie Matthews
Self retired Educator
Port Neches, TX

I oppose the bill!

Mary Nichols, Founder and Leader
Self and Texas Caregivers for Compromise
Forney, Texas, TX

To say I oppose this bill on behalf of our 3100 families is an understatement. This bill is written for the benefit of facilities alone. Nothing in it helps or serves residents. Federal law states the purpose of the ombudsman is to provide services to protect the health, safety, welfare, and rights of the residents. Everything in the law and regulations is clear that the ombudsman program serves RESIDENTS, absent of any service toward a facility or provider group or vested interest in a facility or provider group.

Yet, every section of this bill is written with the specific purpose of making the Ombudsman Program more palatable and more agreeable for facilities and provider groups.

This is a gross departure of the purpose of the Ombudsman program as defined in the law and it is no better evidenced than the section of the bill requiring the program to catalogue all its advocacy efforts for the convenience of providers and lobbyists so they may better oppose and strategize against the Ombudsman program itself. This section makes the Ombudsman work to aid providers in advocating against itself, thus making the State Ombudsman advocate against residents.

Every facility in every state in this country has issues with ombudsmen. That is the nature of the process because ombudsmen advocate for, investigate, problem-solve and help resolve concerns of the resident. That's what they do. And, it is uncomfortable for facilities to have an occasional ombudsman ask for records he or she is not entitled to. But that doesn't mean the program itself needs a rewrite or more narrow definitions of the authorities granted the State Ombudsman in federal regulations.

This bill weakens the ombudsman's ability to advocate for residents and it does it in the interest making the program more palatable for facilities.

On a personal note, during the COVID-19 lockdown, the 202 days that I was excluded from participating in my mother's care, my tiny mother with end stage Alzheimer's gained so much weight that she was unrecognizable. That weight gain put a strain on her heart and lungs that increased her aspiration, projectile vomiting, and choking, and decreased her oxygen during these episodes. As a bed bound resident with zero exercise, there was no way for her to lose that weight. It was there for the remainder of her life. Her ombudsman investigated and discovered by looking at her patient care records as well as vendor records that (1) the brand of liquid intake had been replaced with a higher calorie product and (2) the amount had been increased without consulting me or her hospice nurse. UNDER THIS BILL, the facility would have been allowed to deny the ombudsman the ability to look at the vendor records.

Kelly Teer
Self
Fairfield, TX
OPPOSED

Karla Keaton
Self
Fairfield, TX

I am opposed to this bill because it is very bad for long term care residents

Karen Kammer
Texas Caregivers for Compromise
Kerrville, TX

I oppose this bill!! Ombudsmen are for the residents! Not the facilities. Residents must have an advocate that is working in their best interest only!

Benna Blanton, Miss

Retired/Self

Crandall, TX

Families need help when family members/ providers are unable to work, let alone pay for much needed medical care!

Rebecca Dobbs

Caregivers doe compromise

Forney, TX

I oppose. Please protect our elderly!

Veronica Alcala

Self

El paso, TX

Oppose

Ned Meister

Self

Valley Mills, TX

I do not support HB 4220 because it would remove the oversight protections for residents in long term care facilities in Texas. There are proposed changes in the bill that would curtail the ombudsman's ability to investigate on behalf of the residents. I believe the ombudsman's investigative authority should be greater than now authorized in in law. As a family member of a loved one who is in long term care, I pray that these changes will be rejected.

Sincerely

Ned Meister

Amanda Haynes

Caregiver

Vernon, TX

This bill does not have the best interest of the patient. It the away their voice My mother is in nursing home and during Covid declined mentally due to no visitation. Ombudsman are the only voice a patient has and they need to be able to see the records of the patients. Think how you would feel if it was your parent in. Nursing home and the nursing home didn't have to consult you. Say no to this bill

Peggy Elery

Texas Caregivers

Athens, TX

OPPOSED

Christa Russell

Self

Fischer, TX

I oppose this bill!

Genny Lutzel
Self, Paralegal
Rockwall, TX

Please accept these comments in opposition to HB 4220. As the daughter and caregiver of someone who lived in long-term care facilities for more than 10 years, I have used the ombudsman services on three separate occasions related to multiple issues including negligence, retaliation, and visitation rights. In each instance, I was informed of my rights and given the opportunity to remain anonymous. The ombudsman reviewed one facility and found multiple issues related to care that resulted in personnel changes and improved the care for residents. An ombudsman's clear and impartial investigation is critical for every single resident without a voice. And, to limit the ability to report and document anything in a facility helps no one. Let the ombudsman do what they do best. Support and protect the most vulnerable among us. Finally, the proposed bills suggests that there is somehow a need for others to know what an ombudsman is going to support by disclosing legislative priorities. This is clearly a tactic to muzzle the one and only advocate for residents by asking them to defend their very purpose-to support residents rights. This bill is nothing more than an attempt to dilute the responsible and much needed support network for residents in long term care. Not one single resident nor resident advocate would find this bill a benefit. Rather, this bill is an attempt to hide what goes on behind closed doors. We need more eyes and ears in facilities. Associations and lobbyists and facility operators are the only organizations to benefit from this bill. Ask someone who has used an ombudsman where to place priorities for resident rights, not for profit companies.

Thank you,
Genny Lutzel

Kim Stewart
Self/Teacher
Huntington, TX

I oppose this bill. My father was in the nursing home during COVID. I know the negative effects this bill would have on families with loved ones in these facilities.

Olga McIntyre
Self, Insurance Professional
Spring, TX

A complaint or issue to be investigated and resolved on behalf of a facility resident for the protection, wellbeing and fair treatment of the resident cannot be investigated and/or resolved by an individual or group whose efforts serve a facility. Having vested interest in a facility must bar the vested individual or group from controlling the resolution process. The Ombudsman must identify conflicts of interest and must serve for the best interest of the resident.

Julie Anderson
Self
Round Rock, TX

I oppose this bill

Lisa Cowgill
Voter
Denton, TX

I oppose this bill. Texas citizens made their thoughts on this known in proposition six prior. Please do not weaken this.

Elizabeth Chambers

Self/Daughter of a Resident of a LTC facility

North Richland Hills, TX

This is wrong. WRONG. Ombudsmen are to represent the RESIDENTS of assisted living and nursing homes. To be the residents' advocate. When I was finally allowed in to see my mother—7 months after her home had been locked down to families and friends because of the Pandemic—I was HEARTBROKEN to see how her home—who had still made THOUSANDS and THOUSANDS of dollars from her—had neglected her. Lobbyists for these homes should not be allowed by our Representatives to change this program that benefits the residents. Helps them. Especially when they no longer have family to advocate for them. This can affect EACH OF YOU. Some day you may be a resident. Do not take away YOUR OWN RIGHTS to advocacy. Please.

Heather Armstrong

Long-Term Care Ombudsman

Fair Oaks Ranch, TX

My name is Heather Armstrong, Managing Local Ombudsman, and my program is housed within the Alamo Area Council of Governments, serving Atascosa, Bandera, Comal, Kerr, Kendall, Gillespie, Karnes, Wilson, Frio, Medina, and Guadalupe counties. I've been an ombudsman since 2013. As a long-term care ombudsman, I represent the interests of residents who live in nursing facilities and assisted living facilities. My comments within this letter reflect my role as an ombudsman and do not represent the views or a position of Alamo Area Council of Governments

Please oppose HB 4220, regarding Long-Term Care Ombudsman access to a resident's record.

As a Long-Term Care Ombudsman (ombudsman), I generally don't need to review a resident record during my day to work. However, there are times a resident complaint requires me to review their records. During those times, I ensure the resident understands and has consented to me viewing their record as required by the Ombudsman Policy and Procedures Manual. If the resident is unable to provide consent, I would contact the Legally Authorized Representative (LAR) for consent. If the resident does not have a LAR, then I follow Ombudsman Policies and Procedures, which are based on federal law, to determine whether I have access to the records.

There are state and federal rules in place to ensure the ombudsman follows the direction of the resident at all times. HB 4220 would place undue burdens on our work on behalf of the residents we serve. Ombudsmen go through an intense training that includes classroom hours, self-study hours and field work. Our residents rely on us to assist them with many different complaints and we do that work on a daily basis. If a resident record is needed to be reviewed to help solve that complaint then an ombudsman will gain the proper consent and work with the resident and the long-term care community to resolve the situation.

We are the only entity in place to check on residents on a regular basis and placing this hardship would make our vital work more difficult, which ultimately affects the resident. I do hope you will oppose HB 4220. Thank you for your time and attention to this matter.

Sincerely,

Heather Armstrong, MA, CDP, CMDCP

Alamo Managing Local Ombudsman

Area Agency on Aging/Alamo Area Council of Governments

2700 NE Loop 410, Suite 101

San Antonio, TX 78217

O: (210) 362-5283

C: (210) 250-1065

Donna Haggard

Self

Stephenville, TX

I oppose this bill!

Sylvia McKee
Self, Revenue Cycle Management
League City, TX

OPPOSE BILL!

Trona Jurden
self
Lavon, TX

after going through Covid, with my dementia brother and his isolation in long term care and death all alone no family could visit I can tell you ...this bill will NOT be a good idea. We worked so hard for Prop 6.

Shari Mayorga
Self, self employed landscape designer
Spring Branch, TX

I oppose bill 4220.

Toni Timura
Self
Spring, TX

Long-term care is extremely important for both the patients and the families we need more oversight

Rebecca Mcconnell
Indicidual
Forney, TX

Oppose

Yolanda Smith
Self
Terrell, TX

This bill will not benefit long term care patients in isolation

Patty Weaver
None
Austin, TX

Oppose

Michael Powell Batchellor
Self
Smithville, TX

You have got to be kidding me. I am about to be 80 years old. My kids' mom was in a home and they had to fight like hell just to see her. Nobody helps old people anymore and you want to make it harder for the ones that know how? So the ombuds program solve problems for us old people and do a good job and you say change it cuz they are too good at it and the homes don't like that? How hard you think it is being old and having a bad hip and a sore jaw and nobody that cares you can't fix all your problems? How is that right? Who else fights for the old people? Who is gonna fight for me if my kids don't know how? These old people homes need to do a better job and politicians leave the ombuds program alone. Leave it alone. Leave it alone!

Anne Maureen MOE

self

SPRING, TX

I oppose this bill. Ombudsman's responsibilities are to the RESIDENTS not the facilities.

Donald Moe

SELF

SPRING, TX

I oppose this bill as it does NOT benefit the facility residents and puts the wants of the facilities before the needs of the facility residents.

Lori Haynes

Self.

College Station, TX

I am opposed to this bill. Residents of long-term care communities NEED access to the ombudsman to help them resolve issues with their care and their environment. This bill will result in LTC Residents having almost no voice in dealing with huge corporations. Please do not take away this vital element of care for our most vulnerable Texas residents.

Cindy Boyum, Managing Local Ombudsman

Long-Term Care Ombudsman Program

San Antonio, TX

My name is Cindy Boyum, Managing Local Ombudsman, and my program is housed within the Alamo Area Council of Governments, serving Bexar County. I've been an ombudsman since 2016. As a long-term care ombudsman, I represent the interests of residents who live in nursing facilities and assisted living facilities. My comments within this letter reflect my role as an ombudsman and do not represent the views or a position of Alamo Area Council of Governments.

Please oppose HB 4220, regarding Long-Term Care Ombudsman access to a resident's record.

All people deserve to be treated with dignity and respect, and to have access to quality medical care. Unfortunately, that isn't always the case in long-term care facilities. This is when a long-term care ombudsman comes into play. We protect the health, safety, welfare, and rights of residents.

When investigating a resident's concern, sometimes it is necessary for a long-term care ombudsman to look at a resident record. This is done only with consent from the resident or the residents Legally Authorized Representative (LAR). The ombudsman program has strict policies and procedures in place to access those records. A resident has the right to designate access to a long-term care ombudsman to the information the facility keeps regarding the resident. This right should not be limited.

Through no fault of their own, residents experience unique challenges in long-term care facilities and HB4220 would impose an additional hardship by denying them the thorough investigation of their complaint by an ombudsman.

Thank you for your time and attention to this matter.

Sincerely,

Cindy L. Boyum

Bexar Managing Local Ombudsman

Area Agency on Aging/Alamo Area Council of Governments

2700 NE Loop 410, Suite 101

San Antonio, TX 78217

C: (210) 380-3427

Mary Montz
Self
Wichita Falls, TX

I strongly OPPOSE this bill!

Lisa Fridriksson
Self
Plano, TX

Oppose the bill.

Debra Michaels, Mrs.
Self/Retired
Wills Point, TX

I object to this bill because it severely limits the rights and recourse of residents and the families of residents to be certain the care received at a long term care facility meets the standard of care promised. "Care" includes every aspect of the daily life of an individual in a long term care facility.

Loretta Hill
self
Elgin, TX

I am concerned with limiting the records that my ombudsman can access to those deemed to be "a record related to a specific patient's direct care" In my situation, many of the issues I have are related to my comfort and care at the facility, but are not related to direct care. Many issues include dietary likes, dislikes and needs as well as activities and other issues that are part of living here, but not related directly to my medical care. I am also concerned with limiting the scope and depth of their investigation. Sometimes they are my last hope for help when working an issue at the facility. I believe that by limiting their scope and access to records will make them less able to help us deal with the issues that arise.

Lisa Pollok
Self, essential caregiver
San Marcos, TX

I oppose this bill. Please vote no.

Clayton Batchellor, Self
Self
Smithville, TX

I oppose this bill. Don't fix something not broken. It is all about taking a program that is performing too well the way it is supposed to and fixing it so investigatees won't be reported by ombudsmen to investigators.

Shelley Richardson
Self
Rockwall, TX

Oppose, residents need ombudsman to be their advocate more than the facilities do. The facilities should be experts in this. Residents are sometimes clueless or are unable to understand. The families of residents who have no idea how to navigate the system need help!

Jennifer Capehart

Myself

Allen, TX

Vote NO!!!

Janice L Ward

Self

Terrell, TX

Opposed

Keri Montz

Self

Wichita Falls, TX

I oppose this bill.

Terri Pierce, Ms

Myself

Bastrop, TX

We need to protect the residents. No one else should be benefiting

Karen Collins

Self, Forensic Scientist

Tyler, TX

I appose this bill. Have we not learned anything from nursing home care during COVID? Currently my mother-in-law is in a memory care facility. We have used our local ombudsman on a few occasions over the last two years for possible abuse situations. Without the help of the ombudsman as a advocate families will feel helpless in self pay facilities. Why would the state think this is a good idea to take away the one agency who is there to protect the elderly? What about those who don't have a family member to go to battle for them? Who are they to use? You think the facility is going to protect them? Think again if that was the case my husband and I would not have to have numerous meetings with the director of the facility and stern conversations with staff regarding care or lack of care and how it borders on elderly neglect. For those of you who are not familiar with these types of facilities, \$6045.00 a month is not payment for sunshine and rainbows. It is payment for what seems at times minimal care, three meals a day and maybe brought to the bathroom every few hours. All the facilities are the same low pay (\$10.00hr) and a majority of the staff who just don't care. If you want to force an issue why not make these facilities increase the pay to get better staff instead of for profit.

Sarah Smith

self

Forney, TX

This is a bad bill. I oppose it. Nobody knows how many times the ombudsman had to find out information for my grandmother and the nursing home said no. She is allergic to a lot of things and the last nursing home had mold and bugs and bad food. It needs to be against the law for nursing homes to hide information. Please don't pass this law. If the ombudsman is trying to help, they should be allowed to see all the files and records they need no matter what kind of business it is about. We love our nursing home but the last one was not good and did everything to stop the ombudsman from helping us. This law doesn't care about my grandmother. All it wants to do is make sure nobody complains on the nursing homes and that is wrong. People can also tell the nursing homes got this bill done. We see the ridiculous reporting stuff too. Somebody needs to help me understand why they need to do all that busy work when there is so much abuse and neglect in nursing homes? Why would anyone be okay with this?

Norma Frick
Self
Gainesville, TX
Oppose!

LeAnna Harrison
Texans/self
PETROLIA, TX
OPPOSE

Lisa Rudd
Self—retired
Commerce, TX

I oppose this bill. It is not in the best interest of the residents of longterm care facilities.

Stephanie Koller
Self
Austin, TX

I oppose this bill as the ombudsman needs full access to all documents to assist those living in nursing homes.

Michael McDonald
Self - occupation is benefits consulting
Dallas, TX

Please do not pass this bill as it negatively impacts the ombuds ability to investigate abuse of some of the most vulnerable residents of our great state. They deserve our respect and protection. Thank you.

Patricia McDonald, Miss
Self, student
Dallas, TX

To whom it may concern,
This bill is guaranteed to increase the vulnerability of elderly people and long-term care residents and should not be passed. It is the responsibility of the State Ombudsman to ensure complaints made by residents can be settled with their facilities, and that job is crucial in preventing elder abuse in our state. This bill will seriously constrain the ability of an ombudsman to access these complaints and the people who made them. That is a clear and obvious threat to the safety of elderly people in Texas. Do not vote yes on this bill; do not put their lives at risk.
Sincerely,
A concerned citizen

LETICIA SALINAS

Self

Mission, TX

As a resident of the Great State of Texas, I am writing this to advise you of the importance of my local Ombudsman office. My Father was at a Nursing Facility in South Texas. Before contacting my local Ombudsman for some help I was verbally attacked and told I needed to move my Father due to me filing complaints to Health and Human service hotline and to the Nursing home hotline. When I attended care plan meetings I was intimidated and verbally attacked and anything I brought up was left unanswered. If I called to complain I was the bad person. I struggled so much to get the best care for my Father. Me also being in the healthcare industry I was reminded to call my local Ombudsman office. When I contacted my Ombudsman office she stepped in to help and guide me as to how to fix my issues. I stopped attending any meeting unless my local Ombudsman was present. I felt more confident when she was there since I could no longer be intimidated or verbally attacked. She reminded them they could not discharge my Father only because I was complaining. When my Ombudsman was present at meetings their whole attitude change and we could talk and fix the problems. The importance of the Ombudsman office having to look at my Father medical records was so important. I complained about my Father being in his room 24/7 and I was told by facility I needed to pay \$5,000.00 out of pocket for a wheelchair for him. The reason they could not take him out was because they did not have the proper equipment. As soon as I called my Ombudsman she looked at his records and why he needed a special chair within three days my Father had a new chair with his benefits and he could finally get out of his room. She reviewed my Fathers records why he needed to be changed every 2 hours instead of 4, when the facility could not understand why. She also reviewed his records as to why he needed an abdominal binder at all times, when I was told it was a non restraint facility for over 10 years but yet I had to purchase my own binder and clearly after reviewing his medical records it stated he needed to have one at all times with a Doctor prescription in his records.

I can't stress enough how important an Ombudsmen officer is and how important they have access to all records for residents. I honestly don't know what I would have done without the help I got from my Ombudsmen.

Thank you and Blessings....

Michael Fehler

Self Retired

Fort Worth, TX

My sister is currently in a nursing home. We got in contact with Tina Rider, the ombudsman, 10 years ago when our brother was at the same facility. The staff then was trying to remove him from there. I notified Ms. and within 3 days we had a meeting with most of the staff. During this period, Ms. Rider asked for permission from me whenever she needed to do something. The meeting lasted about 30 minutes and my brother was allowed to stay. Shortly after that meeting Ms. Rider and I were in an office discussing the meeting when the administrator knocked on the door and came in and apologized to me for what they were trying to do. The staff unscrupulous! Had it not been for Ms., Rider we would have been up the creek without a paddle! Right now, my sister has been neglected and abused and Ms. Rider is working on this. Please vote against SB 4220 and give the ombudsman the help they need to help our loved ones.

Pat Gleason-Wynn, Ph.D.
Texas Silver-Haired Legislature
Arlington, TX

Dear Members of the Human Services Committee:

I am writing to ask that you NOT support HB4220 that relates to the Office of the State Long-term Care Ombudsman. As a member of the Texas Silver-Haired Legislature, I am an advocate for all older and disabled Texans. In addition, I am a Texas licensed clinical social worker, and I have worked in nursing facilities for over 30 years. This includes interacting with Ombudmen who visited the facilities. We are fortunate in Texas to have staff and volunteer Ombudsman who visit our nursing facilities and assisted living facilities, and act as advocates for the older and disabled Texans who live in the facilities.

HB4220 conflicts with Federal statute, and seeks to carve away at the rights of Ombudsmen to be able to fully investigate and resolve complaints or concerns voiced by residents in long-term care facilities. The Older Americans Act Title VII states that an Ombudsman has the responsibility to identify, investigate and resolve complaints made by or on behalf of residents of long-term care facilities that affect the residents' health, safety, welfare or rights. Federal law further mandates that an ombudsman has the right to access and review the medical, social and other records relating to a resident, if the resident or resident representative gives informed consent.

HB4220 seeks to limit an ombudsman's access to records which conflicts with Federal law, limits an ombudsman's ability to resolve concerns for the residents, and adds to the workload of the Ombudsman Program. Remember the Ombudsman is an advocate for some of the most vulnerable Texans living in nursing and assisted living facilities. The Ombudsmen do not need to have their workload burdened as they seek to resolve the residents' concerns.

Please continue to allow the Ombudsman Program staff and volunteers to act unimpeded to improve quality of life and care for residents of long-term care facilities by helping to resolve problems related to the health, safety, welfare, and individual rights.

Please do NOT support HB4220. Thank you.

Pat Gleason-Wynn, Ph.D., LCSW, RN
Texas Silver-Haired Legislature, Tarrant County

Suzanna Sulfstede

The Senior Source, Long-Term Care Ombudsman Program

Dallas, TX

My name is Suzanna Sulfstede and I am the Managing Local Ombudsman for the Dallas County Long-Term Care Ombudsman Program. Each year, my program serves more than 16,000 residents living in the 82 nursing homes and 212 assisted living facilities in Dallas County. I oppose HB 4220 because it interferes with the ombudsman program's ability to advocate for residents.

Ombudsmen are mandated through both state and federal laws to protect the health, safety, welfare, and rights of long-term care residents. In our role, we improve the quality of life and care for these frail, vulnerable individuals by identifying and working to resolve complaints on their behalf. Ombudsmen must be able to complete a thorough investigation of complaints in order to successfully advocate on behalf of residents. Depending on the nature of the complaint, that investigation may include accessing and reviewing resident records. HB 4220 would diminish the ombudsman program's effectiveness and interfere with our ability to thoroughly investigate complaints because it would limit ombudsman access to necessary records.

Ombudsmen frequently encounter facility administrators and other staff being unresponsive or otherwise unavailable to our requests for information related to residents' complaints. Giving long-term care facilities the authority to determine whether an ombudsman has satisfied the requirements for accessing resident records before allowing us to access such records could result in further unreasonable delay in the ombudsman being able to investigate and resolve a resident's complaint, thus subjecting the resident to continued poor care, abuse, neglect or other violations of his or her rights.

Please oppose HB 4220.

Respectfully submitted,

Suzanna Sulfstede, LMSW

Managing Local Ombudsman

Dallas County Long-Term Care Ombudsman Program

Angela Allison
Office of the State Long-Term Care Ombudsman
Bryan, TX

I am the Managing Local Ombudsman for the Brazos Valley Long-Term Care Ombudsman Program in Bryan, Texas. The Office of the Long-Term Care Ombudsman is an independent organization that provides resident-centered advocacy to improve quality of life and care for residents of nursing homes and assisted living facilities. My comments are made as a representative of the Office and do not represent the position or views of my host agency.

I am writing in opposition to HB 4220. This legislation creates profound consequences in the long-term care ecosystem by limiting the Ombudsman Program's ability to provide advocacy for residents. My greatest concern is this bill's narrow definition of a "patient care record" as a "record related to a specific patient's direct care." Currently, the term "patient care record" does not have a statutory definition but is broadly understood by ombudsmen, facilities, and other long-term care stakeholders to mean a record related to a resident's stay. In practice, ombudsmen regularly receive resident consent to access records unrelated to direct care. Complaint investigation often requires my office to obtain records about resident admission agreements, finances, insurance, social services, and dietary needs. HB 4220 will prevent my office from obtaining these records because they do not relate to direct care.

HB 4220 allows facility staff to determine the validity of resident consent and ombudsman documentation. Currently, facility staff have no discretion to question an ombudsman's statement that they obtained resident consent. HB 4220 elevates facilities to the role of record gatekeepers and allows facilities to act as adjudicators of consent and documentation. It enables facilities to question resident capacity to consent. Facilities will misuse this discretion by leveraging their own biases against residents to justify denying ombudsmen access to records. Facility staff will obstruct ombudsman investigations by asserting that residents are incapable of giving consent for ombudsman to act on their behalf. I am further concerned that HB 4220 provides no recourse for ombudsmen who believe a facility has misjudged a resident's capacity or is otherwise misusing their discretion to create barriers to complaint resolution.

I urge House Health and Human Services Committee Members to vote no on HB 4220. This bill presents new obstacles for residents who deserve quality of life and care. It creates additional barriers to the Ombudsman Program's objectives of providing resident-centered advocacy. It exacerbates existing backlogs of Long-Term Care Regulatory complaints as residents seek help from entities that are not burdened by HB 4220. It places new demands on almost all long-term care stakeholders for the purpose of insulating industry from vital mechanisms of accountability. HB 4220 is bad for Texas long-term care residents and everyone who cares about them. Please vote no on HB 4220.

Samantha Jones
Self
Lewisville, TX

As a seasoned healthcare professional and someone who personally had a loved one in Assisted Living, I support HB4220 for several reasons:

This bill is needed in order to set clear expectations for providers and volunteer ombudsmen about the documents ombudsmen are permitted to request.

Volunteer ombudsmen need to be appropriately trained. It is important that they understand the regulatory differences between assisted living communities and nursing homes.

Communities need documented proof that ombudsman have obtained consent to sensitive resident records.

The bill will give legislative offices and the Office of the Governor insight into the legislative and advocacy work the state long-term care office does at the Texas Capitol and at the Health and Human Services Commission.

lori alford
avanti senior living
spring, TX

Full support of this bill. As an operator, I have been in situations where the ombudsman and the regulatory agency rules conflict. This bill is needed in order to set clear expectations for providers and volunteer ombudsmen about the documents ombudsmen are permitted to request.

Volunteer ombudsmen need to be appropriately trained. It is important that they understand the regulatory differences between assisted living communities and nursing homes.

Communities need documented proof that the ombudsman obtained consent to have sensitive resident records.

The bill will give legislative offices and the Office of the Governor insight into the legislative and advocacy work the state long-term care office does at the Texas Capitol and at the Health and Human Services Commission.

Carissa Fawley
Merill Gardens
Georgetown, TX

Hello. I am General Manager of an Assisted Living and Memory Care community in Georgetown, TX. I am in support of HB 4220. This bill is needed in order to set clear expectations for providers and volunteer ombudsmen about the documents ombudsmen are permitted to request. Volunteer ombudsmen need to be appropriately trained. It is important that they understand the regulatory differences between assisted living communities and nursing homes. This is not always the case. Communities need documented proof that ombudsman have obtained consent to sensitive resident records. They often expect us to disclose sensitive information just because they are the ombudsmen. This bill will give legislative offices and the Office of the Governor insight into the legislative and advocacy work the state long-term care office does at the Texas Capitol and at the Health and Human Services Commission.

Thank you.

Melissa Sanchez, TX Director of Public Policy
Alzheimer's Association
Houston, TX

Members of the House Committee on Human Services:

My name is Melissa Sanchez and I am the Texas Director of Public Policy for the Alzheimer's Association. Individuals with Alzheimer's and dementia are high users of long-term care settings. 42% of residents in ALF's and 48% of those in nursing homes have Alzheimer's or a related dementia. To ensure their safety, health and welfare, the role of an ombudsman is critical not only to residents, but to their families who rely on facilities to provide proper care. Ombudsman must be able to fully execute their roles and responsibilities as provided by Federal law to advocate and resolve issues on behalf of some of our most vulnerable seniors from egregious actors in the long-term care industry. The Alzheimer's Association is concerned that HB 4220, in particular Section 3 of the committee substitute, seeks to limit the access of an ombudsman, obstructing them from fully and effectively executing their duties so many in the Alzheimer's and dementia community rely on. The need for quality facilities for Texans with Alzheimer's has never been greater, and while we appreciate the importance of balancing patient welfare and stringent regulations, we look forward to working with Rep. Clardy, Chairman Frank, and the members of this committee to address this concern.

Thank you for your attention.

Suzanne Mitchell, JD

self - retired attorney

Austin, TX

My name is Suzanne Mitchell, and I am a recently retired health care attorney licensed in Texas. Over several decades I have provided support and advocacy to friends and family members with concerns about loved ones living in long term care (LTC) facilities. I am writing in opposition to HB 4220. This legislation will make it much more difficult for long-term care ombudsmen (LTCO) both to advocate for the health, safety and rights of particular individuals who live in LTC facilities, and to engage in important systemic efforts to improve the wellbeing of all LTC facility residents in Texas. Section 3 of the Bill is especially problematic, as it significantly limits the kinds of documents that LTCO can obtain in the course of their complaint investigations. Giving LTCO the same (minimal, if not non-existent) rights that “residents or the general public” have “in the normal course of business” to access a “long-term care facility’s administrative records, policies and other documents,” and stating that “documents obtained through litigation are not considered to have been obtained in the normal course of business,” not only violates federal regulations governing LTCO record access, but effectively precludes LTCO from getting the very documents that are often most critical to complaint resolution. For example, one of the most common complaints against nursing homes is that they attempt improperly to discharge residents in violation of state and federal laws and regulations. Without access to “administrative records” like facility policies, billing and other financial records, “admission contracts” etc, LTCO will be hamstrung in their ability to help residents appeal these discharge efforts within the narrow timeframes provided by law – and a timely appeal can literally mean the difference between life and death for a LTC resident. Moreover, requiring LTCO to provide documentation to LTC facilities of their rights to access these critical records will both force ombudsmen to reveal names of complainants who may be unable to provide written consent and/or fear retaliation, and delay, if not completely impede, a LTCO’s ability to help residents challenge unlawful facility discharges or resolve other important issues. A LTC facility that thinks it has the right to deny LTCO access to necessary records, or to delay complaint resolution by claiming that the LTCO has not provided legally required documentation, is likely to do so - and the only one who suffers is the resident. Finally, Section 5’s requirement that the OSLTCO report names and details about all “persons representing” the OSLTCO at legislative committees is administratively burdensome, and indeed unnecessary, since that is all public information anyway. It may also discourage the OSLTCO, and its unidentified “representatives,” from taking positions on proposed legislation. I respectfully urge members of the House Health and Human Services Committee to vote “no” on HB 4220.

LaDean Houck

Self

Keller, TX

My husband, Don, resided in three Memory Care facilities from September 2018 until January 2023. I sought the help of three Ombudsmen during that time. Their phone numbers were posted at the facility, I was very pleased with the assistance they provided from finding information concerning State policies to accompanying me to Care Plan Meetings. They needed information from my husband's records and the facilities' records to be able to address his situations, attend meetings with me, advise me when I asked, and determine if they needed to make additional visits. I found these three individuals to be very knowledgeable about policy and procedures but needed specific information about my husband's situations to be able to be effective. I was willing to give them permission to gather details of my husband's care. I am not in favor of placing limitations on them that HB 4220 would require.

Amy Winn

Self

McKinney, TX

I oppose.

Cheryl Goczoll
Self/Finanace-Business operations
Sachse, TX

These Omsbudsmans are critical for families with relatives in LTC whether it be Assisted Living or Memory Care. We would have been lost without ours when my Dad's MC wasn't simply following his care plan. We had countless meeting with no results, she was there time after time. She filed with the state for neglect and got the ball rolling. My dad is getting much better care and we have a much better understanding of the system and what these facilities are required to do. The Omsbudsman holds the facilities and management teams accountable for running these places as they should be. There are so many without a voice when families aren't involved in the care of the elderly and we have to speak on their behalf. Our ombudsman has made sure my dad gets the care he deserves when he doesn't know the difference. Tying their hands only makes things worse for these people. I have shared a great deal of info with her regarding my dad and without it nothing could have been done.

You should be going after these facilities for not doing their jobs, setting ratios for caregivers to residents; especially in Memory Care. The cost is extremely high and they should be receiving quality care. When I see 2 caregivers with 20 residents and 4-5 of them are wheelchair bound, several can't even feed themselves it just screams disaster. We were lied to about the ratios and have pushed our facility to make changes. Of course there is currently no recourse for this because you're going after the wrong thing!

The fact these places can roll up AL and MC together to cover their inadequacies is cruel and wrong.

Kill this bill and do the right thing, it may be your family being left on the floor for hours one day not knowing how to cry for help.

Angie Collier
Self, teacher
Floresville, TX

I oppose this bill. As someone who visits friends in nursing homes, I will not support a bill that does not favor residents.

Catherine Cranston
Personal Attendant Coalition of Texas and ADAPT OF TX
Austin, TX

Personal Attendant Coalition of TX and ADAPT OF TEXAS DO NOT SUPPORT HB4220.

Lauren Gerken
Texas Council for Developmental Disabilities
Austin, TX

Chairman Frank and Committee Member,

Thank you for taking the time to read my testimony on HB 4220, relating to the office of the long-term care ombudsman. My name is Lauren Gerken, and I am the Public Policy Analyst for the Texas Council for Developmental Disabilities (TCDD).

TCDD is established by state and federal law and is governed by 27 Governor-appointed board members, 60 percent of whom are individuals with developmental disabilities or family members of individuals with disabilities. The Council's purpose in law is to encourage policy change so that people with disabilities have opportunities to be fully included in their communities and exercise control over their own lives.

We appreciate Representative Clardy's interest in the Long-Term Care Ombudsman, which acts in the interests of facility residents. However, TCDD finds that there are provisions in the bill that conflict with federal regulations and the interests of those the office serves.

In Section 1, The definition of "patient care record" conflicts with federal code:

- 42 USC 3058g(b)(1)(B) - the office has access to "all files, records, and other information concerning a resident."
- 45 CFR §1324.11(e)(2)(iv), which grants the ombudsman access to "medical, social, and other records relating to a resident." This language will create confusion for the volunteers, who may no longer understand what they could or should request.

In Section 2, language confuses and conflicts with the foundational purpose of the ombudsman office. An ombudsman is charged with receiving complaints and conducting thorough investigations. By stating that an investigation will no longer be required to meet the burden of proof, the bill weakens the office's ability to address and resolve complaints in a meaningful, legal way.

Section 3 poses a similar conflict to the definition of "patient care record." If enacted, Section 3's limits on an ombudsman's access to records and conflicts with requirements that the ombudsman program has "sufficient authority and access to facilities, residents, and information needed to fully perform all of the functions, responsibilities, and duties of the Office" (45 CFR §1324.15).

Due to the LTC ombudsman's vital role in safeguarding the rights of people with disabilities, and in light of HB 4220's seeming conflicts with federal law, TCDD has strong concerns with the bill's current language. We recommend that the committee use the interim to gather information from the LTC ombudsman's office, in addition to stakeholders from the population it serves, to determine if any changes need to be made to its purpose and processes.

Thank you for your consideration, and please do not hesitate to contact me with any questions.

Sincerely,
Lauren Gerken
PH: 512-534-7040
lauren.gerken@tcdd.texas.gov

Pat Gleason-Wynn, PhD
Texas Silver-Haired Legislature
Arlington, TX

Dear Members of the Human Services Committee:

I am writing to ask that you NOT support HB4220 that relates to the Office of the State Long-term Care Ombudsman. As a member of the Texas Silver-Haired Legislature, I am an advocate for all older and disabled Texans. In addition, I am a Texas licensed clinical social worker, and I have worked in nursing facilities for over 30 years. This includes interacting with Ombudsmen who visited the facilities. We are fortunate in Texas to have staff and volunteer Ombudsmen who visit our nursing facilities and assisted living facilities, and act as advocates for the older and disabled Texans who live in the facilities.

HB4220 conflicts with Federal statute, and seeks to carve away at the rights of Ombudsmen to be able to fully investigate and resolve complaints or concerns voiced by residents in long-term care facilities. The Older Americans Act Title VII states that an Ombudsman has the responsibility to identify, investigate and resolve complaints made by or on behalf of residents of long-term care facilities that affect the residents' health, safety, welfare or rights. Federal law further mandates that an ombudsman has the right to access and review the medical, social and other records relating to a resident, if the resident or resident representative gives informed consent.

HB4220 seeks to limit an ombudsman's access to records which conflicts with Federal law, limits an ombudsman's ability to resolve concerns for the residents, and adds to the workload of the Ombudsman Program. Remember the Ombudsman is an advocate for some of the most vulnerable Texans living in nursing and assisted living facilities. The Ombudsmen do not need to have their workload burdened as they seek to resolve the residents' concerns.

Please continue to allow the Ombudsman Program staff and volunteers to act unimpeded to improve quality of life and care for residents of long-term care facilities by helping to resolve problems related to the health, safety, welfare, and individual rights.

Please do NOT support HB4220. Thank you.

Pat Gleason-Wynn, Ph.D., LCSW, RN
Texas Silver-Haired Legislature, Tarrant County

Tami Ramey
Self, retired
Arlington, TX

I oppose this bill

Deniese Itz
Texas Caregivers for Compromise
Granbury, TX

I oppose this bill as if it not for the ombudsman we had during Covid, my mother would have passed based on the facility's use of psychotic drugs to subdue and control her.
The ombudsman provides an incredible resource of information and support.

Terri isbell
self
florence, TX

I am highly against this bill. It lessens the rights of residents and puts their health, safety and welfare in jeopardy