

***Adult Protection
Coordinating Council***

Annual Report

2013

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I. Foreword

Pursuant to action by the South Carolina Adult Protection Coordinating Council and Act 239 passed by the General Assembly and signed by Governor Nikki Haley June 18, 2012, an Annual Report for the calendar year 2013 is submitted to the Council, Chairman of the Medical Affairs Committee of the Senate, Chairman of the Medical, Military and Municipal Affairs Committee of the House of Representatives, and other interested parties. This report serves as a written summary of the Council's accomplishments and plans for future activities and 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).

Amendments to the Act since 1993 expanded the investigative entities to include the Attorney General's Office and SLED. There was further clarification of the investigative jurisdictions to provide for SLED investigations of allegations in facilities operated or contracted for operation by the Department of Mental Health and the Department of Disabilities and Special Needs. Additionally, Article 5 was added to the Act to create a Vulnerable Adult Fatalities Review Committee. Amendments to the Act in 2012 provided technical corrections and revised membership and duties of the Council.

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 (SCDHHS). 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. Pursuant to amendments to the Act in 2012, the Council is composed of twenty-one public and private organizations and two consumers or family member of a consumer, one from the institutional care service provision system and one from the home and community-based service provision system. (See Appendix A.)

The Council is thought to be the first council of its type in the United States. Staffing for the

Council is provided by the Office of Long Term Care and Behavioral Health of the SCDHHS.

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 and law enforcement organizations. 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.

In 2013, the Training Committee established two subcommittees to address training needs, one to continue revisions to the training manual and the other to research and make recommendations regarding online training. Since the manual was initially written, the statute had been amended and the manual needed to be updated to reflect current law and other pertinent up-to-date information. The Training Manual Subcommittee continued to consider revisions for the manual to include content, current law and research, and information targeting both professional and general audiences. (A manual specifically for investigators was being developed by the investigative entities.) The manual could be utilized for staff training and to provide information to other professionals as well as the general public regarding vulnerable adult abuse, neglect and exploitation. Early 2014 will be targeted for a draft for Council's review.

The Online Training Subcommittee was tasked to research and make recommendations regarding that method of training. The Subcommittee reviewed the online training for mandatory reporters for child abuse developed by the Children's Law Center and used that training as the model to develop online training on mandatory reporting for vulnerable adult abuse, neglect and exploitation. This training module was approved by the Council and will be implemented in 2014. The Lieutenant Governor's Office on Aging will host the training utilizing its software for online training.

The online training can be accessed by anyone, including the general public. Online training affords individuals and agencies the opportunity to train without the expense of travel and at a time that is convenient. It can be used with individuals or groups, as initial training or a refresher course, and to provide information at community speaking engagements. Council recognized there could be some mandatory reporters that did not have access to a computer. Those individuals could access computers at local libraries and presentations could be made for them at their conferences or other meetings where they obtain continuing education credits.

By-Laws Committee

This Committee was established to develop the process and procedures and the bylaws changes needed to implement the amendments to Council membership and duties pursuant to passage of H.4513 in 2012. The bylaws changes were finalized in early 2013 to reflect these changes. Council also considered a bylaws change to establish an executive committee; however, it was determined an executive committee was not needed.

Guardian ad Litem (GAL) Program/Collaboration and Legislative Activities

There was no committee; however, members continued to be very involved with efforts to find a home and move forward with a volunteer vulnerable adult guardian ad litem program. Following meetings and discussions with the Lieutenant Governor, his staff and the staff at the Office on Aging, the Lieutenant Governor decided to pursue this program to be housed in the Office on Aging. DHHS and the GAL pilot project at the Office for the Study of Aging at the University of South Carolina agreed to continue the pilot project for a year while legislation to establish a program and funding was moving through the General Assembly.

Enabling legislation, S.764, was introduced in the Senate June 4, 2013 and was assigned to the Senate General Committee. On November 6, 2013, the Joint Legislative Committee to Study Services, Programs and Facilities for Aging (Joint Aging Committee) held a meeting devoted solely to testimony regarding the volunteer GAL program for vulnerable adults. Council Chair presented testimony in support of the legislation. In December 2013, an identical bill, H.4349, was pre-filed in the House of Representatives to establish a volunteer GAL program. The Silver Haired Legislature and AARP South Carolina have continued to advocate for this program.

CRCF Study Committee

This Committee was established to review recommendations in two reports from Protection and Advocacy for People with Disabilities (P&A) and consider action steps to address them. The first report, *No Place to Call Home*, was presented in 2009 and the second report in 2013, *Still No Place to Call Home*. The recommendations in the 2009 report had not been addressed and were carried over in the 2013 report with additional recommendations added. The Committee has met with involved agencies and reviewed internal processes and procedures for handling complaints regarding facilities and administrators. A final report

from the Committee is targeted for early 2014.

Data

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; SLED; and the Attorney General's Office. Data reports are received from the investigative entities at the quarterly Council meetings.

Other Activities

Ms. Carol Cornman and Ms. Maria Patton with the Office for the Study of Aging provided Council quarterly progress reports from the GAL pilot project.

Ms. Julianna Harris updated Council regarding the status of the breach of SC Department of Revenue (DOR) records and provided information regarding sign up for monitoring services.

Ms. Teresa Arnold reported on AARP's legislative priorities for 2013 that included funding for home and community based services, vulnerable adult volunteer GAL program, and acceptance of Medicaid expansion funding. Additional priorities included issues regarding utility rate hikes and reform of the rate increase process.

Ms. Megan Monts with Sexual Trauma Services of the Midlands updated Council on training funded by a grant her agency received in 2012 from the Office on Violence against Women. The grant targeted training but also included funds for direct services. She reported 110 law enforcement personnel, direct service providers and others had been trained. The grant program is specific to Lexington County; however, others can participate in training events.

Protection and Advocacy for People with Disabilities presented a report, "*Still No Place to Call Home.*" This report was a follow-up to a CRCF report five years ago, "*No Place to Call Home.*" Council established a committee to consider recommendations in the reports and any action steps that might be needed to address them.

Ms. Alexis Martin and Mr. Russell Morrison informed Council of the DHHS Optional Supplemental Care Assistance Program or OSCAP. Also, DHHS was contracting with the Lt. Governor's Office on Aging to add a listing, effective July 1, 2013, of assisted living and CRCFs to the facility bed locator web site.

Ms. Katherine Watts, representing the SC Chapter of the American Case Management Association (ACMA), presented a report to Council regarding hospital challenges with patients who present to emergency departments with no need for acute level of care. Hospitals had become a safe haven for some patients, including some from DSS who were in emergency protective custody and patients from facilities that will not allow them to return to the facility. While many of these patients have behavioral issues, they have no acute care needs and are held in observation level of care or social admission.

VI. Future Directions

The Training Committee will continue efforts to revise and update the training manual. Online training on mandatory reporting will be implemented. The Committee will also consider training needs and develop a plan to address those needs.

Members will continue to support efforts to pursue legislation to create a GAL program for vulnerable adults.

The CRCF Study Committee will finalize its report and recommendations to Council for any action steps to address the recommendations in the P&A reports, *No Place to Call Home* and *Still No Place to Call Home*.

Council will provide leadership to review and consider the hospital challenges presented by the American Case Management Association.

Appendix A
2012 Members/Designees

Chair:

Mr. Sam Waldrep, Deputy Director
S. C. Department of Health and Human Services

Vice-Chair:

Mr. Mark Binkley, Esq., Deputy Director
S. C. Department of Mental Health

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

Mr. Ken Moore, Esq.
Office of the Attorney General

Ms. Ann Dalton, Director, Quality Management
S. C. Department of Disabilities and Special Needs

Mr. Wilson Dillard, NF Administrator
S. C. Health Care Association

Mr. Mark Fallaw, Chief, North Police Department
S. C. Police Chiefs' Association

Mr. David Ross, Esq., Executive Director
S. C. Commission on Prosecution Coordination

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

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

Mr. Brian Bennett, Instructor
S. C. Criminal Justice Academy

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

Ms. Alice Hughes, Assistant Administrator
Palmetto Health HomeCare
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

Ms. Gwen Thompson, Bureau Chief, Health Facilities Regulation
Department of Health and Environmental Control

Mr. Scott Hultstrand, Esq., General Counsel and VP External Affairs
S. C. Medical Association

Ms. Stephanie Calhoun, Administrative Assistant
SC Department of Labor, Licensing and Regulation

Ms. Rosalyn Frierson, Esq., Director
State Court Administration

Ms. Alice Truluck, Family Member
Consumer of the Home and Community-Based Service Delivery System

Ms. Melody Bailey, Executive Director
SC Association of Residential Care Homes

Ms. Elizabeth Krauss, Chair
Human Services Provider Association

Vacant:
Consumer or Family Member of a Consumer of the Institutional Care Service Delivery System

Appendix B Duties of the Council

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

1. Provide and promote coordination and communication among groups and associations which may be affected by the council's actions and recommended changes in the system;
2. Identify and promote training on critical issues in adult protection, facilitate arrangements for continuing education seminars and credits, when appropriate, and determine and target problem areas for training based on analysis of the data;
3. Coordinate data collection and conduct analyses including periodic monitoring and evaluation of the incidence and prevalence of adult abuse, neglect and exploitation;
4. Assist with problem resolution and facilitate interagency coordination of efforts to address unmet needs and gaps in the system;
5. Promote and enhance public awareness;
6. Promote prevention and intervention activities to ensure quality of care for vulnerable adults and their families; and
7. Annually prepare a report of the council's activities and accomplishments for the calendar year and distribute the report to council members, the Chairman of the Medical Affairs Committee of the Senate, the Chairman of the Medical, Military and Municipal Affairs Committee of the House of Representatives, directors or chairs of member agencies or entities who have a designee serving on the council, and other interested parties as well as publishing the report on the department's website.

Appendix C Data

The data below represents the total number of reports for the investigative entities for the calendar year 2013.

ADULT PROTECTIVE SERVICES - Total reports: 2,831

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

LONG TERM CARE OMBUDSMAN - Total reports: 1764

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: 174

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: 945

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