

Vulnerable Adult Act Stakeholder Group – Proposed Legislative Priorities – 12/4/08

Priority for Further Analysis	Rationale	Cost Item?	Consensus reached? Pertinent stakeholders on board? Other implications?	Where we stand today
<p>Reporting: Create a central CEP or hotline, with a single statewide phone number to replace the 87 or so we have now..</p> <p>Reference: details of proposal in 9/17 report from Reporting Subcommittee.</p>	<p>(1)Administrative simplification (2)Standardized processes (3)Standardized training (3)Clarity for the public (4)Quality assurance and compliance with CMS requirements re: NH reports and waiver renewals (5)Free up county intake workers to do investigations, therefore quicker response</p>	<p>(1) Expect the start-up costs to be a barrier: technology, training (2) a “wash” at county level if staff are reassigned from intake to investigations (3) But could state lose future dollars for CMS noncompliance? (4) Reality constraint: both state and counties cutting budgets for 2009</p>	<p>(1)Consensus that effectiveness of the localized CEP system is uneven. (2)Strong support among many stakeholders other than the counties, but not universal belief that we need a centralized system (3) Jason Flint reported at 11/17 meeting on connections to the Quality Management...group at DHS; however, no anticipated DHS funding proposal for a central CEP in 2009 budget (4) available cost information sets price tag in the \$3-5 million range.</p>	<p>(1) The Central CEP will be part of our proposal. (2) TBD: Take a “developmental” approach, rather than a mandate to establish and fund it right away?</p> <p>(3) Is there more we could learn about start-up funding and evidence of long-term cost efficiencies? Texas, Massachusetts? [student research?]</p> <p>(4) Regardless of whether DHS is initiating this, we will have to make an effort to determine whether there will be opposition.</p>
<p>Reporting: Remove the dual reporting requirement for nursing homes, boarding care homes, and hospital swing beds by allowing facilities to FAX the printout of its report to OHFC to the CEP</p> <p>Reference: details and</p>	<p>(1)Administrative simplification (2)Regulatory relief without loss of VA protection (3)Overcome compliance issues for both OHFC and facilities (4)Technology (e.g. RightFax) helps speed and accuracy)</p>	<p>Negligible MDH cost modifying report form to accommodate its proposed dual purpose</p>	<p>Consensus item</p>	<p>(1) The “fix” for dual reporting will be part of our proposal.</p> <p>(2)CMS Subcommittee will compare the MDH on-line report form to the required information on the CEP form so that the necessary fields can be added to the MDH.</p>

<p>proposed language in 9/12 report from CMS subcommittee.</p>	<p>Definitions: Fiduciary obligation</p> <p>Reference: proposed language in HF3514(Ruud) / SF3196 (Scheid)</p>	<p>(1)Current definition doesn't clearly describe the behavior to be deterred and punished. (2)Change of definition will improve our abilities to investigate and prosecute these cases, because cases (e.g. exploitation by someone with PoA or joint checking account) are stymied by current definition. (3) AG's proposed bill was introduced in 2008; however, the legislature did not act on it. (4)Financial exploitation is as great a risk factor for an individual losing independence as is physical illness and injury.</p>	<p>(1)AG's office estimates little in added costs and that current expenses will be more productive. (2)Providers will have relief from arrearages that occur when a resident/patient is financially exploited and cannot pay for their care. (3)Potential Medical Assistance savings, because action can be taken to protect victims before their funds are exhausted and they have to rely on public funds for care.</p>	<p>(3)CMS Subcommittee will further investigate whether and how new Medicare-certified Hospice requirements (effective 12/08) would make it necessary and acceptable to incorporate them in this reporting proposal.</p>	<p>(1)Big question remains how to draft a proposal that strengthens the definitions and prosecution of exploitation without creating barriers for families and estate planning.</p> <p>(2) Kim Dayton and Crim Code Subcommittee will present issues to the Legislative Workgroup at the 11/10 meeting (if necessary, 12/4) Crim Code Report delayed.</p> <p>Decision in State v. Campbell noted and celebrated in October; however, an appeal followed. Whether the Supreme Court will take the case is unknown at this point.</p> <p>(3)County Attorneys Assn (Kevin Hansen will contact John Kingrey)</p> <p>(4)MN Bankers Association/Independent</p>	<p>(1) Work remains to be done on a consensus proposal for both the VAA financial exploitation definition and the Criminal Code portions. Crim. Code report is delayed until the 12/19 meeting.</p> <p>Continue to need student research:</p> <p>(2) County differences in hardship waiver policies? [Hard data needed. (3)Human and social costs? [student research?] Univ. of Delaware Elder Abuse library may have data on public cost savings with prevention of financial exploitation. See work by Carmel Dyer, MD, and colleagues.</p>	<p>(1) Work remains to be done on a consensus proposal for both the VAA financial exploitation definition and the Criminal Code portions. Crim. Code report is delayed until the 12/19 meeting.</p> <p>Continue to need student research:</p> <p>(2) County differences in hardship waiver policies? [Hard data needed. (3)Human and social costs? [student research?] Univ. of Delaware Elder Abuse library may have data on public cost savings with prevention of financial exploitation. See work by Carmel Dyer, MD, and colleagues.</p>
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			Community Bankers/Credit Unions – This question can be part of the agenda of an upcoming meeting between Sandra Anderson and workgroup members. Date is being determined.	
Definitions: Financial exploitation Reference: 9/12 report from Definitions Subcommittee.	See item above.			Deb Holtz reported (10/31) on potential Guardianship TF proposals that would impose certain restrictions (e.g. bonding) to protect VAs from financial exploitation.
Definitions: Amend functional definition of vulnerable adult. Reference: 9/12 report from Definitions Subcommittee.	Current definition unclear. Respond to concerns of Disability advocates	Likely not	Change must involve Disability advocates. Iris met with Anne Henry and Joan Willshire to raise definition issue and discuss other priorities. They concurred with the suggested changes and noted that, in their view, services are “daily life” help as distinct from care, which is more “clinical.” Anne subsequently reported these changes at a meeting of the Consortium of Citizens with Disabilities, and we will continue to send them our proposals for review. Further implication: changes that describe “care” or “services” affect the existing definition of “caregiver.”	(1) The amendment to the functional definition will be part of our proposal, and (2) We will report further to the CCD as work moves forward on the entire initiative.
Definitions: Other		Expanded		

<p>changes</p> <p>Abuse: Caregiver:</p> <p>Reference: 9/12 report from Definitions Subcommittee.</p> <p>Investigations: Standardize the components of an investigation.</p> <p>Reference: 9/12 report of subd 9b. Guidelines...Each lead agency shall include 6 component activities....</p>		<p>definition of caregiver would present likelihood of increased reports and costs for counties.</p>		
<p>Investigations: Standardize the components of an investigation.</p> <p>Reference: 9/12 report of subd 9b. Guidelines...Each lead agency shall include 6 component activities....</p>	<p>Components already exist in 26 year old rule.</p> <p>Given high turnover and limited training opportunities, this change will help toward a more uniform response statewide, especially if a centralized CEP is a longer-range objective.</p>	<p>No</p>	<p>Deb S. anticipates no objection from counties on this item, and will follow up with them. There was consensus on the measure at the meeting.</p> <p>Creating a new definition of “investigation” was discussed without resolution as consensus was not apparent.</p>	<p>(1) The standardized components, based on current rule language, will be part of our proposal.</p>
<p>Investigations: Comfort language to encourage financial institutions to cooperate in financial exploitation cases</p> <p>References: 8/25 Recommendations from Protections and 7/18 report from Scope of Statutes Subcommittee</p>	<p>Decide against major conflict with financial institutions/Incremental step in building a cooperative relationship in these cases</p>	<p>No</p>	<p>Consensus for adding language to 626.557, subd. 5 [immunity] that expands the “person” with immunity to include financial institutions & provide immunity for their good faith reporting.</p> <p>Less clear: amendments to either of their statutes 13A.02 or 13A.04 concerning their cooperation and immunity.</p> <p>Sandra Anderson – MN Board on Aging Vice-Chair, retired banker with strong interest in</p>	<p>(1) “Comfort” language to encourage financial institutions to report suspected financial exploitation will be part of our proposal. Meeting with Sandra Anderson, once the language is drafted, remains a high priority.</p>

<p>Education: Create a task force of MDH, DHS, and DPS representatives, county APS, consumers and providers to develop coordinated educational curricula and training re: the VAA.</p> <p>Reference: 9/12 Report of Education and Training Subcommittee</p>	<p>Make best use of limited resources</p> <p>Forum to address the use of new and emerging technology</p> <p>No significant new training money since the '95 VAA initiative and training funds have been lost to budget cuts.</p> <p>Engage stakeholders in planning for training and coordination</p> <p>Helps assure uniformity of approach and coordination of disparate agencies, but short of a state-wide CEP</p> <p>Headline cases, and more</p>	<p>Formal state task forces ordinarily do have fiscal impact...also have to go through Gov Ops committees</p> <p>So, this is a strategic as well as cost issue.</p>	<p>preventing financial exploitation, is our next stop.</p> <p>Deb Holtz and Deb Siebenaler have contacted her about our specific proposals and a strategy for getting support for the VA initiative from financial institutions. She is willing to meet with us, and that meeting is now being set up.</p>	
			<p>Regardless of the shape of this proposal, lawmakers need periodic reports about the need for training and dollars to respond to maltreatment cases.</p> <p>Consensus re: the need for an interdisciplinary approach to education, but law enforcement is not present in the legislative work group.</p>	<p>(1) Deb Holtz will look into ways our objectives here can be coordinated with the Guardianship TF.</p> <p>(2) A provision to update and coordinate first responder training will be part of our proposal.</p>
<p>Protection: Create an Endangered Person Alert</p>		<p>?? Ohio says NO</p>	<p>Who needs to be on board and who can build the</p>	<p>(1) Endangered Person Alert will be a provision in</p>

<p>system, analogous to the Amber Alert to mobilize the response to a missing vulnerable adult. 8/25 Protections Committee</p>	<p>Standardize response to cases, 12 states now have them Urgency: "Minutes matter in saving lives."</p>	<p>bridges? This requires a lot of planning and outreach given the nature of MN's Amber Alert system: law enforcement, media, childrens' advocates]</p> <p>"Silver" isn't a good choice, given the age range of vulnerable adults.</p> <p>Protections subcommittee reported 10/31 on revisions to the 8/25 proposal, "the individual is physically located in Minnesota when the disappearance occurs.</p>	<p>our proposal.</p> <p>(2) Like the CEP proposal, this one may have to be in "developmental" language, although there are indications of a model in the Twin Cities area.</p> <p>(3) Iris has been in contact with but hasn't yet met with Patty Wetterling.</p> <p>(4) Review and compare language from 2008 federal bills on "silver alert" with our proposal. [student research?]</p> <p>(5) Potential costs? Other states' experiences [student research?]</p>
<p>Protection Re: \$ exploitation: revenue recapture; standard for MA eligibility after exploitation; issue of expanded subpoena power or search warrants for APS Cross refs between VAA and Revenue Recapture Act...and MA eligibility? (see financial exploitation definition sections above)</p>		<p>There was a spirited debate about the issue of extending access to VA's financial records to APS investigators. This proposal does not have consensus among stakeholders, although it is well noted that APS and ombudsman programs have access to the VA's medical records, about which the same privacy issues could be raised.</p>	<p>Are there states that grant APS agencies direct access to VAs' financial/banking records? [student research?]</p>

<p>Criminal Code – Criminal (intentional) neglect – felony proposal – presented at 10/31 stakeholder group</p>	<p>1995 proposal to enact a comparable proposal for criminal neglect of children and vulnerable adults was opposed and stopped by MMA. Arguments for having comparable penalties for vulnerable children and adults continue.</p>		<p>Noted: There is not presently consensus among stakeholders in defining the felony-level intent and behavior is invited by the Criminal Code subcommittee. Consensus will also require attention to assuring, as elsewhere in the law, individuals' health care decisions to limit or refuse treatment do not result in liability for their health care providers.</p>	
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Other notes:

There remains a substantial need for outreach to law enforcement decision makers to determine where they would stand on the centralized CEP, the Endangered Alert, and the Education proposal.