

***Adult Protection
Coordinating Council***

Annual Report

2008

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I. Foreword

Pursuant to action by the South Carolina Adult Protection Coordinating Council, an Annual Report for the calendar year 2008 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Repealed several Sections of the Code of Laws of South Carolina, 1976, and placed all applicable Sections in one area of the Code.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 training for community residential care facility (CRCF) administrators in 2007, updating of the previously developed training manual was identified as a priority. Updates to the manual were needed to incorporate the 2006 amendments to the Omnibus Adult Protection Act (OAPA) and the process and procedures for the newly established SLED Vulnerable Adult Investigations Unit. However, this activity was put on hold while efforts were underway to further amend the OAPA. Those efforts will continue during the 2009 legislative session.

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.

A public awareness plan was developed for 2008 to: 1) revise and update the financial exploitation brochure previously developed by the Council; and 2) in conjunction with the Department of Consumer Affairs, develop a self-protection guide with “red flags” that could be kept by the phone to assist vulnerable adult victims in responding to callers. This “phone card” and a brochure regarding scams targeting seniors was subsequently developed by the Department of Consumer Affairs and the Lieutenant Governor’s Office on Aging for an initiative by the Office on Aging regarding senior frauds and scams. The Council reviewed and offered suggested revisions before the phone card and brochure was finalized.

The Council’s previously developed financial exploitation brochure was revised in collaboration with the Department of Consumer Affairs. It was adopted by Council and will be disseminated in 2009 with the assistance of AARP for printing.

Governor Mark Sanford issued a proclamation for February 2008 as Vulnerable Adult Awareness Month.

CRCF Committee

A CRCF Committee was established to explore issues related to poor performing community residential care facilities. The Committee identified several areas for consideration that included potential regulatory changes, methods to strengthen facility compliance, and investigation of administrator complaints by the Board of Long Term Health Care Administrators. A letter was sent to the Board to support funding for an investigator dedicated to CRCF administrator complaints.

Following outreach to hospital social workers and discharge planners, the SC Chapter of the American Case Management Association was added to the DHEC distribution list for correspondence concerning actions taken against facilities. Additionally, the Council advocated for easily accessible CRCF facility information on DHEC's website and supported DHEC's legislation to amend sections of the health licensing statute that would provide for facility access and a mechanism to disallow admissions or readmissions to a facility. These legislative efforts will continue in the 2009 legislative session. Council also advocated for additional health licensing staff dedicated to CRCF licensing activity.

Abuse Registry Committee

This Committee was established at the end of 2007 to review a report of the Council in 2000 regarding the feasibility of an adult abuse registry, to review the issues and consider potential enabling legislation for a registry. The Committee developed its findings and recommendations and a draft of potential legislation. Some of the identified issues included whether a listing on the registry would be a ban to employment or the registry would serve as a source of information for potential employers and the general public; when to place a perpetrator's name on the registry; funding and the current downturn in the economy; entity to house the registry; and a method by which a potential employer could fully obtain information about a potential employee. Obtaining information from employers about past job performance and/or misconduct would give a clearer history about the prospective employee.

The Abuse Registry Committee met jointly with the Legislative Committee to consider enabling legislation. While there was support for a registry in concept, due to the inherent complexities, there was no consensus to establish a registry. Subsequently, the Joint Committee recommended and 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.

Legislative Committee

The Council established this committee to consider potential changes to the OAPA. In 2007, potential amendments were developed and legislation was subsequently introduced in

the House and Senate. However, the legislative session ended before the bills could advance in either body. The Legislative Committee reconvened in 2008 to review the previous legislation and develop further amendments to the OAPA. Additional amendments were adopted by the Council and will be pursued during the 2009 legislative session. The additional amendments included definitions for operated and contracted facility, reporting and investigating deaths in operated and contracted facilities, and amendments to licensure of CRCFs.

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 30, 2007. 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.

Other Activities

Dr. Kathleen Hayes, DSS State Director, addressed Council and provided information regarding the agency's mission. She discussed the need for coordination and collaboration among entities concerned with the protection of vulnerable adults.

Mr. Curtis Loftis, Director for the Lieutenant Governor's Office on Aging, discussed with Council the Lieutenant Governor's senior scams and frauds initiative. The Office was also developing a resource book with information regarding other agencies.

Mr. Hugh Crofoot, Department of Consumer Affairs, also addressed Council, presented information regarding his agency's mission, and provided Council members with copies of the senior scams brochure and the laminated phone card with "red flags."

The Honorable Dr. Kris Crawford, House of Representatives, discussed with Council and received input on legislation he introduced to establish an aggravating circumstance for the death penalty in cases of murder of an elderly person.

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 curriculum was completed and training with nursing home staff was implemented.

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.

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 after the legislative session.

Strategies for public awareness activities or informational materials to target the general public and professionals will continue to be planned and developed. The revised financial exploitation brochure will be disseminated. A proclamation for February 2009 as Vulnerable Adult Awareness Month will be requested.

Amendments to the Omnibus Adult Protection Act and other pertinent statutes will be pursued with the General Assembly.

Appendix A
2008 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. 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

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
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. Alice Hughes
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, 2008 through December 31, 2008 unless otherwise indicated.

ADULT PROTECTIVE SERVICES - Total reports for the State fiscal year July 1, 2007 through June 30, 2008: 3118

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

LONG TERM CARE OMBUDSMAN - Total reports: 1229

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: 733

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: 1034

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