

***Adult Protection
Coordinating Council***

Annual Report

2015

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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 2015 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.

Regional training plans were developed in 2014 with instruction focused on adult protective services in the community. Four sessions were conducted beginning in January 2015 in Columbia, SC followed by sessions in Mount Pleasant, SC in February, Francis Marion University, Florence, SC in March, and Greenville, SC in May. Target audience included mandatory reporters and first responders. The training utilized actual cases and addressed key issues and concepts associated with allegations of abuse, neglect and exploitation of vulnerable adults. A total of 522 professionals attended the training.

In 2015, discussions were initiated regarding future training plans to include regional training sessions in 2016. Instruction will focus on reporting and investigation of allegations of abuse, neglect, and exploitation of vulnerable adults in facilities, i.e., nursing homes; community residential care facilities/assisted living; and Department of Disabilities and Special Needs (DDSN) and Department of Mental Health (DMH) facilities, providers, and staff that handle funds for clients in supervised and independent living situations. Target audience will include facility caregivers, supervisors, managers and administrators, as well as law enforcement and prosecutors.

The Long Term Care Ombudsman Program in the Lieutenant Governor's Office on Aging planned and sponsored a World Elder Abuse Awareness Day Conference that was held on June 16, 2015. The SCDHHS and Council co-sponsored the Conference and assisted with

awarding continuing education credits for licensed social workers and licensed long term health care administrators.

Guardian ad Litem (GAL) Program

Enabling legislation for a volunteer vulnerable adult guardian ad litem program was passed by the General Assembly and signed into law by Governor Nikki Haley on May 16, 2014. The GAL program was created to be housed in the Lieutenant Governor's Office on Aging; however, no funds were appropriated to implement the program.

In 2015, Council supported efforts by the Lieutenant Governor and the Office on Aging to secure recurring funds for the program. The program will remain housed at the University of South Carolina, Office for the Study of Aging for FY 2015-2016 while transitioning to the Lieutenant Governor's Office on Aging. During 2015, the program was fully staffed and serving all counties in the state.

Hospital Emergency Department Issues

During 2015, Council followed-up on recommendations in the report that was completed in 2014. The hospital emergency department issues were concerned with challenges meeting the needs of patients who present to emergency departments and have no need for acute level of care. Some are individuals taken into emergency protective custody, some are from facilities that would not allow them to return to the facility, and many have behavioral issues that may even require a sitter in the hospital 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 recommendations 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.

Omnibus Adult Protection Act (OAPA) Legislation

Legislation was introduced in 2015 to amend the OAPA to significantly increase the number of citizens who would be classified as a vulnerable adult, increase the responsibility of hospitals and law enforcement agencies and to add human trafficking as a crime. Council recommended the bill be substantially revised.

H.3721 was also introduced to amend the OAPA. This bill provides a misdemeanor penalty for neglect due to reckless disregard for the health and safety of a vulnerable adult.

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 2015 as Vulnerable Adult Awareness Month.

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

Mr. Sam Waldrep and Ms. Eleanor Stein presented the Institute of Medicine and Public Health's (IMPH) Long Term Care Task Force report and recommendations.

Ms. Coretta Bedsole, AARP, presented plans for follow-up on the IMPH Long Term Care Task Force recommendation for a review of the adult protection system to be conducted by AARP and the Nelson Mullins law firm.

VI. Future Directions

Regional training will be conducted in 2016 in February, March, April and May in Columbia, Florence, Greenville and Charleston.

Council will support legislation as noted above.

Federal regulations for the Long Term Care Ombudsman will be considered as needed for potential amendments to the OAPA for compliance with the regulations.

Appendix A
2015 Members/Designees

Chair:

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

Vice Chair:

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

Mr. Peter Liggett, Deputy Director, Long Term Care and Behavioral Health
S. C. Department of Health and Human Services

Mr. Jarrod Bruder, Executive Director
S. C. Sheriffs' Association

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

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

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. Jason Brown, Deputy Chief of Staff
Office of the Lieutenant Governor
Office on Aging

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
S. C. Department of Social Services
Adult Protective Services

Ms. Gwen Thompson, Chief, Bureau of Health Facilities Licensing
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. Amy Davenport, Family Member
Consumer of the Home and Community-Based Service Delivery System

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

Dr. Judy Johnson, Chair
Human Services Provider Association

Ms. Kathy Bradley, Family Member
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 2015.

ADULT PROTECTIVE SERVICES - Total reports: 4,904

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

LONG TERM CARE OMBUDSMAN - Total reports: 1930

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: 37

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: 929

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