

**Vulnerable Adult Justice Project
Stakeholder Meeting
Wm. Mitchell College of Law Room 123
April 9, 2010**

Present: Iris Freeman and Kim Dayton(Wm. Mitchell-CEJP), Ashley Helgason, Gary Smith, Mark Schulz, and Sarah Leonard (Wm. Mitchell Students), Kevin Hansen (Ombudsman for Mental Health and Developmental Disabilities), Deborah Peterson (Minnesota Attorney General's Office), Jennifer Kirchen (DHS-APS), Carmen Castenada and Cindy Carlson(Hennepin County APS), Robert Rodè (Voigt, Klegon, & Rodè, LLC), Heidi Holste (AARP), Janet Reigstad (Stearns County APS), Jane Ochrymowycz (Alzheimer's Association), Amy Sweasy (Hennepin County Attorney's Office), Kimberly Ziegler (Ramsey County APS), Laura Orr (University of St. Thomas College of Law Student), Suzy Scheller (Pearson, Randall, Schumacher & LaBore Law Firm), Sgt. Ann Bebeau (St. Paul Police Department), Darrell Shreve and Mary Youle(Aging Services of Minnesota), Troy Fields (UMACHA), Barb Doherty (Little Brothers of Minnesota) Ben Rosene (Ramsey County Attorney's office), Tara Patet (St. Paul Attorney's Office)

Welcome and Introductions

General and Legislative Updates

- AARP and the Better Business Bureau present: Fraud Fighters Forum, April 20th 1-4pm at the Metropolitan Ballroom in Golden Valley
- Elder Abuse Prosecution Conference, April 22 from 9-11am and 1:30-3:30pm—Email Jennifer Kirchen for more information.
- Copies of Kevin and Iris' presentation to the NCOA-ASA 2010 Conference are available. Their presentation was on Elder Justice in Minnesota.
- The Minnesota Fraud Enforcement Partnership has published a brochure entitled: No More Minnesota Nice. It is an informational brochure to inform seniors about fraud as pertaining to gambling, and fraudulent lottery & sweepstakes scams.
- World Elder Abuse Day will be June 15th at Wm. Mitchell. AARP, Alzheimer's Assoc. and Elder Rights Alliance are sponsoring.
- **Passage of the Elder Justice Act**—Iris Freeman
 - Signed on March 23 by President Obama
 - **Elder Justice**
 - • H.R. 3590 contains the **Elder Justice Act (EJA)**, which will:
 - Establish an Elder Justice Coordinating Council to make recommendations to the Secretary of HHS on the coordination of activities of federal, state, local and private agencies and entities relating to elder abuse, neglect, and exploitation Recommendations are due in 2 years;

- ○ Provide \$400 million in first time dedicated funding for Adult Protective Services (APS);
 - ○ Provide \$100 million for state demonstration grants to test a variety of methods to detect and prevent elder abuse;
 - ○ Provide \$26 million for the establishment and support of Elder Abuse, Neglect and Exploitation Forensic Centers to develop forensic expertise and provide services relating to elder abuse, neglect, and exploitation;
 - ○ Provide \$ 32.5 million in grants to support the Long-Term Care Ombudsman Program and an additional \$40 million in training programs for national organizations and state long-term care ombudsman programs;
 - ○ Authorize \$67.5 million in grants to enhance long-term care staffing through training and recruitment and incentives for individuals seeking or maintaining employment in long-term care, either in a facility or a community based long-term care entity.
- **Criminal Background Checks**
 - • H.R. 3590 will extend to all states an existing pilot program that enables states to conduct **national criminal background checks, including fingerprint checks, on individuals who apply for direct patient access jobs in long-term care facilities and with home care agencies that receive funding from Medicare or Medicaid**, thus eliminating the ability of persons with criminal histories to move from state to state to work with vulnerable seniors and persons with disabilities.
 - • The federal government will provide federal matching funds to states to conduct these activities. The provision specifies that the checks should be implemented in such a way that does not result in application fees for long-term care workers.
 - • States will be required to guarantee (directly or through donations from public or private entities) a designated amount of non-federal contributions to the program. The federal government will provide a match equal to three times the amount a state guarantees; except that federal funds will not exceed \$3 million for newly participating states and \$1.5 million for previously participating states.
<http://www.geron.org/HCRprovisions.pdf>
- DHS Policy Bill: passed by the senate, Senate file is in front of the House. This bill requires all maltreatment reports received by the Common Entry Point to be forwarded to a lead agency. Provision in bill would stop agencies from putting no-compete clauses in employment contracts.
 - 434 additional self-neglect reports—typically handled by case managers. This bill creates an additional step in the process, which is an unintended consequence of the county having multiple roles.
 - Single entry point for the state may make this better.
- Guardianship Bill: on the way to the Governor. Bill went through as-is.
- Revisor’s Bill: Second reading by both House and Senate.

- County Attorney's Bill: to clarify 2009 law to do with prosecutors' access to bank records. Was signed by the Governor. Retroactive to 2009.

Protections Subcommittee—Barb Doherty, Chair

- Background Studies
 - Issue of having background studies of family members. Question of whether or not it is a good idea. Family members that draw down waiver dollars would be included in the federal plan.
- Forensic Nursing Home
 - St. Peter: still currently empty. Problems getting people admitted to the facility. Expectation that people admitted there be committed. It is a secure facility, so legally it gets very complex.
 - Obligation to warn community nursing home residents that an offender has been admitted is to distribute information. Confusion as to how that information is distributed—individual notice or a notice on the community bulletin board.
 - Offender does not have the same discharge rights if they do not disclose their status.
- Brief discussion about APS and law enforcement working together
- Vulnerable Adult Mistreatment Review Panel
 - Opinions
 - Leave it the way it is
 - Make some modifications
 - Get rid of it.
 - Committee stayed in the middle ground.
 - A way to give the panel more authority
 - Cross notification: notification that alleged offender has appealed.
 - Passing rationale of lead agency to the victim/interested person
 - Recommendations should go to person in supervisory role
 - Lead agency is supposed to respond to each recommendation with supporting detail, and specific rationale. Clarification is needed as to what that means.
 - Ombudsman for Older Minnesotans to the Ombudsman for Long-Term Care
 - Clarify what it means to review.
 - Discussion: How do you get around the privacy rights of the vulnerable adult? What if perpetrator says they are an interested person? It would be good to define who an interested person is. If victim/interested person is allowed to come to the panel, can they (should they) be able to speak at the panel?

- Next meeting is May 7 from 1:00 to 3:00 p.m. at Wm. Mitchell in room 212
Jurisdictional Issues Subcommittee—Kevin Hansen

- Veterans' Administration
 - What happens with the hospitals? They are unique in their cooperation with the respective counties.
 - When can state APS or DHS get involved?
- Tribal Governments
 - Panel for big group meeting to discuss jurisdiction between tribes and state/federal law: what exists now and is that a good model?
 - Tribal codes and how they implement them.
 - Best practices for the future
- How Lead Agencies Play out under current law
 - Looked at how statutes are worded (such as applying different definitions)
 - Looking at what the definition of what a program is and putting it in VAA
 - Keep in sync with PEPSI project.
- Next meeting will be Tuesday, April 27, 2010 from 10:00 a.m. to noon at Wm. Mitchell in room 229

Criminal Code Subcommittee—Tara Patet, Chair

- Discussion of recent assault case
 - Was a domestic violence case, as well as a vulnerable adult case.
 - Found to have fit caregiver distinction, so will be charged with gross misdemeanor.
- Discussion of neglect case
 - Rochester woman convicted of criminal neglect. Received a fine of \$900 and two years probation. Had previous conviction for neglect.
 - Discussion of how a person with a previous conviction could still be operating an adult day center. Perhaps second case of neglect happened before the conviction. Could also have to do with the nature of the mistreatment.
 - Another article was published this week about Sunrise Assisted Living in Rochester.
 - Discussion of whether family is notified when a resident is mistreated.
 - There are requirements if resident has a developmental disability and there was a certain injury.
 - Otherwise it is up to the client, unless there is a guardian.
 - It would be helpful if the Vulnerable Adult Act would include provision specifying that a facility or lead agency has to notify family that a report was made or assigned.

- Nursing homes will often notify emergency contact
 - Day care facilities rarely note that they have contacted the emergency contact.
- Federal regulations require that contact is notified if there is a change in condition.
- This Sunrise Assisted Living Facility case is different. There was an unusual amount of lag time, and the person died of the injury. OHFC report said aggressor had unspecified dementia, which could be why charges were not brought.
- The Protections Committee will look at whether different licensures have different requirements about reporting to the emergency contact.
- Vulnerable Adult Act does not give authority for notification. Many times family members are the problem, so who does one notify?
- Vulnerable Adult Bills
 - Preliminary Fiscal Notes done, confirming that there was no money needed. However, there is still one round the Fiscal notes have to go through.
- Criminal Neglect research—Sarah Leonard
 - Sarah is researching criminal neglect, looking at definitions of vulnerable adults, neglect, and penalties in Minnesota in comparison with other eighth circuit states.

Center for Elder Justice and Policy—Iris Freeman

- First draft has been completed and is awaiting feedback from a small group of stakeholders.
- The full first draft will be distributed to the group for feedback in June.
- Consideration of a new proposal: fast response teams made up of a recurring rotation of volunteers. If support for development comes through, there will be sharing of knowledge from the group.

Next Meeting will be May 14, 2010 from 3:00 to 5:00 p.m. at Wm. Mitchell College of Law in Room 123