

***Adult Protection
Coordinating Council***

Annual Report

2007

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I. Foreword

Pursuant to action by the South Carolina Adult Protection Coordinating Council, an Annual Report for the calendar year 2007 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Repealed several Sections of the Code of Laws of South Carolina, 1976, and placed all applicable Sections in one area of the Code.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.

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.

Following the regional training sessions held in 2006, the Council initiated planning to identify the next steps to address training needs. Priorities identified were first, training for community residential care facility (CRCF) administrators and secondly, updating of the previously developed training manual. Updates to the manual were needed to incorporate the 2006 amendments to the Omnibus Adult Protection Act and the process and procedures for the newly established SLED Vulnerable Adult Investigations Unit. Revisions to the manual will continue into 2008.

In collaboration with the SC Association of Residential Care Homes (SCARCH) and the SC Association of Residential Care Providers (SCARP), the training for CRCF administrators was conducted in October 2007. The Department of Mental Health conducted a separate training session for the SC Association of Non-Profit Homes for the Aging (SCANPHA) to address concerns SCANPHA had identified regarding the emotional impact on the resident, family and staff when a resident relocates.

The training for CRCF facility administrators focused on facility closures and resident relocation issues. Topics addressed included the roles and responsibilities of the agencies involved in those situations and how the agencies could be helpful to facilities; DHEC's policies and procedures for facility closures; the role of facility administrators in relocating residents and their responsibility for follow-up with payment sources when a resident is admitted or moved; the Optional State Supplementation (OSS) payment system; and resident rights.

Additional training needs that were identified included training for local law enforcement regarding notification to law enforcement when a CRCF is or may be closing, the roles of the agencies involved, and the importance of communication between law enforcement and those agencies. Training for local and/or regional agency staff regarding the roles and responsibilities of agencies in CRCF closure and resident relocation situations was also identified.

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 to provide public access to information utilizing modern technology continued from 2006 throughout 2007. SC Access is a website maintained by the Lieutenant Governor's Office on Aging 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 2007, information developed for a guide to abuse, neglect and exploitation of vulnerable adults for the "Learn About" section on SC Access was completed and placed on the website. This information included frequently asked questions and narrative regarding definitions; indicators of vulnerable adult abuse, neglect and exploitation; how to report incidents with links to the investigative entities; the Omnibus Adult Protection Act and a link to the Act in the SC Code of Laws; and Council membership and duties. The adult protection "Learn About" section was included in newspaper publicity regarding SC Access by the Office on Aging.

Governor Mark Sanford issued a proclamation declaring February 2007 as Vulnerable Adult Awareness Month.

Relocation Committee

The Council's Relocation Committee had been reconvened in 2006 to consider issues involving CRCF closures and revisions that might be needed to the interagency resident relocation guidelines. The guidelines provide a framework for interagency coordination and assistance for CRCF residents when the residents need to move to another facility. The guidelines outline agencies roles and responsibilities in both voluntary and involuntary CRCF closure situations and had been 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.

During 2007, the Relocation Committee continued to develop recommendations, revise the relocation guidelines and consider other related issues. The guidelines were revised to further clarify agency and CRCF administrators' roles and responsibilities; the process for complaints to the Board of Long Term Health Care Administrators; responsibilities for agency on-site coordination during facility closures and resident relocation; establishment of an emergency response team, its composition, triggers to activate the team, etc.; an assessment tool to aid in identifying a potential crisis situation in a facility; and involvement of law enforcement. The Committee reviewed the licensing and training requirements for CRCF administrators; DHEC regulations for facility licensure; resident bills of rights; agencies' placement policies and procedures; and coordination and methods for information sharing with hospital discharge planners. The recommendations and revised guidelines were

adopted by the Council and approved by the agencies involved.

CRCF Committee

A CRCF Committee was established to explore issues related to poor performing community residential care facilities. The Committee initiated its deliberations and identified several areas for further consideration. These included potential regulatory changes, methods to strengthen compliance for OSS-enrolled facilities, and the investigation of administrator complaints by the Board of Long Term Health Care Administrators.

Abuse Registry Committee

In 2000, the Council had studied the feasibility of an adult abuse registry and identified the issues and the options to address those issues. The 2000 report was tabled due to the economic down turn at that time. This Committee was established to review the 2000 report and potential legislation to establish a registry. The Committee initiated its review of the issues and consideration of potential recommendations.

Legislative Committee

The Council established this committee to consider potential changes to the Omnibus Adult Protection Act. This Committee will begin its deliberations in 2008.

Data

Data from the investigative entities is found in Appendix C. The investigative entities include the Department of Social Services (DSS), Adult Protective Services and the Lieutenant Governor's Office on Aging, State Long Term Care Ombudsman.

SLED's Vulnerable Adult Investigations Unit was established pursuant to an amendment to the Omnibus Adult Protection Act in 2006 and was implemented January 31, 2007. This amendment also created an adult fatalities review committee at SLED. SLED is responsible for investigations in facilities operated by or contracted for operation by the Department of Mental Health and the Department of Disabilities and Special Needs. SLED provided Council with quarterly data and progress reports.

Other Activities

The Personal Care Providers Association provided status reports to Council of its activities for licensure of personal care providers. The Association collaborated with interested parties and developed draft language for a proposed statutory amendment to provide for licensure.

The Council received progress reports 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.

Protection and Advocacy for People with Disabilities developed and presented to Council public awareness materials regarding vulnerable adult abuse, neglect and exploitation. These *SPOT Abuse* materials were developed in collaboration with the Developmental Disabilities Council in the Office of the Governor and the Center for Disability Resources at the University of South Carolina's School of Medicine. The materials targeted consumers, disability advocates and service providers with information.

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 following completion of the revisions to the training manual. When revised, law enforcement and agency staff training could be planned and incorporate the identified training need regarding agency roles and responsibilities in CRCF closure and relocation situations.

Strategies for public awareness activities or informational materials to target the general public and professionals will continue to be planned and developed. A proclamation for February 2008 as Vulnerable Adult Awareness Month will be requested.

Issues regarding an adult abuse registry and poor performing CRCFs will continue to be considered. Also, potentially needed changes to the Omnibus Adult Protection Act will be considered.

Appendix A
2006 Members/Designees

Chair:

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

Vice-Chair:

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

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

Ms. Lois Park Mole
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.

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

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

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

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

Ms. Jo Milling
S. C. Association for Home and Hospice Care

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 calendar year January 1, 2007 through December 31, 2007.

ADULT PROTECTIVE SERVICES - Total reports: 3,139

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

LONG TERM CARE OMBUDSMAN - Total reports: 1,128

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: 809

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 for the period January 30, 2007 through December 31, 2007: 1,056

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