

***Adult Protection
Coordinating Council***

Annual Report

2014

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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 2014 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 Services 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 manual and the other to research and make recommendations regarding online training. Since the manual was initially written, the statute had been amended and it needed to be updated to reflect current law and other pertinent up-to-date information. The revised manual was completed effective July 2014 and made available through Council members and interested parties. It provides information for professionals as well as the general public regarding vulnerable adult abuse, neglect and exploitation.

The online training for mandatory reporters of vulnerable adult abuse, neglect and exploitation was also completed and implemented. It is available on the webpage for the Lieutenant Governor's Office on Aging and can be accessed by anyone, including the general public. Council members were also provided a disc containing the training. 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. After some experience with this initial effort, other training segments could be considered for development.

The Training Committee developed plans for regional training to be conducted in early 2015. Four sessions will be held beginning in January 2015 in Columbia followed by sessions in Mount Pleasant, Francis Marion University, and Greenville. Target audience will include

mandatory reporters and first responders. The training will utilize actual cases and address key issues and concepts associated with allegations of abuse, neglect and exploitation of vulnerable adults

The Lieutenant Governor's Office on Aging planned and sponsored a World Elder Abuse Awareness Day Conference that was held on June 11, 2014. The SCDHHS and Council co-sponsored the Conference and assisted with awarding continuing education credits for licensed social workers, licensed long term health care administrators, and law enforcement.

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

Council members continued to be 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. SCDHHS 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 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. It was passed by the General Assembly and signed into law by Governor Nikki Haley on May 16, 2014. A volunteer vulnerable adult guardian ad litem program was created to be housed in the Lieutenant Governor's Office on Aging. However, no funds were appropriated to implement the program. Council will continue in 2015 to support efforts by the Lieutenant Governor and the Office on Aging to secure funding.

The USC Office for the Study of Aging continued during 2014 to develop and carry out the pilot project. In November 2014, a total of 29 counties were being served and the project had received 432 cases since beginning in August 2011.

CRCF Study Committee

This Committee was established to review recommendations in two reports from Protection and Advocacy for People with Disabilities (P&A) regarding community residential care facilities and to 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. In 2014, the Committee met with involved agencies and reviewed internal processes and procedures for handling complaints regarding facilities and administrators. Input was received from the Departments of Health and Environmental Control and Labor, Licensing and Regulation regarding their respective regulations. Progress had been made on most of the recommendations in the reports. P&A will continue to monitor and Council will re-convene the committee if needed.

Hospital Emergency Department Issues Committee

Council was approached by the hospital case managers association, the South Carolina Chapter of the American Case Management Association (ACMA), regarding hospital challenges with patients who present to emergency departments with no need for acute level of care. Some have been taken into emergency protective custody, some are from facilities that will not allow them to return to the facility, and many have behavioral issues that may even require a sitter until placement can be located. 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. Hospital length of stay is extensive in some cases. There are not adequate facilities to meet the needs of persons with behavioral health issues like those the hospitals are seeing.

The Committee developed a report with recommendations that primarily focused on collaboration and coordination, especially at the local level with all stakeholders involved in an individual's situation. Dialogue between hospitals, local DSS offices and others has been initiated and it will be important for that to continue in an effort to address these difficult situations.

OAPA Legislative Committee

The Legislative Audit Council's (LAC) audit of the Department of Disabilities and Special Needs released in June 2014 included recommendations for amendments to the Omnibus Adult Protection Act (OAPA). This Committee considered the recommendations and concurred with the recommendation to amend the OAPA to add information regarding the investigative responsibilities of the Attorney General's Office. Unlike the other investigative entities, the responsibilities of the Medicaid Fraud Control Unit were not outlined in the statute. Council also concurred with the recommendation to pursue an amendment to add a misdemeanor level penalty for neglect for a caregiver's reckless disregard for the health or safety of a vulnerable adult.

The recommendation for a vulnerable adult abuse registry will be considered by another committee at a later time.

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

Governor Nikki Haley proclaimed February 2014 as Vulnerable Adult Awareness Month.

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

Ms. Gwen Thompson reported on the regulations for licensure of personal care provider agencies.

Ms. Bahiyih Young provided information regarding a one-day training event for law enforcement conducted under the Sexual Trauma Services of the Midlands elder abuse grant.

Ms. Courtney Phillips and Ms. Carmen McCutcheon from the Legislative Audit Council (LAC) provided a power point presentation regarding the OAPA recommendations in the DDSN audit report.

Mr. Tony Kester discussed finger print based background checks prior to employment and concerns regarding human trafficking.

Greenville County Probate Judge Debora Faulkner provided a power point presentation regarding the probate court and its areas of jurisdiction. She discussed her recommendations to address the needs of the court and those served by the court.

Ms. Marti Phillips, SC Department of Consumer Affairs, provided an overview of Consumer Affairs and discussed identity theft protection pursuant to S.148 that passed the General Assembly and will be effective January 1, 2015.

VI. Future Directions

The Training Committee will conduct regional training beginning in January 2015 through May 1, 2015.

Members will continue to support efforts to pursue funding for the GAL program for vulnerable adults.

Council will continue to follow-up regarding recommendations for the hospital issues.

Legislation for OAPA amendments as discussed above will be pursued.

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

Lieutenant Carolyn Davis, 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 2014.

ADULT PROTECTIVE SERVICES - Total reports: 3,697

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

LONG TERM CARE OMBUDSMAN - Total reports: 1,977

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: 36

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: 946

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