

***Adult Protection
Coordinating Council***

Annual Report

2005

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I. Foreword

Pursuant to action by the South Carolina Adult Protection Coordinating Council, an Annual Report for the calendar year 2005 is submitted to the Council as a written summary of the Council's accomplishments and plans for future activities. This report serves as a public record of compliance with the Council's statutory duties as written in the South Carolina Code of Laws, Section 43-35-310. Due to the limited availability of staff, no report was prepared for calendar years 2002, 2003, and 2004.

II. History

In 1990, a group of concerned individuals presented testimony at the Joint Legislative Committee on Aging Public Hearing regarding the depth of concern about the adult protection system in our state. As a result of this testimony, a Joint Resolution was sponsored by the Joint Legislative Committee on Aging mandating the South Carolina Long Term Care Council to convene an Advisory Committee on Adult Abuse, Neglect and Exploitation. On April 24, 1991, Governor Carroll A. Campbell, Jr., signed the Joint Resolution into law.

The former Long Term Care Council convened the required Advisory Committee which identified the problem areas in the adult protection system and made comprehensive recommendations to improve the system in the areas of training, employment issues, advocacy, public awareness, care issues, coordination and legal issues. The Advisory Committee then completed the development of the Omnibus Adult Protection Act. It was signed into law by Governor Campbell on June 11, 1993, with an effective date of September 11, 1993.

Generally, the Omnibus Adult Protection Act:

Created an effective system for reporting, investigating and prosecuting adult abuse, neglect and exploitation and included role clarification for the entities involved.

Clearly defined the protected class of individuals. Vulnerable adult means a person age 18 years of age or older who has a physical or mental condition which substantially impairs the person from adequately providing for his or her own care or protection. This includes a person who is impaired in the ability to adequately provide for the person's own care or protection because of the infirmities of aging including, but not limited to, organic brain damage, advanced age, and physical, mental or emotional dysfunction. A resident of a facility is a vulnerable adult.

Repealed several Sections of the Code of Laws of South Carolina, 1976, and placed all applicable Sections in one area of the Code.

Addressed overlapping jurisdictions.

Addressed confusing and duplicate reporting requirements.

Clarified and set out identical statutory definitions of abuse, neglect and exploitation for instances that occur in the community and in facilities. Previously, the Department of Social Services and the Long Term Care Ombudsman program operated under different definitions.

Set out the circumstances under which law enforcement can take an adult into protective custody (See Section 43-35-45).

III. Legislative Intent

The General Assembly found it necessary to create the Omnibus Adult Protection Act: 1) To provide a system of adult protection in South Carolina; 2) To clarify the roles and responsibilities of agencies involved in the system; 3) To provide a mechanism for problem resolution and interagency coordination; 4) To address continuing needs of vulnerable adults; 5) To uniformly define abuse, neglect and exploitation for vulnerable adults in all settings; 6) To clarify reporting procedures for allegations of abuse, neglect and exploitation; 7) To provide procedures for emergency protective custody; 8) To define the role of the court in the adult protection system; and, 9) To provide services in the least restrictive setting possible.

IV. Adult Protection Coordinating Council

Article Three of the Act created an Adult Protection Coordinating Council under the auspices of the State Department of Health and Human Services (DHHS). The Council was created because of the depth of concern about the need for frequent, continued coordination and cooperation among the entities involved specifically in the adult protection system. The twenty-two member Council is composed of twenty public and private organizations and two gubernatorial appointees. (See Appendix A.) It is thought to be the only council of its type in the United States. Staffing for the Council is provided by the Bureau of Long Term Care of the DHHS.

V. Summary of Activities

Members of the Council continue to make every effort to coordinate activities in the adult protection system. The Council consists not only of members from traditional health and human services agencies, but from a variety of public and private entities. There is coordination among various state level agencies and departments. The public and private sectors are working together through this Council to develop resources and coordinate services.

The Council is committed to accountability for the accomplishment of its statutory duties as it relates to the adult protection system and as outlined in the Act. (See Appendix B.) Activities to address statutory duties sometimes overlap. Activities undertaken by the

Council over the past year to address its mandates are discussed below.

Training

The Council remains committed to training and education for law enforcement, human services and other professionals who serve vulnerable adults who may be at risk of abuse, neglect and exploitation. In addition to providing general, basic training for a diverse audience, training has been provided for specific professional groups.

Regional training scheduled for the fall of 2005 was moved to spring or fall 2006. The Council initiated planning for these training events to be held across the state. The target audience includes law enforcement, agency investigators, facility administrators, social workers, etc. Training topics will focus on the statute; interviewing the elderly and disabled; report writing; reporting abuse, neglect and exploitation; and financial exploitation and identity theft.

Public Awareness

The Council is committed to promoting education as a means of prevention and recognizes the importance of public education as a tool for the prevention of abuse, neglect and exploitation of vulnerable adults. Initial efforts of the Council were focused on the education of law enforcement personnel, human services providers and other professionals who serve vulnerable adults who may be at risk for abuse, neglect and exploitation. Public awareness is critical to timely reporting of incidents, to intervention and prevention, and to a decrease in the incidence and prevalence of abuse, neglect and exploitation of vulnerable adults.

Efforts were initiated to provide public access to information utilizing modern technology. The Lieutenant Governor's Office on Aging maintains a web site, SC Access, which provides assistance locating aging and adult disability services in the community. Information can be found on the website or via direct contact with an Information and Referral Specialist. The information on the website can be accessed by the general public and by professionals in the provision of services to individuals. The Council initiated development of information regarding the protection of vulnerable adults that will be available on the SC Access website. This website also has a link to a glossary of acronyms which provides help for the public to identify agency services, programs, etc.

Community Residential Care Facility (CRCF) Regulatory Enforcement

The Council established the Enforcement Review Committee to review the regulatory enforcement process for CRCFs and to identify changes that would increase the effectiveness of the process. Several agencies and law enforcement might be involved in problem situations, and the coordination and collaboration among all entities involved was very important and critical to the protection of the vulnerable adult residents of facilities.

The report and recommendations developed by the Committee were approved by the Council and included support for appropriation of additional funding for DHEC regulatory staff;

provision of readily accessible information regarding facilities for comparison purposes by the public; agency memoranda of agreement with facilities; routine relocation assistance for impacted residents; and a centralized data base of clients placed in CRCFs. DHEC is in the process of making facility inspection reports available on line and will include facility responses to the inspection reports and facility fire and safety inspections.

CRCF Resident Relocation

An interagency CRCF relocation committee presented its report and recommendations to the Council regarding the relocation of community residential care facility residents in both voluntary and involuntary facility closure situations. The interagency guidelines were developed in an effort to ensure that the rights of residents, including the right to free, informed choice of placement and to be fully informed in matters concerning them, were protected. These relocation guidelines should be utilized in conjunction with the closure, notification of closure or potential closure of a CRCF by an owner/operator, when circumstances might exist which could jeopardize the health and well-being of residents, when financial circumstances exist which might place residents at risk of relocation or at any other time an agency believes it may be in the best interests of residents to move.

Abuse Investigations

An Investigations Committee was established by the Council to consider the recommendations in a report prepared by the Protection and Advocacy System for People with Disabilities. This report, "*Unequal Justice for South Carolinians with Disabilities: Abuse and Neglect Investigations*," recommended an independent system for law enforcement investigations of abuse, neglect, and exploitation of vulnerable adults who receive services from the SC Department of Disabilities and Special Needs or their contract providers. The Committee established a subcommittee to consider data regarding the volume of reports of abuse, neglect and exploitation.

Data

Data from the investigative entities is found in Appendix C. The investigative entities include the Department of Social Services (DSS); the Lieutenant Governor's Office on Aging, State Long Term Care Ombudsman; and the Department of Health and Environmental Control (DHEC) for complaints related to certified nursing assistants. Data regarding referrals to the Attorney General's Office by DSS and the Long Term Care Ombudsman program is also included in Appendix C. These are the reports that are simultaneously forwarded to law enforcement by DSS and the Long Term Care Ombudsmen.

Other Activities

The Lieutenant Governor's Office on Aging demonstrated the SC Access website for Council. This website is located at www.scaccesshelp.org.

At each quarterly meeting, the Council entertained a round table discussion to provide all members the opportunity to update the Council on pertinent activities. The information

keeps the Council abreast of the current activities of the members.

VI. Future Directions

Coordination and collaboration among member agencies and entities to meet training needs will continue. Regional training sessions will be conducted in spring or fall 2006.

Strategies for activities or informational materials to target the general public and professionals will continue to be planned and developed. Information and materials will be developed for inclusion on the SC Access website. A proclamation for February 2006 as Vulnerable Adult Awareness Month will be requested.

The Relocation Committee's recommendations will be considered by member agencies for implementation. These interagency guidelines will assist CRCF residents with relocation when the residents need to move to another facility.

The Council will review the recommendations in the investigations report and consider the reporting data. The Council will determine its recommendation or support for subsequent legislation in the General Assembly.

Chairperson:
Mr. Bill Gambrell, Esq., Director
Medicaid Fraud Control Unit
Office of the Attorney General

Vice-Chairperson:
Mr. Jim Hill, Esq.
Department of Disabilities and Special Needs

Mr. Wilson Dillard, Administrator
Mountainview Nursing Home
S. C. Health Care Association

Honorable Denny W. Neilson, Chair
Joint Legislative Committee on Aging

Mr. John O'Donald, Chief
Gaffney Police Department, S. C. Police Chiefs' Association

Mr. William Bilton, Esq., Executive Director
S. C. Commission on Prosecution Coordination

Ms. Gloria Prevost, Director
Protection & Advocacy for People with Disabilities, Inc.

Mr. Jeff Moore, Executive Director
S. C. Sheriffs' Association

Ms. Stephanie Calhoun
Board of Long Term Health Care Administrators
S. C. Department of Labor, Licensing and Regulation

Mr. Donald Hayden, Manager
Regulatory Compliance, State Board of Nursing
S. C. Department of Labor, Licensing and Regulation

Mr. Frank Adams, Deputy Director
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Vacant
Criminal Justice Academy Division, S. C. Department of Public Safety

Ms. Karen Price, RN, Director
Bureau of Certification, S. C. Department of Health and Environmental Control

Mr. Doug Cochran, J.D., Director

Client Advocacy, S. C. Department of Mental Health

Lt. Teresa Woods, Director
Missing Person Information Center, State Law Enforcement Division

Ms. Kelly Danias, Manager
Medical Economics Department, S. C. Medical Association

Mr. Wayne Phillips
S. C. Home Care Association

Ms. Janet Clayton
S. C. Department Health and Human Services

Mr. Jon Cook, State Long Term Care Ombudsman
Office on Aging, Office of the Lieutenant Governor

Mr. Isaac Julian
S. C. Department of Social Services

Ms. Audrey Horne
Gubernatorial Appointee

Appendix B

Duties of the Council

Omnibus Adult Protection Act, Section 43-35-330, Duties of Council.

(A) Duties of the council are to:

- (1) Provide oversight in adult protection and to recommend changes in the system;
- (2) Identify and promote training on critical issues in adult protection;
- (3) Facilitate arrangements for continuing education seminars and credits, when appropriate;
- (4) Coordinate agency training when possible to avoid duplication;
- (5) Coordinate data collection and conduct analyses including periodic monitoring and evaluation of the incidence and prevalence of adult abuse, neglect, and exploitation;
- (6) Determine and target problem areas for training based on the analysis of the data;
- (7) Promote resource development;
- (8) Assist with problem resolution and facilitate interagency coordination of efforts;
- (9) Promote and enhance public awareness;
- (10) Promote prevention and intervention activities to ensure quality of care for vulnerable adults and their families;
- (11) Provide technical assistance for developing memoranda of agreement among involved entities;
- (12) Promote coordination and communication among groups and associations which may be affected by the Adult Protection Coordinating Council's actions through the use of memoranda of agreement.

Appendix C Data

The data below represents the total number of reports for the investigative entities for the Federal fiscal year October 1, 2004 through September 30, 2005.

DEPARTMENT OF SOCIAL SERVICES - Total reports: 3762

For further information, call the Division of Adult Services and Case Management, Department of Social Services, at 803-898-7318.

LONG TERM CARE OMBUDSMAN - Total reports: 1361

For further information, call the State Long Term Care Ombudsman, Lieutenant Governor's Office on Aging at 803-734-9898.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL - Total reports: 887

For further information, call the Bureau of Certification, Department of Health and Environmental Control, at 803-545-4205.

Other data gathered by the Council:

ATTORNEY GENERAL'S OFFICE

Medicaid Fraud Control Unit - Total Reports: 128

For further information, call the Medicaid Fraud Control Unit at 803-734-3660.