

***Adult Protection
Coordinating Council***

Annual Report

2006

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I. Foreword

Pursuant to action by the South Carolina Adult Protection Coordinating Council, an Annual Report for the calendar year 2006 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Repealed several Sections of the Code of Laws of South Carolina, 1976, and placed all applicable Sections in one area of the Code.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 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.

Abuse Investigations

An Investigations Committee was established by the Council to consider the recommendations in a report prepared in 2005 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 Council adopted the Investigations Committee recommendations 1) that in all cases involving allegations of abuse, neglect or exploitation of a vulnerable adult in facilities operated by or funded through the Department of Disabilities and Special Needs or the Department of Mental Health that there be an independent criminal investigation by an outside law enforcement agency; 2) that a separate dedicated department within SLED conduct or cause to be conducted criminal investigations of allegations of abuse, neglect, or exploitation of a vulnerable adult in facilities operated by or funded through the Department of Disabilities and Special Needs or the Department of Mental Health and the agency be fully funded for this role; and 3) that the Council recommend to the General Assembly that the Long Term Care Ombudsman program be fully funded so as to meet its statutory requirements as outlined in the Omnibus Adult Protection Act and the Older Americans Act.

S.1116 was introduced in the Senate to amend the Omnibus Adult Protection Act and create a special investigations unit at SLED and an adult fatalities review committee. The Council supported this legislation and provided testimony at legislative committee hearings. The statute was passed and signed into law by Governor Mark Sanford May 23, 2006.

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.

Plans for regional training were initiated in 2005 and the sessions were subsequently held in October and November 2006 at four locations across the state, Greenville, Charleston, Florence and Columbia. Training was deferred until the General Assembly considered S.1116 discussed above. With passage of S.1116, the training curriculum was adapted to focus on the amendments to the Omnibus Adult Protection Act and SLED’s role and new procedures for reporting and investigating.

Target audience for the training included law enforcement, agency investigators, state health and human services professionals, facility administrators, and other professionals involved in the protection of vulnerable adults. The training information and registration were conducted utilizing electronic mail. A total of 470 individuals attended the training and continuing education credits were provided law enforcement, social work, and long-term

health care administrators.

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 have been 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 website also has a link to a glossary of acronyms which provides help for the public to identify agency services, programs, etc. The information on the website can be accessed by the general public and by professionals in the provision of services to individuals. During 2006, the Council continued to develop information for a guide to abuse, neglect and exploitation of vulnerable adults for the Learn About section on SC Access.

Relocation Committee

The Council's Relocation Committee was reconvened to consider issues involving community residential care facility (CRCF) closures and changes that might be needed to the interagency relocation guidelines. The guidelines had been developed by the Council and subsequently revised by an interagency relocation oversight committee. The guidelines outline agencies roles and responsibilities in both voluntary and involuntary CRCF closure situations and 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. The Relocation Committee continued to develop recommendations and revisions to the relocation guidelines, and to review the requirements for CRCF administrators and their training needs, resident bills of rights, and other issues.

Data Committee

The Council established a Data Committee to review data collected by the investigative entities and to develop a common format and common data elements for data collection. The Council recognized that agencies had different data collection systems, collect different data elements, some have federal definitions and reporting requirements, and agency computers are not linked. The Council determined that data would be requested from the investigative entities as set forth in the Omnibus Adult Protection Act. The investigative entities would report data for the federal fiscal year and report the common data elements identified by Council. A draft reporting form was developed to capture the data to be

provided to the Council.

Data from the investigative entities is found in Appendix C. The investigative entities include the Department of Social Services (DSS), Adult Protective Services; the Lieutenant Governor's Office on Aging, State Long Term Care Ombudsman; and SLED. The data from SLED's Special Victims Unit will be incorporated in the future.

Other Activities

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.

The Personal Care Providers Association presented Council information regarding the Association and its interest in accountability for the profession and the provision of quality in-home care for the elderly and disabled served by personal care workers. The Association was considering licensure of providers and had developed draft language for a statutory amendment to provide for licensure of personal care provider entities.

The Council received information regarding mistreatment prevention training being developed by the USC Office for the Study of Aging and the Center for Child and Family Studies. The training program will focus on nursing home staff and management's awareness of issues that could lead to mistreatment and will provide tools to assist workers and managers in preventing abuse before it occurs. While the material will initially be developed for nursing homes, it is believed the materials could also be used in CRCFs.

The Lieutenant Governor's Office on Aging maintains a three-dimensional database, Senior Cube, in collaboration with the Office of Research and Statistics (ORS), Budget and Control Board. The Council received information regarding the database and plans for the second phase of development that would expand the data to be included in the database.

VI. Future Directions

Coordination and collaboration among member agencies and entities to meet training needs will continue. The Council will begin planning for the next training initiative.

Strategies for public awareness activities or informational materials to target the general public and professionals will continue to be planned and developed. Information and materials will continue to be developed for inclusion on the SC Access website. A proclamation for February 2007 as Vulnerable Adult Awareness Month will be requested.

The Relocation Committee will develop its recommendations for revisions to the relocation guidelines and other issues. These guidelines provide a framework for interagency coordination and assistance for CRCF residents with relocation when the residents need to move to another facility.

The Council will collaborate with the Personal Care Provider Association and the USC Office for the Study of Aging as needed.

Data needs will continue to be addressed and the reporting format finalized.

Appendix A
2006 Members/Designees

Chairperson:

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

Vice-Chairperson:

Mr. Jim Hill, Esq., General Counsel
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

Ms. Patty Patterson, Chief
Sumter 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

Ms. Joan Bainer, RN, Administrator
State Board of Nursing
S. C. Department of Labor, Licensing and Regulation

Mr. Frank Adams, Deputy Director
Office on Aging, Office of the Lieutenant Governor

Ms. Rita Yarborough, Instructor
Criminal Justice Academy

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

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

Captain Patsy Lightle, Director
Special Victims Unit and Adult Fatalities Review Committee
SLED

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

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

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, 2005 through September 30, 2006.

ADULT PROTECTIVE SERVICES - Total reports: 3,242

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: 1,549

For further information, call the State Long Term Care Ombudsman, Lieutenant Governor's Office on Aging at 803-734-9900.