

***Adult Protection
Coordinating Council***

Annual Report

2017

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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 calendar year 2017 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. Article 2 was added effective May 16, 2014 to create the Vulnerable Adult Guardian ad Litem program in the Office on Aging.

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 South Carolina 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.)

When created, the Council was thought to be the first council of its type in the United States. Staffing for the Council is provided by the Division of Long Term Living 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.

Overview of Agency Roles and the Omnibus Adult Protection Act

In 2016, Council initiated a process for Council member agencies to present an overview of the member's agency and its intersection with the vulnerable adult protection system. An overview of the Omnibus Adult Protection Act (OAPA) was presented to Council and subsequently, at each quarterly Council meeting, several agencies discussed their agency and its nexus with the adult protection system. These presentations will continue in 2018.

Single Point of Entry Committee

A committee was formed to consider a single point of entry, i.e., a central location, to receive reports of vulnerable adult abuse, neglect, and exploitation. All agencies make every effort to get reports to the appropriate entity when a report is received that is not in their jurisdiction. A single point of entry would address uncertainty for reporters about where to report. It would also provide uniformity for assessments and reaching conclusions. A single point of entry would require highly trained staff to obtain information from reporters, reach conclusions regarding the allegation and acceptance for investigation, and determine who should investigate. Enabling legislation and necessary resources would be required.

Following Council approval of the Committee's recommendation, the next step was to discuss with agency directors the issues and resources that would be required to establish and administer a program. However, the SC Bar was proceeding with its initiative for a single point of entry that would be included in a Bar report and subsequent enabling legislation the Bar was drafting. Council sunset the Committee and deferred continued efforts regarding this issue to the SC Bar.

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.

Four regional training events were held in 2016 and planning was initiated in 2017 for the next training activity. Since it is difficult for law enforcement officers to attend training events, Council decided to pursue training specifically for law enforcement. In collaboration with, and assistance from, the SC Criminal Justice Academy, plans were developed to provide a two-hour training opportunity through the Academy's Acadis system. This system can be accessed only by certified law enforcement officers and is available to the officers at any time convenient for them. The training will be made available on a disk to Council members.

In 2018, training topics for the Acadis training will be filmed in 15 to 20-minute segments and will include an introduction to the training, speakers, and the importance of the OAPA to protect vulnerable adults; roles and responsibilities of law enforcement and DSS in emergency protective custody (EPC) situations; and roles and responsibilities of the investigative agencies, i.e., Long Term Care Ombudsman, DSS Adult Protective Services, SLED and the Attorney General's Medicaid Fraud Control Unit. The segments will utilize case scenarios and discuss provisions of the statute to include definitions, mandatory reporting, and penalties.

Community Residential Care Facility (CRCF) Interagency Committee

Council received a report with recommendations from the Office of Inspector General (OIG), *Review of Community Residential Care Facilities Program, DHEC*. Subsequently, the Department of Health and Human Services (DHHS) established an interagency workgroup to address CRCF recommendations involving DHHS and other agencies. These agencies included DHEC, Long Term Care Ombudsman, Labor, Licensing and Regulation (LLR), Department of Disabilities and Special Needs (DDSN), Protection and Advocacy for People with Disabilities (P&A), and Department of Mental Health (DMH). Council agreed for the workgroup to become a committee of the Council, receive Council input, and provide Council with progress reports. DHHS reported on policy changes implemented effective July 2017 for Optional State Supplementation (OSS) and Optional Supplemental Care for Assisted Living Participants (OSCAP). Policy changes pertained to maintaining working capital; in-service training; fines; and referral to licensing, DHHS provider integrity program and DHEC. Discussions regarding a three-tier payment system were initiated and continued to be considered. Reports from other involved agencies will be received in 2018.

Omnibus Adult Protection Act (OAPA): Social Media Amendment

An amendment to OAPA to revise the physical abuse definition was suggested to Council.

The revision would add as physical abuse “unauthorized video or photographic recordation of any vulnerable adult” regardless of whether the vulnerable adult was aware of such recordation. “Unauthorized video or photographic recordation” was also defined and carried a misdemeanor penalty for knowing and willful conduct. Knowingly and willfully disseminating photographic or video recordation by any means would be a felony and upon conviction, carried a fine of not more than ten thousand dollars or imprisonment not more than ten years. These amendments were supported by Council and will receive further consideration in 2018.

Data

Data from the investigative entities is found in Appendix C. The investigative entities include the Department of Social Services 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

The Institute for Medicine and Public Health (IMPH) continued to provide Council with updates on their progress in the development of a vulnerable adult abuse registry. Members of Council and staff participated with the workgroups in developing the issues.

The SC Bar Vulnerable Adult Task Force provided Council with updates on their initiatives for public guardianship and single point of entry programs. IMPH decided to merge their efforts for an abuse registry with the Bar’s initiatives. The IMPH report on the registry will be combined with the Bar’s report and the registry will be included in the Bar’s planned legislation. Council decided to sunset its committee and defer to the Bar’s initiative for the single point of entry program.

The Legislative Audit Council (LAC) provided a presentation of its audit findings of the DSS adult protective services program. Findings discussed related to caseworker qualifications; salaries and caseloads; impact of the regional intake hubs to include an increase in substantiated cases and regional intake challenges; population data; and rate of APS reports by county.

DSS provided a comprehensive power point presentation of its APS program. Council approved support for the DSS budget request for APS that included 33 additional APS staff. A letter of support was sent to the Chairs of House Ways and Means, Health Care Budget Subcommittee and Senate Finance, Health and Human Services Budget Subcommittee.

VI. Future Directions

Council will continue to support DSS APS budget request.

Training development and implementation will continue following completion of the law enforcement Acadis training initiative. The next training event will be decided and planned.

Council will stay abreast of the initiatives for an adult abuse registry, public guardianship program, and single point of entry programs.

An OAPA amendment to address social media abuse will continue to be considered.

Appendix A
2017 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

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

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. Ryan Alphin, Executive Director
SC Law Enforcement Officers Association
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. Darryl Broome, Director
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, ACM Regulatory Coordinator
Palmetto Health
S. C. Association for Home and Hospice Care

Ms. Dale Watson, State Long Term Care Ombudsman
Lieutenant Governor's Office on Aging

Ms. Kelly Cordell, Director, Adult Advocacy
S. C. Department of Social Services
Adult Protective Services

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

Vacant
S. C. Medical Association

Ms. April Koon, Administrator
SC Department of Labor, Licensing and Regulation
Board of Long Term Health Care Administrators

Ms. Tonnya Kohn, Esq., Interim Director
SC Court Administration

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

Ms. Maxine McAlhany, President
SC Association of Community Residential Programs

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 2017.

ADULT PROTECTIVE SERVICES - Total reports: 6,993

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

LONG TERM CARE OMBUDSMAN - Total reports: 1,666

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: 44

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: 876

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