

**Vulnerable Adult Justice Project  
Stakeholder Meeting Minutes  
February 12, 2010—3:00 to 5:00pm  
William Mitchell College of Law—Room 123**

**Present:** Iris Freeman and Kim Dayton(Wm. Mitchell--CEJP), Sarah Leonard and Gary Smith (Wm. Mitchell Students), Doug Beardsley (Care Providers of MN), Marsha Berry and Jane Ochrymowycz (Alzheimer's Association), Cindy Carlson and Carmen Castaneda (Hennepin County Adult Protection), Barb Doherty (Little Brothers, Friends of the Elderly), Troy Fields (UMACHA), Stella French and Kris Lohrke (Office of Health Facility Complaints), Nick Halbur (University of St. Thomas Law School), Kevin Hansen (Mental Health/Develop. Disabilities Ombudsman), J. J. Hasbargen and Deb Peterson(MN Attorney General's Office), Maura McNellis-Kubat (DHS-Licensing), Caroline Palmer (MN Coalition Against Sexual Assault), Tara Patet (St. Paul City Attorney's Office), Anita Raymond (Volunteers of America Minnesota), Darrell Shreve (Aging Services of Minnesota), Deb Siebenaler (DHS-Adult Protection), Deb Tulloch (Washington County Adult Protection), Kimberly Zieger (Ramsey County Adult Protection), Heidi Holste (AARP), John McCullough, Ben Byker (Stearns County Adult Protection), Kris Maser (Maser & Amundson, P.A.), Greg Marita (Minneapolis Legal Aid Society)

**Welcome and Introductions**

**Updates**

*Jane Ochrymowycz* (Alzheimer's Association): The Social Security Administration has added early-onset Alzheimer's disease to its Compassionate Allowance Initiative, which will allow those with early-onset Alzheimer's Disease to apply for SSI or SSDI.

*Darrell Shreve*(Aging Services of MN): Aging Services of Minnesota held its annual institute, which was a huge success.

*Caroline Palmer* (MCASA): Invitation to join MNCASA at the Capital building on March 3, 2010 at noon for Action day Against Violence Against Women.

*Iris Freeman*: There is no report on the current status of Elder Justice Act—even those closest to it do not know what the status is. Darrell says there is continuing talk of a separate reconciliation bill being passed to move health care reform and other parts of the bill. This would eliminate the need for a Senate super majority.

(Reconciliation bills are supposed to be budget and deficit reduction bills, with no policy in them. While only 51 votes are needed to pass, if one senator objects then there needs to be a super majority.)

There is a small increase (\$1.4 million) proposed as part of the President's budget request for protection of older Americans of the proposed new spending for the elderly, most is directed to caregiver support. The President's figures are a starting point for budget debates. The new Fiscal Year begins October 1, 2010.

### **MN Legislative Session 2010**

MN legislative session has begun. There are a number of organizations in our circle working on proposals. Committee Deadlines are as follows: first policy deadline is March 12<sup>th</sup>, second policy deadline is March 19<sup>th</sup>, and fiscal bill deadline is March 29<sup>th</sup>.

*Deb Siebenaler* (DHS—Adult Protection) on proposed policy bill: (handout) The areas that impact vulnerable adults are the homecare recipient protections, vulnerable adult entry point.

Homecare recipient protection: Homecare providers must provide clients with the homecare bill of rights before they suspend services. With notification of the lead agency and recipient emergency relocation services are initiated upon termination of homecare. The goal is to provide more notification and continuity of care for recipient.

Background studies: PCAs must pass a background study. If provider had a problem, but not the PCA or the client then the PCA would have to switch providers and go through another background check. The new language allows for client to continue to receive services while the PCA is getting another background study.

Change in VA statute eliminates CEP discretion and requires that **all** reports be forwarded to the lead agency. Lead agencies have no ability to track reports if they do not receive them. In 2008, there were 20,000 reports, only 17,000 were reported to a lead agency.

Counties are concerned about handling all the requests outside of maltreatment that are reported to adult protection. In cases of self-neglect, the report would not go directly to a case manager but to the lead agency.

*Kevin Hansen* (Guardianship Bill): Group is looking at guardianships, but also healthcare directives. Handout provides overall themes with which the group is working. Kevin will send exact language upon individual request. The goal is to try and prevent battles between healthcare agents and guardians.

Representative Hillstrom and Senator Moua are authoring the bill.

Kevin reported on another bill that concerns guardianship, one where a legal guardian of an adult could adopt the adult. There is no current law to say that a guardian can adopt adult ward, nor is there language to say that a guardian cannot do it. (In the proposed bill is clarifying language to prevent adoption of adults by guardians.)

After the session is done, the group will be expanded. If you are interested in joining, please contact Kevin Hansen, Anita Raymond, or Deb Holtz.

*Tara Patet* (VAJP Criminal Code Subcommittee)—This subcommittee is working on two issues. These issues have been previously presented at prior meetings. Today, the committee presents language.

First—assault 5 (simple assault): currently there is a gross misdemeanor for assault 5 perpetrated by caregivers. The bill would extend that to all assailants.

Second—the subcommittee proposes making sexual assault of a vulnerable adult by a caregiver in a facility, a crime that for which offenders have to register. MN Stat. 609.2325 has definitions and exceptions of the statute—bill would not be changing that at all, just adding to registration.

Purpose of presenting today is to get the stakeholder groups official approval to go forward with these changes.

Questions and Concerns:

Does registry proposal have a fiscal note attached? Possibly

Does this impact one resident abusing another? That is not the intention. First bill—language says “knows or has reason to know that person is a vulnerable adult”

**Correcting items in Chapter 119**—drafting error found is being proposed for correction but has not been introduced yet. Part of the Revisor’s bill.

**Hennepin County Attorney’s Office and Bankers’ initiative**—Amy Sweasy was unable to attend today to present the Hennepin County Attorney’s Office’s

initiative to add banks to mandated reporters. That initiative has been changed to an educational project.

### **Protections Subcommittee—Barb Doherty, chair**

Protections subcommittee meeting Friday, February 5, 2010 —the rest of the meetings will be the Friday before the full meeting.

Highlights from the meeting include: Fiscal agents used in background checks were clarified and students are doing research that will be presented at the next meeting.

Most of the meeting was spent on discussion of the vulnerable adult maltreatment panel. Some concerns and options were that it be reformatted in such a way that reflects the appeals process of the perpetrator. Panel members who presented felt very frustrated at their limited role and that they were relying on correspondence of the representative/family/victim with no other contact with them (as it is an administrative panel).

Notifying the interested party can be problematic because the interested party may be very broad and/or the offender could be family and thus part of the interested party.

Last year, the panel only had five cases. Unless the whole structure is altered by legislation, there is not an opportunity to change what it is doing now. Panel has no power to overturn the decision of the lead agency.

Some thought the panel should stay the same, some thought it should go to hearing, and some thought the panel needed more teeth to change the decision of the lead agency. There was a suggestion to look at other states processes. One of Kim Dayton's research assistants is completing a survey on maltreatment review processes. Also, the notification process needs revision, families are not notified when perpetrator appeals and are not notified until after maltreatment finding has been overturned. Overall, there was a stunning lack of consensus.

Looking at keeping the panel as-is, there are possible systemic things that the panel could do. There may be ways to resolve some of the panel's problems that do not involve legislation.

The next meeting will be Friday, March 5, 2010 from 1:00 to 4:00 p.m. at Wm. Mitchell in room 227. A speaker from Department of Corrections will be at next meeting.

### **Jurisdictional Issues Subcommittee—Kevin Hansen**

The Jurisdictional Issues Subcommittee meeting was held Friday, January 29, 2010.

Still working on Lead Agency chart to find gaps and conflicts. Right now there are lots of holes in the law. In particular, Personal Care Provider Organizations (PCPO) are being looked at. SNSA's (Supplemental Nursing Staffing Agencies) are registered and nurses are accountable to their licensing board. The committee is looking at PCPOs being accountable in a similar way.

The meeting included a presentation on Provider Enrollment and Provider Standard Initiative (PEPSI), which would create a consistent state wide approach to provider standards and streamline enrollment.

The subcommittee continues to look at cases that cross county lines—an issue that is cross jurisdictional (example: victim lives in Hennepin, Perp. Lives in Anoka and money is taken from bank in Ramsey). This may be more of an educational issue.

Next meeting will be Thursday, Feb. 25, 2010 from 1-3 p.m. in room 319.

### **Criminal Code Subcommittee**

The Criminal Code Subcommittee was unable to have its monthly meeting. The next meeting of the Criminal Code Subcommittee will be Wednesday, March 10, 2010 from 2 to 4 p.m. at Wm. Mitchell in room 229.

### **Center for Elder Justice and Policy: Financial Exploitation Protocol Project**

The Financial Exploitation Protocol Project has been conducting focus groups. There are many common themes, and at the same time, a number of issues that are systemic in nature or issues in which legislation could provide stronger basis for action such as powers of attorney. A draft protocol will be brought to the VAJP group. Iris has begun drafting, the working outline is done. Iris and Ashley Helgason, research assistant, are on track to have a product by June.

### **Planning calendar for identifying, prioritizing, and developing support for 2011 legislative initiative(s)**

March - June 2010

Subcommittee work (including policy and systems issues that arise in the course of developing the financial exploitation protocol)

Monthly reports to VAJP

July - August

Plan Summit and prepare draft proposals for consideration

September-October

Summit to set priorities

November

Meet with key legislators (committee assignments???)

Bill(s) to counsel and revisor

December

Problem-solving and building support

January 2011 – Legislative Session Opens

**The next VAJP Stakeholder meeting will be March 12, from 3 to 5 p.m. at William Mitchell College of Law in room 123.**