

## **UNOFFICIAL COMPILATION – BY TITLE**

by

THE CENTER FOR SOCIAL GERONTOLOGY (TCSG), FEBRUARY 2007

### INTRODUCTORY NOTE FROM TCSG:

The Older Americans Act was amended/reauthorized in the fall of 2006. As of February 2007, an official compilation of the Act as amended had not been printed. To assist the many organizations that would find it useful to have a complete, compiled version of the OAA which incorporates the 2006 Amendments, The Center for Social Gerontology has put together an UNOFFICIAL COMPILATION.

For ease of use and downloading, we are posting each Title of the Act separately on our web site. Also, we have italicized language that was added / changed in the 2006 Amendments. Furthermore, both page numbers and footnote numbers are consecutive throughout all seven Titles of the Act, despite the Act having been broken up into these separate Titles.

Because this is an UNOFFICIAL compilation, it is possible that there are some mistakes. The Center for Social Gerontology takes no responsibility for any problems these mistakes may cause. If you should find something which YOU BELIEVE IS AN ERROR, PLEASE BE SURE TO CONTACT US, and we will make any necessary changes. Contact: Brooke McCreary, TCSG Program Assistant at (734) 665-1126 or email [bmccreary@tcs.org](mailto:bmccreary@tcs.org).

## **OLDER AMERICANS ACT OF 1965**

**(Public Law 89–73)**

**[As Amended Through P.L. 109–365, Enacted October 17, 2006]  
(To amend the Older Americans Act of 1965 to authorize appropriations for  
fiscal years 2007 through 2011, and for other purposes.)**

### **TITLE I—DECLARATION OF OBJECTIVES; DEFINITIONS**

#### **DECLARATION OF OBJECTIVES FOR OLDER AMERICANS**

SEC. 101. The Congress hereby finds and declares that, in keeping with the traditional American concept of the inherent dignity of the individual in our democratic society, the older people of our Nation are entitled to, and it is the joint and several duty and responsibility of the governments of the United States, of the several States and their political subdivisions, and of Indian tribes to assist

our older people to secure equal opportunity to the full and free enjoyment of the following objectives:

(1) An adequate income in retirement in accordance with the American standard of living.

(2) The best possible physical and mental health which science can make available and without regard to economic status.

(3) Obtaining and maintaining suitable housing, independently selected, designed and located with reference to special needs and available at costs which older citizens can afford.

(4) Full restorative services for those who require institutional care, and a comprehensive array of community-based, long-term care services adequate to appropriately sustain older people in their communities and in their homes, including support to family members and other persons providing voluntary care to older individuals needing long-term care services.

(5) Opportunity for employment with no discriminatory personnel practices because of age.

(6) Retirement in health, honor, dignity—after years of contribution to the economy.

(7) Participating in and contributing to meaningful activity within the widest range of civic, cultural, educational and training and recreational opportunities.

(8) Efficient community services, including access to low-cost transportation, which provide a choice in supported living arrangements and social assistance in a coordinated manner and which are readily available when needed, with emphasis on maintaining a continuum of care for vulnerable older individuals.

(9) Immediate benefit from proven research knowledge which can sustain and improve health and happiness.

(10) Freedom, independence, and the free exercise of individual initiative in planning and managing their own lives, full participation in

the planning and operation of community-based services and programs provided for their benefit, and protection against abuse, neglect, and exploitation.

(42 U.S.C. 3001)

## DEFINITIONS

SEC. 102. For the purposes of this Act—

(1) The term “abuse” means the willful—

(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish; or

(B) deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness.

(2) The term “Administration” means the Administration on Aging.

(3) The term “adult child with a disability” means a child who—

(A) is 18 years of age or older;

(B) is financially dependent on an older individual who is a parent of the child; and

(C) has a disability.

(4) *The term ‘Aging and Disability Resource Center’ means an entity established by a State as part of the State system of long-term care, to provide a coordinated system for providing—*

*(A) comprehensive information on the full range of available public and private long-term care programs, options, service providers, and resources within a community, including information on the availability of integrated long-term care;*

*(B) personal counseling to assist individuals in assessing their existing or anticipated long-term care needs, and developing and implementing a plan for long-term care designed to meet their specific needs and circumstances; and*

*(C) consumers access to the range of publicly-supported long-term care programs for which consumers may be eligible, by serving as a convenient point of entry for such programs.*

(5) The term “aging network” means the network of—

(A) State agencies, area agencies on aging, title VI grantees, and the Administration; and

(B) organizations that—

(i)(I) are providers of direct services to older individuals; or

(II) are institutions of higher education; and

(ii) receive funding under this Act.

(6) The term “area agency on aging” means an area agency on aging designated under section 305(a)(2)(A) or a State agency performing the functions of an area agency on aging under section 305(b)(5).

(7) The term “Assistant Secretary” means the Assistant Secretary for Aging.

(8)(A) *The term ‘assistive device’ includes an assistive technology device.*

*(B) The terms ‘assistive technology’, ‘assistive technology device’, and ‘assistive technology service’ have the meanings given such terms in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).*

(9) *The term ‘at risk for institutional placement’ means, with respect to an older individual, that such individual is unable to perform at least 2 activities of daily living without substantial assistance (including verbal reminding, physical cuing, or supervision) and is determined by the State involved to be in need of placement in a long-term care facility.*

(10) The term “board and care facility” means an institution regulated by a State pursuant to section 1616(e) of the Social Security Act (42 U.S.C. 1382e(e)).

(11) The term “case management service”—

(A) means a service provided to an older individual, at the direction of the older individual or a family member of the individual—

(i) by an individual who is trained or experienced in the case management skills that are required to deliver the services and coordination described in subparagraph (B); and

(ii) to assess the needs, and to arrange, coordinate, and monitor an optimum package of services to meet the needs, of the older individual; and

(B) includes services and coordination such as—

(i) comprehensive assessment of the older individual (including the physical, psychological, and social needs of the individual);

(ii) development and implementation of a service plan with the older individual to mobilize the formal and informal resources and services identified in the assessment to meet the needs of the older individual, including coordination of the resources and services—

(I) with any other plans that exist for various formal services, such as hospital discharge plans; and

(II) with the information and assistance services provided under this Act;

(iii) coordination and monitoring of formal and informal service delivery, including coordination and monitoring to ensure that services specified in the plan are being provided;

(iv) periodic reassessment and revision of the status of the older individual with—

(I) the older individual; or

(II) if necessary, a primary caregiver or family member of the older individual; and

(v) in accordance with the wishes of the older individual, advocacy on behalf of the older individual for needed services or resources.

*(12) The term ‘civic engagement’ means an individual or collective action designed to address a public concern or an unmet human, educational, health care, environmental, or public safety need.*

(13) The term “disability” means (except when such term is used in the phrase “severe disability”, “developmental disabilities”, “physical or mental disability”, “physical and mental disabilities”, or “physical disabilities”) a disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that results in substantial functional limitations in 1 or more of the following areas of major life activity: (A) self-care, (B) receptive and expressive language, (C) learning, (D) mobility, (E) self-direction, (F) capacity for independent living, (G) economic self-sufficiency, (H) cognitive functioning, and (I) emotional adjustment.

(14) The term “disease prevention and health promotion services” means—

(A) health risk assessments;

(B) routine health screening, which may include hypertension, glaucoma, cholesterol, cancer, vision, hearing, diabetes, bone density, and nutrition screening;

(C) nutritional counseling and educational services for individuals and their primary caregivers;

*(D) evidence-based health promotion programs, including programs related to the prevention and mitigation of the effects of chronic disease (including osteoporosis, hypertension, obesity, diabetes, and cardiovascular disease), alcohol and substance abuse reduction, smoking cessation, weight loss and control, stress*

*management, falls prevention, physical activity, and improved nutrition;*

(E) programs regarding physical fitness, group exercise, and music therapy, art therapy, and dance-movement therapy, including programs for multigenerational participation that are provided by—

(i) an institution of higher education;

(ii) a local educational agency, as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801); or

(iii) a community-based organization;

(F) home injury control services, including screening of high-risk home environments and provision of educational programs on injury prevention (including fall and fracture prevention) in the home environment;

(G) screening for the prevention of depression coordination of community mental health services, provision of educational activities, and referral to psychiatric and psychological services;

(H) educational programs on the availability, benefits, and appropriate use of preventive health services covered under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(I) medication management screening and education to prevent incorrect medication and adverse drug reactions;

(J) information concerning diagnosis, prevention, treatment, and rehabilitation concerning age-related diseases and chronic disabling conditions, including osteoporosis, cardiovascular diseases, diabetes, and Alzheimer's disease and related disorders with neurological and organic brain dysfunction;

(K) gerontological counseling; and

(L) counseling regarding social services and follow-up health

services based on any of the services described in subparagraphs (A) through (K).

<sup>1</sup>The term shall not include services for which payment may be made under titles XVIII and XIX of the Social Security Act (42U.S.C. 1395 et seq., 1396 et seq.).

(15) The term “elder abuse” means abuse of an older individual.

(16) The term “elder abuse, neglect, and exploitation” means abuse, neglect, and exploitation, of an older individual.

(17) *The term ‘elder justice’—*

*(A) used with respect to older individuals, collectively, means efforts to prevent, detect, treat, intervene in, and respond to elder abuse, neglect, and exploitation and to protect older individuals with diminished capacity while maximizing their autonomy; and*

*(B) used with respect to an individual who is an older individual, means the recognition of the individual’s rights, including the right to be free of abuse, neglect, and exploitation.*

(18)(A) *The term ‘exploitation’ means the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary, that uses the resources of an older individual for monetary or personal benefit, profit, or gain, or that results in depriving an older individual of rightful access to, or use of, benefits, resources, belongings, or assets.*

*(B) In subparagraph (A), the term ‘caregiver’ means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law and means a family member or other individual who provides (on behalf of such individual or of a public or private agency, organization, or institution) compensated or uncompensated care to an older*

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<sup>1</sup> **Note from TCSG:** TCSG believes a Technical Amendment will be needed to designate this Paragraph as (M) under (14) under SEC. 102(a).



*individual.*

(19) The term “family violence” has the same meaning given the term in the Family Violence Prevention and Services Act.

(20) *The term ‘fiduciary’—*

*(A) means a person or entity with the legal responsibility—*

*(i) to make decisions on behalf of and for the benefit of another person; and*

*(ii) to act in good faith and with fairness; and “(B) includes a trustee, a guardian, a conservator, an executor, an agent under a financial power of attorney or health care power of attorney, or a representative payee.*

(21) The term “focal point” means a facility established to encourage the maximum collocation and coordination of services for older individuals.

(22) The term “frail” means, with respect to an older individual in a State, that the older individual is determined to be functionally impaired because the individual—

(A)(i) is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or

(ii) at the option of the State, is unable to perform at least three such activities without such assistance; or

(B) due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual.

(23) The term “greatest economic need” means the need resulting from an income level at or below the poverty line.

(24) The term “greatest social need” means the need caused by non-economic factors, which include—

(A) physical and mental disabilities;

(B) language barriers; and

(C) cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that—

(i) restricts the ability of an individual to perform normal daily tasks; or

(ii) threatens the capacity of the individual to live independently.

(25) *The term ‘Hispanic-serving institution’ has the meaning given the term in section 502 of the Higher Education Act of 1965 (20 U.S.C. 1101a).*

(26) The term “Indian” means a person who is a member of an Indian tribe.

(27) Except for the purposes of title VI of this Act, the term “Indian tribe” means any tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (Public Law 92–203; 85 Stat. 688) which (A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or (B) is located on, or in proximity to, a Federal or State reservation or rancheria.

(28) The term “information and assistance service” means a service for older individuals that—

(A) provides the individuals with current information on opportunities and services available to the individuals within their communities, including information relating to assistive technology;

(B) assesses the problems and capacities of the individuals;

(C) links the individuals to the opportunities and services that are available;

(D) to the maximum extent practicable, ensures that the

individuals receive the services needed by the individuals, and are aware of the opportunities available to the individuals, by establishing adequate follow-up procedures; and

(E) serves the entire community of older individuals, particularly—

- (i) older individuals with greatest social need;
- (ii) older individuals with greatest economic need; *and*
- (iii) *older individuals at risk for institutional placement.*

(29) The term “information and referral” includes information relating to assistive technology.

(30) The term “in-home services” includes—

- (A) services of homemakers and home health aides;
- (B) visiting and telephone reassurance;
- (C) chore maintenance;
- (D) in-home respite care for families, and adult day care as a respite service for families;
- (E) minor modification of homes that is necessary to facilitate the ability of older individuals to remain at home and that is not available under another program (other than a program carried out under this Act);

(F) personal care services; and

(G) other in-home services as defined—

- (i) by the State agency in the State plan submitted in accordance with section 307; and
- (ii) by the area agency on aging in the area plan submitted in accordance with section 306.

(31) The term “institution of higher education” has the meaning given the term in section 101 of the Higher Education Act of 1965.

(32) *The term ‘integrated long-term care’—*

*(A) means items and services that consist of—*

- (i) with respect to long-term care—*

*(I) long-term care items or services provided under a State plan for medical assistance under the Medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including nursing facility services, home and community-based services, personal care services, and case management services provided under the plan; and*

*(II) any other supports, items, or services that are available under any federally funded long-term care program; and*

*(ii) with respect to other health care, items and services covered under—*

*(I) the Medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);*

*(II) the State plan for medical assistance under the Medicaid program; or*

*(III) any other federally funded health care program; and*

*(B) includes items or services described in subparagraph (A) that are provided under a public or private managed care plan or through any other service provider.*

(33) The term “legal assistance” —

(A) means legal advice and representation provided by an attorney to older individuals with economic or social needs; and

(B) includes—

(i) to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the direct supervision of an attorney; and

(ii) counseling or representation by a nonlawyer where

permitted by law.

(34) *The term ‘long-term care’ means any service, care, or item (including an assistive device), including a disease prevention and health promotion service, an in-home service, and a case management service—*

*(A) intended to assist individuals in coping with, and to the extent practicable compensate for, a functional impairment in carrying out activities of daily living;*

*(B) furnished at home, in a community care setting (including a small community care setting as defined in subsection (g)(1), and a large community care setting as defined in subsection (h)(1), of section 1929 of the Social Security Act (42 U.S.C. 1396t)), or in a long-term care facility; and*

*(C) not furnished to prevent, diagnose, treat, or cure a medical disease or condition.*

(35) The term “long-term care facility” means—

(A) any skilled nursing facility, as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i-3(a));

(B) any nursing facility, as defined in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a));

(C) for purposes of sections 307(a)(9) and 712, a board and care facility; and

(D) any other adult care home, *including an assisted living facility*, similar to a facility or institution described in subparagraphs (A) through (C).

(36) The term “multipurpose senior center” means a community facility for the organization and provision of a broad spectrum of services, which shall include provision of health (including mental health), social, nutritional, and educational services and the provision of facilities for recreational activities for older individuals.

(37) The term “Native American” means—

(A) an Indian as defined in paragraph (5); and

(B) a Native Hawaiian, as defined in section 625.

(38) *The term ‘neglect’ means—*

*(A) the failure of a caregiver (as defined in paragraph (18)(B)) or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an older individual; or*

*(B) self-neglect.*

(39) The term “nonprofit” as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(40) The term “older individual” means an individual who is 60 years of age or older.

(41) The term “physical harm” means bodily injury, impairment, or disease.

(42) The term “planning and service area” means an area designated by a State agency under section 305(a)(1)(E), including a single planning and service area described in section 305(b)(5)(A).

(43) The term “poverty line” means the official poverty line (as defined by the Office of Management and Budget, and adjusted by the Secretary in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(44) The term “representative payee” means a person who is appointed by a governmental entity to receive, on behalf of an older individual who is unable to manage funds by reason of a physical or mental incapacity, any funds owed to such individual by such entity.

(45) The term “Secretary” means the Secretary of Health and Human Services, except that for purposes of title V such term means the Secretary of Labor.

(46) *The term ‘self-directed care’ means an approach to providing services (including programs, benefits, supports, and technology) under*

*this Act intended to assist an individual with activities of daily living, in which—*

*(A) such services (including the amount, duration, scope, provider, and location of such services) are planned, budgeted, and purchased under the direction and control of such individual;*

*(B) such individual is provided with such information and assistance as are necessary and appropriate to enable such individual to make informed decisions about the individual's care options;*

*(C) the needs, capabilities, and preferences of such individual with respect to such services, and such individual's ability to direct and control the individual's receipt of such services, are assessed by the area agency on aging (or other agency designated by the area agency on aging) involved;*

*(D) based on the assessment made under subparagraph (C), the area agency on aging (or other agency designated by the area agency on aging) develops together with such individual and the individual's family, caregiver (as defined in paragraph (18)(B)), or legal representative—*

*(i) a plan of services for such individual that specifies which services such individual will be responsible for directing;*

*(ii) a determination of the role of family members (and others whose participation is sought by such individual) in providing services under such plan; and*

*(iii) a budget for such services; and*

*(E) the area agency on aging or State agency provides for oversight of such individual's self-directed receipt of services, including steps to ensure the quality of services provided and the appropriate use of funds under this Act.*

*(47) The term 'self-neglect' means an adult's inability, due to physical*

*or mental impairment or diminished capacity, to perform essential self-care tasks including—*

*(A) obtaining essential food, clothing, shelter, and medical care;*

*(B) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or*

*(C) managing one's own financial affairs.*

(48) The term “severe disability” means a severe, chronic disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that—

(A) is likely to continue indefinitely; and

(B) results in substantial functional limitation in 3 or more of the major life activities specified in subparagraphs (A) through (G) of paragraph (8).

(49) The term “sexual assault” has the meaning given the term in section 2003 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).

(50) The term “State” means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(51) The term “State agency” means the agency designated under section 305(a)(1).

*(52) The term ‘State system of long-term care’ means the Federal, State, and local programs and activities administered by a State that provide, support, or facilitate access to long-term care for individuals in such State.*

(53) The term “supportive service” means a service described in section 321(a).

(54) Except for the purposes of title VI of this Act, the term “tribal organization” means the recognized governing body of any Indian tribe,



or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body. In any case in which a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contractor grant.

(42 U.S.C. 3002)

