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**S. 871**

**STATUS INFORMATION**

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Currently residing in the Senate Committee on **Medical Affairs**

Summary: Adult Protection Coordinating Council

**HISTORY OF LEGISLATIVE ACTIONS**

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**VERSIONS OF THIS BILL**

[5/20/2009](file:///p:\pprever\2009-10\871_20090520.docx)

**A** **BILL**

TO AMEND CHAPTER 21, TITLE 43 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DIVISION ON AGING IN THE OFFICE OF THE LIEUTENANT GOVERNOR, SO AS TO RENAME THIS THE OFFICE ON AGING IN THE OFFICE OF THE LIEUTENANT GOVERNOR; TO TRANSFER THE ADMINISTRATION AND OPERATION OF THE FOLLOWING SERVICES AND PROGRAMS TO THE OFFICE ON AGING: LOW INCOME HOME ENERGY ASSISTANCE PROGRAM, RESPITE CARE, HOME HEALTH SERVICES, VETERANS NURSING HOMES, C. M. TUCKER NURSING HOME AND OTHER LONG TERM CARE FACILITIES FOR PERSONS WHO ARE MENTALLY ILL, ADULT PROTECTION SERVICES, ADULT PROTECTION COORDINATING COUNCIL, MEDICAID TRANSPORTATION SERVICES, NURSING FACILITY SERVICES AND ADMINISTRATION, COMMUNITY LONG TERM CARE, PALMETTO SENIOR CARE, GAP ASSISTANCE PHARMACY PROGRAM FOR SENIORS, AND VETERANS AFFAIRS; TO PROVIDE THAT THE OFFICE ON AGING SHALL CONTRACT WITH THE APPROPRIATE STATE AGENCY TO PROVIDE LONG TERM CARE OMBUDSMAN SERVICES; TO ESTABLISH THE RESPITE CARE ADVISORY COUNCIL, THE HOME HEALTH ADVISORY COUNCIL, VETERANS NURSING HOMES ADVISORY COUNCIL, THE MEDICAID TRANSPORTATION ADVISORY COUNCIL, AND THE NURSING FACILITY ADVISORY COUNCIL, ALL TO ADVISE THE OFFICE ON AGING ON MATTERS PERTAINING TO THEIR RESPECTIVE AREAS OF EXPERTISE; TO AMEND SECTION 43‑35‑55, AS AMENDED, RELATING TO LAW ENFORCEMENT RESPONSIBILITIES WHEN TAKING A VULNERABLE ADULT INTO PROTECTIVE CUSTODY, SO AS TO PROVIDE THAT LAW ENFORCEMENT SHALL REPORT SUCH ACTION TO THE OFFICE ON AGING; TO AMEND SECTION 43‑35‑310, AS AMENDED, RELATING TO THE ADULT PROTECTION COORDINATING COUNCIL, SO AS TO PROVIDE THAT THIS COUNCIL IS UNDER THE AUSPICES OF THE OFFICE ON AGING; TO AMEND SECTION 44‑6‑30, AS AMENDED, RELATING TO DUTIES OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, SO AS TO DELETE THE PROVISIONS AUTHORIZING THE DEPARTMENT TO ADMINISTER THE MEDICAID COMMUNITY LONG TERM CARE SYSTEM; TO AMEND SECTIONS 44‑6‑620, 44‑6‑630, 44‑6‑640, 44‑6‑650, 44‑6‑660, ALL AS AMENDED, ALL RELATING TO THE GAP ASSISTANCE PHARMACY PROGRAM FOR SENIORS, SO AS TO CONFORM THESE SECTIONS TO THE PROVISIONS OF THIS ACT TRANSFERRING THE ADMINISTRATION OF THIS PROGRAM TO THE OFFICE ON AGING; TO AMEND SECTION 44‑11‑10, RELATING TO THE DUTIES OF THE DEPARTMENT OF MENTAL HEALTH, SO AS TO DELETE THE PROVISION AUTHORIZING THE DEPARTMENT TO OPERATE LONG TERM CARE FACILITIES; AND TO AMEND SECTION 44‑21‑60, RELATING TO SERVICES INCLUDED IN THE FAMILY SUPPORT PROGRAM ADMINISTERED BY THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS, SO AS TO DELETE RESPITE CARE FROM THIS PROGRAM; TO PROVIDE TRANSITION PROVISIONS, INCLUDING, BUT NOT LIMITED TO, EMPLOYEES AND POSITIONS, APPROPRIATIONS, AND REAL AND PERSONAL PROPERTY; AND TO REPEAL SECTIONS 44‑1‑200 AND 44‑1‑210 RELATING TO HOME HEALTH SERVICES PROVIDED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL AND SECTIONS 44‑11‑30 AND 44‑11‑40 RELATING TO THE VETERANS NURSING HOMES OPERATED BY THE DEPARTMENT OF MENTAL HEALTH.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 21, Title 43 of the 1976 Code is amended to read:

“CHAPTER 21

~~Division and Advisory Council~~ Office on Aging

Section 43‑21‑10. (A) There is created ~~in the Office of the Lieutenant Governor,~~ the ~~Division~~ Office on Aging in the Office of the Lieutenant Governor.

(B) Effective July 1, 2010, the following agencies, commissions, programs, and services, including all of the allied, advisory, affiliated, or related entities, as well as the employees, funds, property, and all contractual rights and obligations associated with any such agency, except for those divisions, subdivisions, and services remaining with these agencies, boards, and commissions, are hereby transferred to and incorporated in and must be administered as part of the Office on Aging:

(1) Division on Aging in the Office of the Lieutenant Governor, formerly provided for at Section 43‑21‑10 et seq.,

(2) Low Income Home Energy Assistance Program grant administration, formerly administered by the Office of the Governor;

(3) Respite care formerly administered by the Department of Disabilities and Special Needs and provided for at Section 44‑21‑60(1);

(4) Home health services, formerly administered by the Department of Health and Environmental Control and provided for at Section 44‑1‑200;

(5) Veteran’s nursing homes, formerly administered by the Department of Mental Health and provided for at Section 44‑11‑30;

(6) C. M. Tucker Nursing Home and all long term care facilities for persons who are mentally ill, formerly administered by the Department of Mental Health;

(7) Adult protection services, formerly administered by the Department of Social Services and provided for at Section 43‑35‑5 et seq.;

(8) Adult Protection Coordinating Council, formerly administered by the Department of Health and Human Services and provided for at Section 43‑35‑310 et seq.;

(9) Medicaid transportation services, formerly administered by the Department of Health and Human Services, the operation of which the Office on Aging shall contract out to private service providers;

(10) Nursing facility services, formerly administered by the Department of Health and Human Services;

(11) Nursing facility administration, formerly administered by the Department of Health and Human Services;

(12) Community long term care services, formerly administered by the Department of Health and Human Services and provided for at Section 44‑6‑30(1);

(13) Palmetto Senior Care, formerly administered by the Department of Health and Human Services;

(14) GAP Assistance Pharmacy Program for Seniors, formerly administered by the Department of Health and Human Services and provided for at Section 44‑6‑610 et.seq.;

(15) South Carolina State Office on Veterans Affairs, formerly administered by the Governor’s Office of Executive Policies and Procedures.

(C) The ~~division~~ Office on Aging must be supported by an Advisory Council on Aging consisting of one member from each of the ten planning and service areas under the ~~Division~~ Office on Aging and five members from the State at large. The director of the ~~division~~ Office on Aging shall provide statewide notice that nominations may be submitted to the director from which the Lieutenant Governor shall appoint the members of the council. The members must be citizens of the State who have an interest in and a knowledge of the problems of an aging population. In making appointments to the council, consideration must be given to assure that the council is composed of appointees who are diverse in age, who are able and disabled, and who are active leaders in organizations and institutions that represent different concerns of older citizens and their families. The chair must be elected by the members of the advisory council from its members for a term of two years and until a successor is elected. Members of the council shall serve without compensation but shall receive mileage and subsistence authorized by law for members of boards, commissions, and committees. The advisory council shall meet at least once each quarter, and special meetings may be called at the discretion of the director of the ~~division~~ Office on Aging. Rules and procedures must be adopted by the council for the governance of its operations and activities.

Section 43‑21‑20. (A) The members of the advisory council shall serve for terms of four years and until their successors are appointed and qualify. The terms of the members expire on June thirtieth and all vacancies must be filled in the manner of the original appointment for the unexpired portion of the term only. No member may serve more than two consecutive terms.

(B) The Lieutenant Governor may terminate a member of the council for any reason pursuant to the provisions of Section 1‑3‑240, mutatis mutandis, and the reason for the termination must be communicated to each member of the council.

Section 43‑21‑30. ~~Reserved~~ The Office on Aging shall contract with the appropriate state agency or office to provide long term care ombudsman services.

Section 43‑21‑40. (A) The ~~division~~ Office on Aging shall be the designated state agency to implement and administer all programs of the federal government relating to the aging, requiring acts within the State which are not the specific responsibility of another state agency under the provisions of federal or state law. The ~~division~~ Office on Aging may accept and disburse any funds available or which might become available pursuant to the purposes of this chapter.

(B) The ~~division~~ Office on Aging shall study, investigate, plan, promote, and execute a program to meet the present and future needs of aging citizens of the State, and ~~it shall receive the cooperation of other~~ all state departments and agencies shall cooperate with the Office on Aging in carrying out a coordinated program.

(C) ~~It shall also be the duty of~~ The ~~division to~~ Office on Aging shall encourage and assist in the development of programs for the aging in the counties and municipalities of this State. It shall consult and cooperate with public and voluntary groups, with county and municipal officers and agencies, and with any federal or state agency or officer for the purpose of promoting cooperation between state and local plans and programs, and between state and interstate plans and programs for the aging.

Without limiting the foregoing, the ~~division~~ Office on Aging is specifically authorized to:

~~(a)~~(1) initiate requests for the investigation of potential resources and problems of the aging people of the State, encourage research programs, initiate pilot projects to demonstrate new services, and promote the training of personnel for work in the field of aging;

~~(b)~~(2) promote community education in the problems of older people through institutes, publications, radio, television, and the press;

~~(c)~~(3) cooperate with, encourage, and assist local groups, both public and voluntary, which are concerned with the problems of the aging;

~~(d)~~(4) encourage the cooperation of agencies in dealing with problems of the aging and offer assistance to voluntary groups in the fulfillment of their responsibility for the aging;

~~(e)~~(5) serve as a clearinghouse for information in the field of aging;

~~(f)~~(6) appoint such committees as it ~~deems~~ the Office on Aging considers necessary for carrying out the purposes of this chapter, such committee members to serve without compensation;

~~(g)~~(7) engage in any other activity ~~deemed~~ considered necessary by the ~~division~~ Office on Aging to promote the health and well‑being of the aging citizens of this State, not inconsistent with the purposes of this chapter or the public policies of the State;

~~(h)~~(8) certify homemakers and home health aides pursuant to the Federal Omnibus Budget Reconciliation Act of 1987 and subsequent amendments to that act and through regulations promulgated in accordance with the Administrative Procedures Act establish and collect fees for the administration of this certification program. Fees collected must be placed on deposit with the State Treasurer. Accounting records must be maintained in accordance with the Comptroller General’s policies and procedures. Unused fees may be carried forward to the next fiscal year for the same purpose;

~~(i)~~(9) award grants and contracts to public and private organizations for the purpose of planning, coordinating, administering, developing, and delivering aging programs and services;

~~(j)~~(10) designate area agencies on aging as required by the Older Americans Act;

~~(k)~~(11) administer the Senior Citizens Center Permanent Improvement Fund ~~established pursuant to Section 12‑21‑3441~~ and community services programs in accordance with Section ~~12‑21‑3590~~ 12‑21‑4200.

Section 43‑21‑45. The Office ~~of the Lieutenant Governor, Division~~ on Aging, shall designate area agencies on aging and area agencies on aging shall designate focal points. Focal points shall provide leadership on aging issues in their respective communities and shall carry out a comprehensive service system for older adults or shall coordinate with a comprehensive service system in providing services for older adults. The area agencies on aging represent the regional level of the state aging network and the focal points represent the local level of the state aging network.

Section 43‑21‑50. The ~~division~~ Office on Aging may receive on behalf of the State any grant or grant‑in‑aid from government sources, or any grant, gift, bequest, or devise from any other source. Title to all funds and other property received pursuant to this section shall vest in the State unless otherwise specified by the grantor.

Section 43‑21‑60. The ~~division~~ Office on Aging shall submit an annual report to the ~~Lieutenant Governor and to the~~ General Assembly on or before January first of each year. The report shall deal with the present and future needs of the elderly and with the work of the division during the year.

Section 43‑21‑70. The Lieutenant Governor may employ a director to be the administrative officer of the ~~division~~ Office on Aging who shall serve at ~~his~~ the pleasure of the Lieutenant Governor ~~and who is subject to removal pursuant to the provisions of Section 1‑3‑240~~.

Section 43‑21‑80. The director of the Office on Aging shall appoint ~~any~~ other personnel and consultants considered necessary for the efficient performance of the duties prescribed by this chapter and shall fix ~~the~~ compensation ~~therefore~~ in accordance with the Human Resource Management Division of the State Budget and Control Board and Merit System requirements.

Section 43‑21‑100. The ~~division~~ Office on Aging shall prepare the budget for its operation which must be submitted ~~to~~ by the Lieutenant Governor ~~and~~ to the General Assembly for approval.

Section 43‑21‑110. The General Assembly shall provide an annual appropriation to carry out the work of the ~~commission~~ Office on Aging.

Section 43‑21‑120. (A) There is created the Coordinating Council to the ~~Division~~ Office on Aging to work with the ~~division~~ office on the coordination of programs related to the field of aging, and to advise and make pertinent recommendations, composed of the following: the Director of the Department of Health and Environmental Control, the State Director of Social Services, the Director of the Department of Mental Health, the Superintendent of Education, the Director of the State Department of Labor, Licensing and Regulation, the Executive Director of the South Carolina State Employment Security Commission, the Secretary of Commerce, the Commissioner of the State Department of Vocational Rehabilitation, the Director of the Clemson University Extension Service, the Director of the South Carolina Department of Parks, Recreation and Tourism, the Director of the South Carolina Retirement System, the Executive Director of the South Carolina Municipal Association, the Executive Director of the State Office of Economic Opportunity, the Executive Director of the South Carolina Association of Counties, the Commissioner of the Commission for the Blind, the Director of the Department of Health and Human Services, the Director of the Department of Alcohol and Other Drug Abuse Services, and the Chairperson of the Commission on Women.

(B) The council shall meet at least once each six months and special meetings may be called at the discretion of the chairman or upon request of a majority of the members.

(C) The chairman of the advisory commission and the Director of the ~~Division~~ Office on Aging, who shall serve as secretary to the council, shall attend the meetings of the council.

(D) The director of each agency or department making up the council shall serve as chairman of the council for a term of one year. The office of chairman ~~is~~ must be held in the order in which the membership of the council is listed in ~~this section~~ subsection (A).

Section 43‑21‑130. (A) There is created the Long Term Care Council (council) composed of the following voting members:

(1) the Lieutenant Governor or his designee;

(2) the Director of the Department of Social Services;

(3) the Director of the Department of Health and Environmental Control;

(4) the Director of the Department of Mental Health;

(5) the Director of the Department of Disabilities and Special Needs;

(6) the Director of the ~~Division~~ Lieutenant Governor’s Office on Aging;

(7) the Director of the Department of Health and Human Services;

(8) t~~he Chairman of the Joint Legislative Health Care Planning and Oversight Committee, or his designee;~~

~~(9)~~ the Chairman of the Joint Legislative Committee on Aging, or his designee;

~~(10)~~(9) one representative of each of the following groups appointed by the Lieutenant Governor annually:

(a) long term care providers;

(b) long term care consumers;

(c) persons in the insurance industry developing or marketing a long term care product.

(B) Each director serving as a council member may authorize in writing a designee to vote on his behalf at two meetings a year. Members appointed by the Lieutenant Governor to represent private groups serve without compensation.

(C) The council shall meet at least quarterly, provide for its own officers, and ~~make~~ submit an annual report to the General Assembly before January second each year. This report must include new council recommendations.

Section 43‑21‑140. (A) The council has no authority to direct or require any implementing action from any member agency. The council shall identify future policy issues in long term care and may conduct research and demonstration activities related to these issues. Through close coordination of each member agency’s planning efforts, the council shall develop recommendations for a statewide service delivery system for all health‑impaired elderly or disabled persons, regardless of the persons’ resources or source of payment. These recommendations must be updated annually as needed. The service delivery system must provide for:

(1) charges based on ability to pay for persons not eligible for Medicaid;

(2) coordination of community services;

(3) access to and receipt of an appropriate mix of long term care services for all health‑impaired elderly or disabled persons;

(4) case management; and

(5) discharge planning and services.

(B) The council, through its member agencies, shall study and make recommendations concerning the costs and benefits of: adult day care centers, in‑home and institutional respite care, adult foster homes, incentives for families to provide in‑home care, such as cash assistance, tax credits or deductions, and home‑delivered services to aid families caring for chronically‑impaired elderly relatives.

Section 43‑21‑150. (A) The ~~Division~~ Office on Aging, with the cooperation of the Long Term Care Council and the Department of Insurance, shall develop and implement a program to educate citizens concerning:

~~(a)~~(1) the availability of long term care services;

~~(b)~~(2) the lifetime risk of spending some time in a nursing home;

~~(c)~~(3) the coverage available for long term care services through Medicare, Medicaid, and private insurance policies, and the limitations of this coverage; and

~~(d)~~(4) the availability of home equity conversion alternatives, such as reverse annuity mortgages and sale‑leaseback arrangements, in this State and the risks and benefits of these alternatives.

(B) This program must be made a part of the Preretirement Education Program of the South Carolina Retirement Systems.

Section 43‑21‑160. (A) There is created the Eldercare Trust Fund of South Carolina to be administered by the ~~South Carolina Division~~ Office on Aging.

(B) All monies received from the voluntary contribution system established in Section 12‑7‑2419 or any other contribution, gift, or bequest must be placed on deposit with the State Treasurer in an interest‑bearing account.

(C) These funds must be used to award grants to public and private nonprofit agencies and organizations to establish and administer innovative programs and services that assist older persons to remain in their homes and communities with maximum independence and dignity.

(D) The Eldercare Trust Fund shall supplement and augment programs and services provided by or through state agencies but may not take the place of these programs and services.

(E) The ~~South Carolina Division~~ Office on Aging shall carry out all activities necessary to administer the fund.

Section 43‑21‑170. In administering the Eldercare Trust Fund, the ~~division~~ Office on Aging may, but is not limited to:

(1) assess the critical needs of the frail elderly and establish priorities for meeting these needs;

(2) receive gifts, bequests, and devises for deposit and investment into the trust fund for awarding grants to public and private nonprofit organizations;

(3) solicit proposals for programs that are aimed at meeting identified service needs;

(4) provide technical assistance to public and private nonprofit organizations, when requested, in preparing proposals for submission;

(5) establish criteria for awarding grants; and

(6) enter into contracts for the awarding of grants to public and private nonprofit organizations.

Section 43‑21‑180. Funds deposited in the trust fund and all earnings from the investment of these funds, after allowances for operating expenses, are available for disbursement upon authorization of the ~~division~~ Office on Aging. However, in any year in which more than two hundred thousand dollars is deposited in the trust fund, twenty‑five percent of the amount over two hundred thousand dollars and earnings from the investment of these funds must be placed in a separate account. When the assets of this separate account exceed five million dollars, no further deposits are required to be made to the separate account and all future earnings from the investment of the monies in this separate account also are available for distribution upon authorization of the ~~division~~ Office on Aging.

Section 43‑21‑190. (A) There is created a model legislature on aging issues to be administered by the South Carolina Silver Haired Legislature, Inc. This model legislature shall:

(1) identify issues, concerns, and possible solutions for problems facing the aging population in South Carolina;

(2) make recommendations to the Lieutenant Governor and members of the General Assembly and to the Joint Legislative Committee on Aging;

(3) arrange educational forums to explore issues related to older South Carolinians;

(4) promote good government for all South Carolinians.

(B) The participants must be sixty years of age or older and must be selected pursuant to procedures adopted by the South Carolina Silver Haired Legislature, Inc. in coordination with the state’s network of aging programs.

(C) The nonpartisan model legislature shall conduct its general assembly annually.

Section 43‑21‑200. (A) There is established within the ~~Division of~~ Office on Aging the State Loan Repayment Program to reimburse student loan payments of a physician licensed or certified to practice in this State, who has completed a fellowship training program in geriatrics or geropsychiatry accredited by the Accreditation Council for Graduate Medical Education, is accepted into the program, and contracts with the ~~division~~ Office on Aging as provided in subsection (C) of this section.

(B)(1) To assist the ~~division~~ Office on Aging in selecting program participants, there is established the Physician Advisory Board to review applicants for the repayment reimbursement program. The board consists of five members, one each appointed by the ~~division~~ Lieutenant Governor to represent:

(a) the South Carolina Medical Association;

(b) the South Carolina Commission on Higher Education;

(c) the Medical University of South Carolina;

(d) the School of Medicine of the University of South Carolina; and

(e) a fellow in geriatrics or geropsychiatry.

Board members serve at the pleasure of the ~~division~~ Lieutenant Governor and without compensation, but may receive the mileage, subsistence, and per diem allowed by law for members of boards, committees, and commissions, to be paid from approved accounts of the ~~division~~ Office on Aging.

(2) The board shall meet as necessary to review program applications and from among these applications recommend program candidates to the ~~division~~ Office on Aging. No physician may participate in the program who has not been recommended by the board. In considering applications, the board shall consider demonstrable need and make every effort to select those who intend to continue to practice in this State after completing the program. In order of priority in considering applicants for the program, the board shall consider first South Carolina natives completing fellowship programs in this State, then out‑of‑state applicants completing fellowships in this State, then South Carolina natives completing out‑of‑state fellowship programs, and finally out‑of‑state applicants completing out‑of‑state fellowships.

(C)(1) A physician accepted for the program shall execute a contract with the ~~division~~ Office on Aging in which the physician agrees:

(a) to practice in this State for no fewer than five consecutive years immediately following completion of his or her fellowship;

(b) to accept Medicare and Medicaid patients;

(c) to accept reimbursement or contractual binding rates; and

(d) not to discriminate against patients based on the ability to pay.

(2) Upon execution of the contract, the ~~division~~ Office on Aging shall reimburse student loan payments made by the physician during the last completed calendar quarter. No more than four physicians a year may participate in the program unless sufficient funding is available to reimburse, in accordance with this section, more than four physicians a year. The total amount that may be reimbursed to one physician is thirty‑five thousand dollars multiplied by the number of years of the fellowship completed, prorated for periods less than one year.

(D) If the ~~division~~ Office on Aging determines that the physician is not in compliance with the contract, it shall refer this matter to the Physicians Advisory Board, which shall recommend an appropriate penalty which may be imposed by the ~~division~~ Office on Aging for noncompliance, which must be an amount not to exceed three times the total of reimbursement received plus interest at the prime rate plus ten percent calculated from the date noncompliance was determined.

(E) The ~~division~~ Office on Aging shall prescribe the form of applications and the procedures for reimbursement and may require such information and documentation as it determines appropriate for these applications and reimbursements.

(F) The General Assembly, in the annual general appropriations act, shall appropriate the funds necessary for the operation of the State Loan Repayment Program.

Section 43‑21‑210. There is created the Respite Care Advisory Council which shall advise the Office on Aging on respite care issues for aging and disabled populations and their families. The council shall study ways to prevent unnecessary and costly‑out‑of home placements of individuals with severe lifelong disabilities, thereby preventing the breakup of families, reducing financial burdens associated with the family member’s disability, and preventing the development of crisis situations and the resulting expensive out‑of‑home placement. The council shall meet quarterly and shall report to the Director of the Office on Aging. The council is composed of the following members:

(1) one member who shall serve as chairman of the council who must be appointed by the Lieutenant Governor;

(2) one member from each congressional district, all of whom must be senior providers, consumers, or customers, all of whom must be appointed by the Lieutenant Governor;

(3) three members at‑large who must be family caregivers and who must be appointed by the Lieutenant Governor;

(4) Director of the Office on Aging, or a designee.

Section 43‑21‑220. (A) The Office on Aging may provide home health services to those persons living in areas of the State in which adequate home health services are not available and may charge fees for these services. Home health services include care of the ill and disabled rendered at home including, but not limited to, bedside care, treatment, and rehabilitation services. In order that it may provide these services, the Office on Aging may employ the necessary personnel, including nurses, physical therapists, speech therapists, occupational therapists, medical social workers, home health aides, nutritionists, and supervisory personnel, and may purchase equipment and materials necessary to maintain an effective program. The Office on Aging shall, wherever possible, assist and advise nonprofit agencies and associations in the development of home health services programs and may enter into agreements with these agencies and associations specifying the type of assistance and advice it will provide.

(B) All fees and charges collected pursuant to this section must be deposited in the State Treasury and must be used in the operation of the home health services program.

(C) There is created the Home Health Advisory Council, which shall advise the Office on Aging on issues relating to the delivery and administration of home health services in accordance with this section. The council shall meet quarterly and shall report to the Director of the Office on Aging. The council is composed of the following members:

(1) one member who shall serve as chairman of the council who must be appointed by the Lieutenant Governor;

(2) one member from each congressional district, all of whom must be senior providers, consumers, or customers, all of whom must be appointed by the Lieutenant Governor;

(3) three members at‑large who must be appointed by the Lieutenant Governor;

(4) Director of the Office on Aging, or a designee.

Section 43‑21‑230. (A) The Office on Aging, shall operate the C. M. Tucker Nursing Home and all other facilities of the state established for the purpose of providing long term care for aging persons who are mentally ill and in need of long term nursing care. The Office on Aging shall establish admission requirements for patients seeking to enter these facilities and may accept gifts, grants, and other contributions from any source for the operation of this facility.

(B)(1) The Office on Aging, in mutual agreement with the authorities of the United States Veterans Administration, may establish and administer South Carolina veterans homes. The purpose of these homes is to provide treatment for South Carolina veterans who are mentally ill or whose physical condition requires long term nursing care. Admission requirements to these homes are the same as any other facility operated by the Office on Aging except that all patients at these facilities must be South Carolina veterans.

(2) For the purpose of this section, ‘South Carolina veterans’ means any ex‑service South Carolina citizen who was discharged under other than dishonorable conditions and who served in any branch of the military or naval service of the United States.

(3) The Office on Aging is designated as the agency of the State to apply for and to accept gifts, grants, and other contributions from any source, from the federal government, or from any other governmental unit for the operation and construction of South Carolina veterans homes.

(C) The Office on Aging shall consult with, and may contract with, the Department of Mental Health, on mental health issues and services for patients in facilities operated by the Office on Aging pursuant to this section.

(D) There is created the Veterans Nursing Homes Advisory Council which shall advise the Office on Aging on nursing home issues. The council shall meet quarterly and shall report to the Director of the Office on Aging. The council is composed of the following members:

(1) one member who shall serve as chairman of the council who must be appointed by the Lieutenant Governor;

(2) one member from each congressional district, all of whom must be senior providers, consumers, or customers, all of whom must be appointed by the Lieutenant Governor;

(3) three members at‑large who must be appointed by the Lieutenant Governor;

(4) Director of the Office on Aging, or a designee.

Section 43‑21‑240. (A) There is created the Medicaid Transportation Advisory Council which shall advise the Office on Aging in the operation and administration of Medicaid transportation services. This committee is composed of:

(1) one member who shall serve as chairman of the council who must be appointed by the Lieutenant Governor;

(2) one member from each congressional district, all of whom must be senior providers, consumers, or customers, all of whom must be appointed by the Lieutenant Governor;

(3) three members at‑large who must be appointed by the Lieutenant Governor;

(4) Director of the Office on Aging, or a designee.

(B) The advisory committee shall meet at least quarterly to review issues and complaints concerning the Medicaid Transportation Brokerage System and shall make recommendations for the resolution of these issues and complaints. The advisory committee shall issue a report quarterly to the Governor and the General Assembly. The Office on Aging shall provide the staff for the advisory committee.

Section 43‑21‑250. There is created the Nursing Facility Advisory Council which shall advise the Office on Aging on the administration of nursing facility services and administration. The council shall meet quarterly and shall report to the Director of the Office on Aging. The council is composed of the following members:

(1) one member who shall serve as chairman of the council who must be appointed by the Lieutenant Governor;

(2) one member from each congressional district, all of whom must be senior providers, consumers, or customers, all of whom must be appointed by the Lieutenant Governor;

(3) three members at‑large who must be appointed by the Lieutenant Governor;

(4) Director of the Office on Aging, or a designee.

SECTION 2. Section 43‑35‑55(D), (E), and (F) of the 1976 Code, as amended by Act 393 of 1994, is further amended to read:

“(D) When a law enforcement officer takes protective custody of a vulnerable adult under this section, the law enforcement officer must immediately notify the Adult Protective Services Program and the ~~Department of Social Services in the county where the vulnerable adult was situated at the time of being taken into protective custody~~ Office on Aging in the Office of the Lieutenant Governor. This notification must be made in writing or orally by telephone or otherwise and must include the following information:

(1) the name of the vulnerable adult, if known, or a physical description of the adult, if the name is unknown;

(2) the address of the place from which the vulnerable adult was removed by the officer;

(3) the name and the address, if known, of any person who was exercising temporary or permanent custody of or control over or who was the caregiver of the vulnerable adult at the time the adult was taken into protective custody;

(4) the address of the place to which the vulnerable adult was transported by the officer;

(5) a description of the facts and circumstances resulting in the officer taking the vulnerable adult into protective custody.

(E) The ~~Department of Social Services~~ Office on Aging in the Office of the Lieutenant Governor is responsible for filing a petition for protective custody within one business day of receiving the notification required by subsection (D).

(F) The family court shall hold a hearing to determine whether there is probable cause for the protective custody within seventy‑two hours of the ~~Department of Social Services~~ Office on Aging in the Office of the Lieutenant Governor filing the petition, excluding Saturdays, Sundays, and legal holidays.”

SECTION 3. Section 43‑35‑310 of the 1976 Code, as added by Act 110 of 1993, is amended to read:

“Section 43‑35‑310. (A) There is created the Adult Protection Coordinating Council under the auspices of the ~~State Health and Human Services Finance Commission~~ Office on Aging in the Office of the Lieutenant Governor and is comprised of:

(1) one member from the institutional care service provision system or a family member of a consumer of that system and one member from the home and community‑based service provision system or a family member of a consumer of that system, both of whom must be appointed by the Governor for terms of two years; and

(2) these members who shall serve ex officio:

(a) Attorney General or a designee;

(b) Board of Long Term Health Care Administrators, Executive Director, or a designee;

(c) State Board of Nursing for South Carolina, Executive Director, or a designee;

(d) ~~Commission~~ Office on Aging in the Office of the Lieutenant Governor, ~~Executive~~ Director, or a designee;

(e) Criminal Justice Academy, Executive Director, or a designee;

(f) South Carolina Department of Health and Environmental Control, ~~Commissioner~~ Director, or a designee;

(g) State Department of Mental Health, ~~Commissioner~~ Director, or a designee;

(h) South Carolina Department of Mental Retardation, ~~Commissioner~~ Director, or a designee;

(i) Adult Protective Services Program, Director, or a designee;

(j) Department of Health and Human Services ~~Finance Commission, Executive~~, Director, or a designee;

(k) Joint Legislative Committee on Aging, Chair, or a designee;

(l) Police Chiefs’ Association, President, or a designee;

(m) Prosecution Coordination Commission, Executive Director, or a designee;

(n) South Carolina Protection and Advocacy System for the Handicapped, Inc., Executive Director, or a designee;

(o) South Carolina Sheriff’s Association, Executive Director, or a designee;

(p) South Carolina Law Enforcement Division, Chief, or a designee;

(q) Long Term Care Ombudsman or a designee;

(r) South Carolina Medical Association, Executive Director, or a designee;

(s) South Carolina Health Care Association, Executive Director, or a designee;

(t ) South Carolina Home Care Association, Executive Director, or a designee.

(B) Vacancies on the council must be filled in the same manner as the initial appointment.”

SECTION 4. Section 44‑6‑30(1) of the 1976 Code, as amended by Act 263 of 2004, is further amended to read:

“(1) administer Title XIX of the Social Security Act (Medicaid), including the Early Periodic Screening, Diagnostic and Treatment Program~~, and the Community Long Term Care System~~;”

SECTION 5. Section 44‑6‑620(1) and (5) of the 1976 Code, as amended by Act 233 of 2006, are further amended to read:

“(1) ~~‘Department’~~ ‘Office’ means the ~~South Carolina Department of Health and Human Services~~ Office on Aging in the Office of the Lieutenant Governor.

(5) ‘GAPS Participating Medicare Part D Prescription Drug Plan’ means Prescription Drug Plans that have executed a contract with the ~~department~~ Office on Aging to provide prescription drug coverage to eligible individuals during the annual Medicare Part D coverage gap.”

SECTION 6. Section 44‑6‑630(A) of the 1976 Code, as amended by Act 233 of 2006, is further amended to read:

“(A) There is created within the ~~Department of Health and Human Services~~ Office on Aging in the Office of the Lieutenant Governor the Gap Assistance Pharmacy Program for Seniors (GAPS) program. The purpose of this program is to coordinate, beginning January 1, 2006, with Medicare Part D Prescription Drug Plans to provide to low‑income seniors in this State assistance with costs for prescription drugs during the annual Medicare Part D coverage gap.”

SECTION 7. Section 44‑6‑640(A) of the 1976 Code, as amended by Act 233 of 2006, is further amended to read:

“(A) This program must be administered by the ~~Department of Health and Human Services~~ Office on Aging in the Office of the Lieutenant Governor. The ~~department~~ office may designate, or enter into contracts with, other entities including, but not limited to, other states, other governmental purchasing pools, and nonprofit organizations to assist in the administration of this program.

(B) The ~~department~~ office may establish an enrollment fee that must be used to fund the administration of this program.

(C) When requested by the ~~department~~ office, other state agencies shall provide assistance or information necessary for the administration of this program.”

SECTION 8. Section 44‑6‑650(A)(4), and (5) of the 1976 Code, as amended by Act 233 of 2006, is further amended to read:

“(4) satisfy annual income, resources, and other criteria established by the ~~department~~ Office on Aging;

(5) pay the enrollment fee, if any, as established by the ~~department~~ Office on Aging.”

SECTION 9. Section 44‑6‑660 of the 1976 Code, as amended by Act 233 of 2006, is further amended to read:

“Section 44‑6‑660. (A) The ~~department~~ Office on Aging shall maintain data to allow evaluation of the cost effectiveness of the program.

(B) Beginning with fiscal year 2006‑2007, the ~~department~~ Office on Aging shall include in its annual report, a report on the GAPS program.”

SECTION 10. Section 44‑11‑10(1) of the 1976 Code is amended to read:

“(1) those inpatient facilities as authorized by the Department of Mental Health and funded by legislative appropriations, including facilities for the evaluation and treatment of mentally ill persons~~,~~ and facilities for the evaluation and treatment of chemically dependent persons~~, and long term care facilities~~; and”

SECTION 11. Section 44‑21‑60(1) of the 1976 Code is amended to read:

“(1) ~~Respite care~~ Reserved;

SECTION 12. (A) Where the provisions of this act transfer particular entities, sections, divisions, or portions of these of one state agency (transferring agency) to the Office on Aging in the Office of the Lieutenant Governor, the employees and positions, authorized appropriations, and real and personal property of the transferring agency are also transferred to and become part of the Office on Aging unless otherwise specifically provided. All classified or unclassified personnel of the transferring agency become employees of the Office on Aging, with the same compensation, classification, and grade level, as applicable, unless an employee being transferred is offered and accepts a position with the transferring agency that is not being transferred under this act. The Budget and Control Board shall cause all necessary actions to be taken to accomplish this transfer and shall, after consultation with the agency heads of the transferring agencies and the Director of the Office on Aging prescribe the manner in which the transfer provided for in this section must be accomplished. The agency heads of the transferring shall cooperate fully.

(B) Employees or personnel of the transferring agency transferred to or made a part of the Office on Aging shall continue to occupy the same office locations and facilities which they occupy unless or until otherwise changed by the appropriate action and authorization. The rent and physical plant operating costs of these offices and facilities, if any, shall continue to be paid by the transferring agency until otherwise provided by the General Assembly. The records and files of the transferring agency shall remain the property of the transferring agency, except that the transferred personnel shall have complete access to these records and files in the performance of their duties as new employees of the Office on Aging.

SECTION 13. All remaining costs necessary for the implementation and operation of the Office on Aging in the Office of the Lieutenant Governor must be provided for by the General Assembly in the annual appropriations act; however, for fiscal year 2010‑2011, the Budget and Control Board shall provide all funds necessary to implement the provisions of this act.

SECTION 14. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 15. Sections 44‑1‑200, 44‑1‑210, 44‑11‑30, and 4‑11‑40 of the 1976 Code are repealed.

SECTION 16. This act takes effect July 1, 2010.

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