

***Adult Protection
Coordinating Council***

Annual Report

2018

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Table of Contents

- I. Foreword**
- II. History**
- III. Legislative Intent**
- IV. Adult Protection Coordinating Council**
- V. Summary of Activities**
- VI. Future Directions**

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 2018 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 continued through 2018.

Public Awareness

In the summer of 2018, approximately \$5,000 was made available to Council for public awareness activities. A Public Awareness Committee was convened, and ideas and planning discussions were initiated. Potential partners were identified for collaboration, and assistance to maximize the available funds. These efforts will continue in 2019.

Bylaws Amendment

A Bylaws Committee was convened to consider an amendment to Council's Bylaws that would address member absenteeism. An amendment was drafted and submitted to Council at the November 2018 meeting. It will be subject to Council approval in February 2019.

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.

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.

In 2018, topics for the Acadis training were developed to 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 15 to 20-minute segments would utilize case scenarios and discuss provisions of the statute to include definitions, mandatory reporting, and penalties.

Training scripts were developed to incorporate actors in the message delivery. Filming was completed in the field and in the studio over the summer and early fall of 2018 and was released in the Acadis system in October 2018. Early reports were that many local law enforcement agencies made the training mandatory for officers. Disks with the entire training were provided Council members by the Criminal Justice Academy.

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.

During 2018, the CRCF Interagency Workgroup continued to meet to collaborate and discuss issues. Member agencies provided information to Council regarding their roles and activities pertaining to CRCF issues. These included facility training, compliance assistance, inspections, quality assurance and interagency cooperation.

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, Medicaid Fraud Control Unit. Data reports are received from the investigative entities at 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. Council members were given an opportunity to review and provide comments on the draft report. The final report was issued in June 2018 and included responses from the Department of Social Services, Long Term Care Ombudsman program and the Department of Health and Human Services. Subsequently, the agencies presented their responses and positions on issues to Council.

Legislation to create a vulnerable adult abuse registry, H.4413, was introduced in 2018 by Representative Garry M. Smith but did not advance. Representative Smith pre-filed legislation for consideration of a registry in the 2019-2020 legislative session.

The SC Bar Vulnerable Adult Task Force provided Council with updates on their initiatives for legislation to create an adult abuse registry, public guardianship and single point of entry programs in addition to recommendations for a Department of Aging. In November 2018, the Bar reported there would be no draft legislation ready to pre-file for the 2019-2020 legislative session as had been anticipated.

The Lieutenant Governor's Office on Aging developed a new online resource at www.getcaresc. Information regarding this website that replaced SC ACCESS was provided Council.

IMPH presented an overview of its Workforce for Health project. Ms. Katie Zenger with the project also provided information on frontotemporal degeneration, a form of dementia often misdiagnosed as a psychiatric problem or movement disorder. Information can be found at www.BAFTD.org.

Ms. Carrie Lybarker informed Council of the role and responsibilities of the Department of Consumer Affairs. Responsibility for the provisions of S.1041 that was passed by the General Assembly in 2018 were included. Pursuant to this legislation, the Department of Consumer Affairs will receive and investigate reports of frauds and scams.

An update was received on the SC Vulnerable Adult Guardian ad Litem (GAL) program. Since the inception of the program in 2011, the program had served 2,094 vulnerable adults. The numbers had increased each year. At the time of the update, there were 43 active volunteers with 50 to 60 cases each. Recruitment and training for volunteers was ongoing.

Council was invited to serve, and was subsequently represented by a member, on a DHHS committee concerned with an adult day health care's (ADHC) compliance with CMS

community settings rule. The ADHC facility was housed in a CRCF. DHHS Committee members would receive training and information regarding the ADHC prior to a decision regarding compliance.

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 planned.

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

Council will coordinate and collaborate with the SC Department of Aging regarding posting of vulnerable adult protection information on their new GetCareSC website. Materials previously developed and posted on SCACESS will be reviewed for applicability, and revised, corrected or updated as needed for potential posting.

Public awareness activities will continue to be discussed and developed.

Appendix A
2018 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, RN, Financial Forecasting Manager
Blue Cross Blue Shield of South Carolina
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

Ms. Necole Stinson, CME Coordinator
S. C. Medical Association

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

Ms. Elizabeth Wellman, Esq.
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
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 2018.

ADULT PROTECTIVE SERVICES - Total reports: 9,173

For further information, see the Data and Resources section of the South Carolina Department of Social Services at <https://dss.sc.gov/about/data-and-resources/>.

LONG TERM CARE OMBUDSMAN - Total reports: 2,065

For further information, call the State Long Term Care Ombudsman, Department of Aging at 803-734-9900 or 1-800-868-9095.

MEDICAID FRAUD CONTROL UNIT – Total reports: 65

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: 815

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