

Protections Subcommittee Meeting

Monday, August 25, 2008

Members Present: Wendy Weidner, Arlene Wegener,
Mary Youle, Leah Sweet, Kevin Hansen

- Discussion and Initiatives to Recommend
 - Silver Alert
 - naming it after someone in MN who it could have been helped were the Alert already in place (man who wandered into WI)
 - Financial Institutions and employees as Mandated Reporters
 - Minn. Stat. § 626.557 Subd. 5 – Immunity, Protection
 - Strengthening the protections and immunity for those who report
 - Powers of Attorney used properly to the benefit of the VA
 - tightening up the POA language
 - ward's assets going only for benefit of ward, not worrying about the amount or degree of harm
 - Revenue Recapture Act
 - Scope of Statutes subcommittee looking at this?
 - Minn. Stat. § 270A.01-270A.12
 - Minn. Stat. § 270A.03 Subd. 2 “Claimant Agency”
 - language broad enough in Revenue Recapture Act, so reference it in the VAA “___ may collect funds for the purpose of restoring the vulnerable adult's finances as provided in Minn. Stat. § 270A.01 – 270A.12”
- Background Studies – Disqualifying a Substantiated Perpetrator
 - DHS Licensing does this for their programs and for MDH programs
 - “Background Studies Act” (Minn. Stat. § 245C)
 - cannot disqualify someone from providing service unless what they did was recurring maltreatment or serious maltreatment (Disqualification = Minn. Stat. § 245C.14, Crimes = Minn. Stat. § 245C.15)
 - discussion about the language for “serious” or “recurring” to disqualify someone from direct contact

Final Legislative Proposals

- Initiate a Silver Alert program, possibly using a different name.
 - Standards for Usage:
 - the individual currently resides in the state of MN;
 - the individual is age 18 or older;
 - the individual is believed to have a mental impairment, including but not limited to, traumatic brain injury or dementia;
 - the disappearance must pose a credible threat to the individual's health and safety; and

- a report has been submitted to the local law enforcement agency where the person went missing.
- Increase the protections for financial institutions to voluntarily report through modification of language in Minn. Stat. § 626.557 Subd. 5 – “Immunity”
 - (a) A person, business, entity, or an employee of a business or entity who makes a good faith report is immune from any civil or criminal liability that might otherwise result from making the report, or from participating in the investigation, or for failure to comply fully with the reporting obligation under section 609.234 or 626.557, subdivision 7.
 - (b) A person employed by a lead agency or a state licensing agency who is conducting or supervising an investigation or enforcing the law in compliance with this section or any related rule or provision of law is immune from any civil or criminal liability that might otherwise result from the person's actions, if the person is acting in good faith and exercising due care.
 - (c) A person who knows or has reason to know a report has been made to a common entry point and who in good faith participates in an investigation of alleged maltreatment is immune from civil or criminal liability that otherwise might result from making the report, or from failure to comply with the reporting obligation or from participating in the investigation.
 - (d) The identity of any reporter may not be disclosed, except as provided in subdivision 12b.
 - (e) Financial institutions and employees of financial institutions shall fully cooperate with a lead agency, law enforcement, or local prosecutor’s office during an investigation of vulnerable adult maltreatment, complying with reasonable requests for document production as permitted by section 13A.02, subdivision 1(4).
- Referencing the Revenue Recapture Act within the VAA to allow for recovery of improperly taken funds from a vulnerable adult.
 - Current language is broad enough, need to determine who can “recapture” the funds (i.e. lead agency, law enforcement, etc.)
 - Referencing RRA language to the effect of:
 - ” ___ may collect funds for the purpose of restoring the vulnerable adult’s finances as provided in Minn. Stat. § 270A.01 – 270A.12”
- Modifying the DHS Background Studies statutes to allow for DHS Licensing to disqualify an individual from providing direct care if that individual has been substantiated for maltreatment (removing the “serious or recurring” language).
 - Tweaking either 245C.15 “Crimes/Conduct” or 245C.14 “Disqualification”
 - Determine if it should be in the seven-year disqualification (245C.15 Subd. 4) or in the permanent disqualification (245C.15 Subd. 1)