October 23, 2013

The Honorable Tom Harkin  
Chair, Committee on Health, Education, Labor, and Pensions  
United States Senate  
Washington, D.C. 20510

The Honorable Lamar Alexander  
Ranking Member, Committee on Health, Education, Labor, and Pensions  
United States Senate  
Washington, D.C. 20510

Dear Senators Harkin and Alexander:

On behalf of the American Bar Association, with nearly 400,000 members worldwide, I write to express our support for key provisions of S.1562, the Older Americans Act Reauthorization Act of 2013. The ABA strongly supports reauthorization of the Older Americans Act, and we applaud your leadership in bringing the bill before the Committee for markup so that it may be considered by the full Senate.

For more than 30 years, the American Bar Association has been a strong advocate on issues that help Americans age with dignity, security and quality of life. The Older Americans Act guides many vital programs and services, and it provides critical legal assistance to protect the legal rights of vulnerable seniors. We view reauthorization as an important opportunity for Congress to reaffirm and refine our country’s commitment to a safe, secure and dignified life for all older Americans.

There are several provisions in S. 1562 that we find especially important. We applaud the increased focus on addressing the challenges of elder abuse throughout the bill. In particular, we believe that it is significant that the term “adult protective services” is defined in Section 2 to include legal services. Our support is based on our 2002 policy encouraging widespread efforts to address the impact of the abuse, neglect and exploitation of older adults, as well as our 2010 policy on reauthorization of the Older American Act. Both policies, which are enclosed, recognize the importance of legal assistance under the Act. We also applaud the provisions in Section 8 of the bill focusing on the independence and avoidance of conflicts for long-term care ombudsmen; these characteristics are essential to an effective ombudsman program.

While the draft bill does not contain all elements we would like to see, such as encouraging development of coordinated legal service delivery systems and strengthening legal service
developers, we recognize it as a critical step forward in ensuring that the rights of older Americans are supported and protected under federal law. This reauthorization reasonably strengthens provisions in the Act and assures the continuation of critical work.

We thank you and your staff for your continuing bipartisan efforts on reauthorization of the Older Americans Act and for welcoming input from the aging network organizations and stakeholders who have direct experience implementing the Act. The ABA stands ready to be of assistance to you in the reauthorization process.

Sincerely,

Thomas M. Susman

Enclosures
RESOLVED, THAT the American Bar Association supports efforts to improve the response of federal, state, territorial and local governments and of the criminal and civil justice systems to elder abuse, neglect and exploitation (hereinafter "elder abuse").

RESOLVED, FURTHER THAT in order to address and reduce the incidence of elder abuse, the American Bar Association urges implementation at the federal, state, territorial and local levels of the following actions based upon recommendations adopted by the National Policy Summit on Elder Abuse in December 2001:

1. Create a nationwide structure for raising public awareness; supporting research, training and technical assistance; funding critical services; and coordinating local, territorial, state, and national resources;
2. Develop and implement specialized training about elder abuse for all components of the justice system;
3. Establish federal leadership to ensure that adult protective services and legal and other services are of sufficient quality to protect and serve victims of elder abuse;
4. Create broad-based, multidisciplinary task forces or coalitions in each state to examine and develop systemic approaches to elder abuse interventions;
5. Develop, fund, and implement a multidisciplinary research agenda to sustain, advance, and assess professional training and practice on elder abuse;
6. Maximize and expand resources for preventing and responding to elder abuse;
7. Develop adequate tools and services to enable capacity assessments and surrogate decision-making for victims of elder abuse;
8. Ensure that legal and other services are available to meet the immediate and crisis needs of victims.
AMERICAN BAR ASSOCIATION
ADOPTED BY THE HOUSE OF DELEGATES
AUGUST 9-10, 2010

RECOMMENDATION

RESOLVED, That the American Bar Association urges Congress and the Administration to reauthorize and implement the Older Americans Act of 1965, as amended (“the Act”), giving increased priority to the delivery of legal services and elder justice.

FURTHER RESOLVED, That the legal services delivery system under the Older Americans Act be structured to:

1. Achieve the goal of creating a high quality, coordinated legal services delivery system in each state that prioritizes advocacy for individuals with the greatest social and economic need as well as those at risk of institutional placement.
2. Fund legal services under the Act directly through a state entity designated by the Administration on Aging, rather than through Area Agencies on Aging.
3. Ensure that the state entity is qualified to plan and support a high quality, coordinated, legal services delivery system and has the capacity to allocate, monitor, and evaluate the use of funds.
4. Ensure adequate funding for legal services in each state, but in an amount not less than the state’s Area Agencies on Aging had spent in the aggregate.
5. Fund national support centers composed of national organizations with expertise in law and aging to provide substantive expertise, materials development and dissemination, technical support, capacity building and training.
6. Utilize a national legal advisory committee including representatives of legal support centers to assist the Administration on Aging in the development of standards and procedures for both state entities that distribute or utilize funds and legal services providers who seek to be recipients of funding.
7. Utilize uniform standards and procedures that build upon the ABA Standards for the Provision of Civil Legal Aid.
8. Refrain from imposing Legal Services Corporation Act advocacy restrictions on providers that are not LSC funded.
9. Strengthen State Legal Assistance Developers by ensuring that they have the qualifications, authority and resources to exercise leadership in developing and supporting a high quality, coordinated legal services delivery system.