

***Adult Protection
Coordinating Council***

Annual Report

2010

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I. Foreword

Pursuant to action by the South Carolina Adult Protection Coordinating Council, an Annual Report for the calendar year 2010 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.

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Repealed several Sections of the Code of Laws of South Carolina, 1976, and placed all applicable Sections in one area of the Code.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 first council of its type in the United States. Staffing for the Council is provided by the Bureau of Long Term Care and Behavioral Health 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.

Legislative Activity

During 2010, the Council continued to focus its efforts primarily on its legislative initiatives. At the end of the legislative session, H.3358 that amended the Omnibus Adult Protection Act had passed the House and Senate and was signed into law by the Governor. In 2009, Council adopted a proposed concurrent resolution to request the Budget and Control Board to require agencies with investigative authority to make available on the internet, to the extent legally possible, cases of abuse, neglect and exploitation of vulnerable adults that were substantiated or resulted in criminal convictions. The concurrent resolution did not advance during the 2010 session.

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.

While pursuing amendments to the Omnibus Adult Protection Act, the Council decided statewide training should be resumed. In 2009, the Training Committee initiated planning for regional training events. The trainings were held in February and March, 2010 in Greenville, Columbia, Florence and Charleston. As is customary, the training was provided at no cost to trainees and was conducted by Council members or their staff. A session conducted by SLED focused on interviewing and communicating with special populations such as the elderly, people with mental illness or mental retardation, people with limited English and the hearing impaired. Additionally, the Attorney General's Office provided an overview of the Omnibus Adult Protection Act and discussed its investigative role. SLED, Department of Health and Environmental Control (DHEC), Department of Social Services, and the Long Term Care Ombudsman also discussed their respective investigative roles, responsibilities and expectations.

Training invitations and registrations were handled electronically. The training materials were made available for trainees on the Department of Health and Human Services web page for the Council. Target audiences included Council members and their respective agencies and networks or organizations; all law enforcement agencies and victim advocates including Solicitor's victim advocates; Emergency Medical Services personnel; Probate Judges; Coroners; attendant care program nurses; continuing care retirement community staff; personal care providers; adult day services providers; and hospital social workers and discharge planners. A total of 319 attended the training.

Review Committee

Council established this committee to review the Council's mission and accomplishments and consider whether changes were needed to include any legislative changes. The Committee reviewed Article 3 of the Omnibus Adult Protection Act that established the Council and recommended changes. A compilation of the Council's accomplishments was also prepared. Council initiated its consideration of the Committee's recommendations.

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.

The Public Awareness Committee was sunset in 2009. Upon recommendation of the Review Committee, the Public Awareness Committee will be reconvened.

Governor Mark Sanford issued a proclamation for February 2010 as Vulnerable Adult Awareness Month.

Data

Data from the investigative entities is found in Appendix C. The investigative entities include the Department of Social Services, Adult Protective Services and the Lieutenant Governor's Office on Aging, State Long Term Care Ombudsman. The amendments to the Omnibus Adult Protection Act added SLED and the Attorney General's Office as investigative entities.

Other Activities

The Honorable Deborah Faulkner, Greenville County Probate Court Judge, informed the Council on the various functions of Probate Courts. Judge Faulkner chaired a Task Force appointed by the Chief Justice of the Supreme Court to develop recommendations regarding the courts and the elderly. She discussed with Council the approach of the Task Force to its charge and the issues that were being considered.

The Task Force report was submitted to the Supreme Court in July, 2010 and subsequently, Mr. Roger Jellenik, Esq., discussed with Council the challenges to implementing the recommendations in the report. He discussed demographic changes that would impact courts including the increased population due to baby boomers and in-migration; the lack of data in the court system regarding the elderly and guardianship, conservatorship, and estate cases; increased court caseloads; the impact of contested and self-represented cases; and the uniqueness of Probate Courts in that they are part of the court system but are county courts

funded primarily by their respective county.

Ms. Coretta Bedsole kept Council abreast of the status of the in-home, personal care provider agency licensure bill, H.4413. Council endorsed and supported passage of the bill. However, efforts to pass the bill were unsuccessful.

Council received an update from Ms. Carol Cornman, University of South Carolina's Office for the Study of Aging, on the status of the mistreatment prevention training program for nursing homes, "We Each Have a Story." Management in 76 nursing homes had been trained and of those, 24% or approximately 400 staff had been trained. Additionally, the Long Term Care Ombudsmen and 150 of the nurses who train certified nursing assistants had also received the training. Plans were to train the DHEC surveyors.

Ms. Eddie Weinberg, Esq., and Ms. Paige Greene, Executive Director, Richland County Court Appointed Special Advocates (CASA) informed Council regarding the Supreme Court amendment to Rule 608 that was effective July 1, 2010. This amendment provided that attorneys could no longer be appointed as guardians ad litem (GAL) in Family Court for vulnerable adult cases brought by the Department of Social Services. Ms. Weinberg, on behalf of the SC Bar, was spearheading an effort with stakeholders to identify and address issues concerning the amendment and Ms. Greene agreed to help develop a volunteer GAL program. A short term plan utilizing volunteer attorneys for six months was developed with the Bar handling coordination between the courts, Department of Social Services and these volunteer GALs. A training packet and court reporting form for the volunteer was developed and made available on a website for the volunteers.

In collaboration with the Bar, stakeholders and Richland County CASA, a long range plan was developed to be implemented January 1, 2011. With funding from the Department of Health and Human Services for a statewide, three year pilot program with the USC Office for the Study of Aging, a part-time staff person will organize, recruit, train, and supervise the volunteer GALs with assistance from masters level student interns. An advisory committee will oversee the pilot. Council staff has participated in the efforts to address the issues concerning the Rule 608 Amendment and will serve on the advisory committee.

Council received information from Mr. Sam Waldrep on the implementation of an adult care home service under Community Long Term Care's Community Choices waiver. This program was initially developed for persons transitioning out of nursing homes to the community under the Money Follows the Person grant. The adult care home will provide a community living arrangement for elderly and disabled persons who meet the Medicaid waiver criteria. The service is similar to the Department of Mental Health's HomeShare program.

Ms. Dale Watson, State Long Term Care Ombudsman, and Ms. Stephanie Hinton, Department of Social Services Adult Protective Services, updated Council regarding the Elder Justice Act that was included with passage of health care reform. The Act authorized

funding for adult protection and the Ombudsman program but funds had not been appropriated. A national criminal background checks program for nursing homes was also authorized and an Elder Justice Council was created.

Mr. Dennis Gibbs, Ms. Gloria Wilson and Ms. Gwen Thompson from DHEC provided a power point presentation regarding revisions to Regulation 61-84 for licensing Community Residential Care Facilities (CRCF). Revisions included changes regarding private sitters, notes of observation, level of care waiver, TB risk assessment, citation resolution and electronic inspection.

Ms. Vicki McGahee, Department of Mental Health, provided an update on the status of CRCFs with a power point presentation. Included was information regarding cost; number of clients served; number of facilities and beds; beds opened and closed; availability of beds; IMD Study Committee findings and recommendations; Department of Mental Health memorandum of agreements with facilities and Department of Mental Health utilization of facilities; and the impact of the continued loss of available beds. Proposed regulatory changes to the sprinkler system requirements were also discussed. These changes will be submitted by DHEC to the legislature at the upcoming session.

Mr. Tony Kester, Director, Lieutenant Governor's Office on Aging, provided information regarding an emergency rental assistance program for seniors. The program pays for rent only and the application was available on line. Council members were requested to help disseminate the information to seniors and those working with seniors.

VI. Future Directions

Legislative activity to address recommendations from the Review Committee will be pursued.

The Public Awareness Committee will be reactivated. A proclamation for February 2011 as Vulnerable Adult Awareness Month will be requested.

The Training Committee will resume efforts to revise and update the training manual.

Participation in collaborative efforts regarding Rule 608 Amendment will continue.

Appendix A
2010 Members/Designees

Chair:

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

Vice-Chair:

Mr. Sam Waldrep, Bureau Chief
Department of Health and Human Services

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

Dr. Kathi Lacy, Associate State Director, Policy
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. Mark Fallaw, Chief
North Police Department, S. C. Police Chiefs' Association

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

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

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

Ms. Joan Bainer, RN, Administrator

State Board of Nursing
S. C. Department of Labor, Licensing and Regulation

Mr. Tony Kester, Director
Office on Aging, Office of the Lieutenant Governor

Mr. Brian Bennett, Instructor
Criminal Justice Academy

Mr. Mark Binkley, Esq., General Counsel
S. C. Department of Mental Health

Major Patsy Lightle
SLED, Special Victims Unit and Adult Fatality Review Committee

Vacant
S. C. Medical Association

Ms. Alice Hughes
S. C. Association for Home and Hospice Care

Ms. Dale Watson, State Long Term Care Ombudsman
Lieutenant Governor's Office on Aging

Ms. Mildred Washington, Director
Adult Protective Services
S. C. Department of Social Services

Mr. Dennis Gibbs, Bureau Chief
Department of Health and Environmental Control

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 calendar year 2010.

ADULT PROTECTIVE SERVICES - Total reports: 3,266

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

LONG TERM CARE OMBUDSMAN - Total reports: 1,702

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

MEDICAID FRAUD CONTROL UNIT – Total reports: 325

For further information, call the Medicaid Fraud Control Unit, South Carolina Attorney General's Office, at 803-734-3660.

VULNERABLE ADULT INVESTIGATIONS UNIT – Total reports: 966

For further information, call the Vulnerable Adult Investigations Unit, SLED, at 803-896-7654.