

***Adult Protection
Coordinating Council***

Annual Report

2016

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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 2016 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 2015, training plans were developed for regional training sessions to be conducted in 2016. Four sessions were held beginning in February 2016 in Columbia, SC followed by sessions in March at Francis Marion University in Florence SC, Greenville, SC in April, and Mount Pleasant, SC in May. Instruction focused 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 was facility caregivers, supervisors, managers and administrators, as well as law enforcement and prosecutors.

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 286 professionals attended the training.

Guardian ad Litem (GAL) Program

Council continued interest in and support for the vulnerable adult volunteer guardian ad litem program as it transitioned to the Lieutenant Governor's Office on Aging during 2016. The program was fully staffed and serving all counties in the state.

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 add human trafficking as a crime. Council recommended the bill be substantially revised. H.3721 was also introduced to amend the OAPA. This bill provided for a misdemeanor penalty for neglect due to reckless disregard for the health and safety of a vulnerable adult. These bills were monitored; however neither advanced.

Legislative Committee

Revised Federal regulations for the Long Term Care Ombudsman Program went into effect July 1, 2015. The Committee reviewed sections of the regulations concerned with mandatory reporting and release of resident information. Pursuant to the revised regulations, Ombudsmen are unable to disclose resident information, including complaints of abuse, neglect and exploitation, unless the resident or the resident's representative grants permission. Council determined an amendment to provide an exception for Ombudsmen to the OAPA mandatory reporting requirement was not needed. The Ombudsmen would be in compliance with federal law which supersedes state law.

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 2016 as Vulnerable Adult Awareness Month.

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

Mr. Neil Rashley with the SC Bankers Association, accompanied by Mr. Billy Boylston with the Carolinas Credit Union League, informed Council regarding the role of financial institutions, i.e., banks and credit unions, in the protection of vulnerable adults.

SC Inspector General Patrick Maley presented the Office of Inspector General's (OIG) report and recommendations regarding DHEC oversight of Community Residential Care Facilities (CRCFs). The impacted agencies presented a follow-up report to Council on their progress implementing the recommendations in the OIG report to address concerns regarding consistently poor performing facilities.

Dr. Peter Liggett, DHHS Deputy Director for Long Term Care and Behavioral Health Services, informed Council of DHHS's Phoenix computer system and the potential interoperability of the system that could provide an opportunity for state agencies to create a single port of entry and a single data tool. Assessment data would be available to users, and data reports across agencies could be provided. It was also an opportunity for state agencies in conjunction with DHHS to develop systems.

Ms. Cindy Coker, Public Information Director at the SC Bar, discussed the Bar's efforts to develop and advance a public guardianship program. This effort had been initiated and a task force would be established to address various aspects of a public guardianship system. Council's previous reports regarding a public guardianship program had been provided to the Bar and Council members were invited to participate in this initiative.

Dr. Beverly Buscemi, DDSN Director, discussed the recommendations in the State Inspector General's report regarding a DDSN provider. No systemic patterns of abuse, neglect, or exploitation were found; however, there were specific recommendations for DDSN and other agencies. DDSN was convening a meeting to begin to address the recommendations.

Mr. Sam Waldrep, Chair, Institute of Medicine and Public Health's (IMPH) Implementation Leadership Council (ILC), provided a report on the status of implementation of the Long Term Care Task Force recommendations. During 2017, the focus would be on recommendations for a direct care worker listing and an adult abuse registry. Council's previous reports on abuse registries had been provided the Task Force. A workgroup will be convened and a representative from Council will participate.

Ms. Coretta Bedsole, AARP Associate State Director for Advocacy, presented the final report on the review of the DSS adult protection system conducted by AARP, Nelson Mullins law firm and the Lieutenant Governor's Office on Aging. DSS was implementing most of the recommendations.

VI. Future Directions

The next training initiative will be considered and training plans will be developed. Follow-up efforts with the Bankers Association and Criminal Justice Academy will be pursued.

Council members will participate in the SC Bar and IMPH workgroups.

At Council meetings, member agencies will present an overview of his/her agency and its intersection with vulnerable adults. An overview of the Omnibus Adult Protection Act will also be presented to Council.

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

Dr. 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

S. C. Police Chiefs' Association
Vacant

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, 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, 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 2016.

ADULT PROTECTIVE SERVICES - Total reports: 5,054

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

LONG TERM CARE OMBUDSMAN - Total reports: 1,427

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: 42

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: 1,009

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