

**Vulnerable Adult Justice Project
Stakeholder Meeting Minutes
William Mitchell College of Law –Room 123
January 15, 2010 –3:00-5:00 p.m.**

Members Present: Iris Freeman and Kim Dayton (Wm. Mitchell—CEJP), Ashley Helgason, Gary Smith, Mark Shultz, and Sarah Leonard(Wm. Mitchell Students), Doug Beardsley (Care Providers of Minnesota), Marsha Berry and Jane Ochrymowycz (Alzheimer’s Association), Anita Raymond (Volunteers of America Minnesota), Deb Holtz (Long-Term Care Ombudsman), Stella French and Kris Lohrke (Office of Health Facility Complaints), Melanie Mogg (CPA), Suzy Scheller (Pearson, Randall, Schumacher & LaBore Law Firm), Bill Gottwalt (Hennepin County Sherriff’s Office), Erin Whitcomb (MSW Student, U of MN), Nick Halbur (University of St. Thomas Law School), Tara Patet (St. Paul City Attorney’s Office), Faye Bernstein (DHS-Adult Mental Health), Lynda Olson (Ramsey County Adult Protection), Ken Reed (SPPD), Sara Thome (MNCASA), Darrell Shreve (Aging Services of Minnesota), Heidi Holste (AARP), Kevin Hansen and Roberta Opheim(Mental Health/Develop. Disabilities Ombudsman), Greg Marita (Minneapolis Legal Aid Society), Lucas Cragg and Joel Smith (Kosieradzki Smith Law Firm), Amy Sweasy(Hennepin County Attorney’s Office), Phil Carruthers (Ramsey County Attorney’s Office), Janet Golden (ElderCare Rights Alliance), Carmen Castaneda (Hennepin County Adult Protection), J.J. Hasbargen and Deb Peterson (MN Attorney General’s Office), Cindy Carlson (Hennepin County Adult Protection), Deb Tulloch (Washington County Adult Protection), Patricia Jump (MN Home Care Association), David Feinwachs (Minnesota Hospital Association), Maura McNellis-Kubat (DHS-Licensing)

Welcome and Introductions

Updates

Alzheimer’s Association: Marsha Berry—Alzheimer’s Association’s Dementia Conference will be Saturday March 20th. Thursday January 21st: working group will meet and is open to the public to observe. They will be looking at priorities and charges. It is from 3:00-6:00pm.

Kevin Hansen--Thursday, January 21st is a Webinar with DHS on guardianship that will be presented by Deb Holtz, Anita Raymond, and Kevin.

Iris Freeman--Jan. 21st: A joint State Senate Committee hearing (Health and Family Security & Agriculture and Veterans’ Affairs will hold a hearing on the issues of falls in nursing homes and Veterans Administration homes

Darrell Shreve—Aging Services of MN’s Annual Institute, scheduled for Feb.11-13 will include two sessions on the changes in the VAA by attorney, Susan Schaffer.

Elder Justice Act: In December, all the provisions of the act had been included in the Senate Health Reform bill. None of those provisions was in the House of Representatives bill. Advocacy is occurring to ensure that when negotiations are finished, the Elder Justice Act will be included in the Health Reform bill that is signed by the President. Its fate is not yet determined. News will be updated on the Wiki site. Beyond the Health bill, there is also a provision in the U.S. House Banking Bill that supports programs to combat financial exploitation.

Protections Subcommittee Update—Stella French

J.J. Hasbargen gave update on Campbell case—financial exploitation case.

Group continued discussing the issue of admitting persons with sex offender backgrounds to nursing homes and housing with services. They have invited staff from the Department of Corrections to their next meeting to provide background and clarify the issues.

Group also discussed Vulnerable Adult Maltreatment Review Panel. The current panel will attend an upcoming subcommittee meeting to talk about frustrations that they have had. Five investigations went to the V.A. panel last year. One question is if the panel were changed from administrative review to a panel where people could be heard, some of those frustrations would be alleviated. One of the Elder Justice Scholars will be doing research to find out whether other states have comparable review panels to look at what they are doing and taking into consideration.

Group discussed criminal background checks. All waived services will have DHS background studies done. Questions: What about Meals on Wheels? Churches? Who does and does not get background studies done currently? A background study provision is included in the healthcare bill in the U.S. Senate

The next Protections Subcommittee meeting will be Friday, Feb. 5th from 1:00-3:00 in Room 229 at Mitchell. Subcommittee meetings will be on Wiki site too.

If you are on the Protections Subcommittee email list and would not like to be, or are not and would like to be included, please contact sarah.leonard@wmitchell.edu

Jurisdictional Issues Subcommittee—Kevin Hansen

The group's focus is on lead agencies who are directed to do Vulnerable Adult Act investigations under current law. They have compiled a working document in a chart whose purpose is to identify which agency has jurisdiction over which service sectors or populations. This will help focus what the group wants to proceed with.

They will be doing more research on: Supplemental Nursing Services, Personal Care Provider Organizations, assisted living and adult foster care. Who is the appropriate agency for each, and where do ambiguities exist?

They will also be looking at obsolete language because there are terms that are no longer used, such as residential care homes. That term was placed in the law before the development of housing with services and assisted living.

What to do about unlicensed personal care provider organizations? There is no state agency to enforce licensing conditions. Public education campaign that needs to occur? What about agencies where is not a license/certification available?

There was further discussion of courtesy investigations, which, as it turns out, is permitted under current law 626.557(9)(b) , with a provision for data sharing.

Another jurisdictional question is the County of financial responsibility when more than one is involved in a vulnerable adult case. Factors are the residence or presence of the vulnerable adult as well as where the maltreatment is said to have occurred. There was consensus that cases are unique and wouldn't fit into standardized, required formats. Routine problem-solving methods described by stakeholders indicated that best practices for sorting out jurisdictional issues do exist and could be the basis for best practice protocols.

The next Jurisdictional Issues Subcommittee meeting January 29, 2010, 10:00 a.m. to noon, at Wm. Mitchell in room 219.

Criminal Code Subcommittee—Tara Patet

Tara Patet, Phil Carruthers, and Iris Freeman had a meeting with Senator Moua. They discussed cleaning up two provisions of the law passed last year. They also discussed a proposal that Fifth Degree Assault of a vulnerable adult have an enhanced penalty for any assailant, not just the "caregiver" in

current law. Another proposal to add those convicted of sexual contact by facility staff to a vulnerable adult to the sexual offender registry. The Senator raised counterarguments on both issues, although she gave permission to have the proposals drafted by Senate Counsel for further consideration.

Also, Amy Sweasy announced that the Hennepin county attorney's office will pursue legislation to make banks mandatory reporters. Any employee or contractor of a financial institution as defined in 13.01 sub.2 would be mandatory reporter. They would like VAJP's support and will submit a copy of the proposal for consideration. Group discussion brought up the question: What about failure to report? Is it really enforced? The next Criminal Code Subcommittee meeting is February 9, 2:00 – 4:00, at Mitchell in Room 229.

Guardianship Task Force Legislative Proposal—Kevin Hansen

New name: Substitute Decision Making Task Network

The task force is looking at substitute decision making. They are looking at basic changes that need to be made by clarifying language and addressing certain issues. Issues such as: What happens if we don't know about the health care agent when the guardian is appointed? What information goes to the court and family members and when? They also discussed the possibility of giving guardians the option to bow out if there is a duly appointed health care agent and the guardian doesn't feel the situation merits their involvement. If you would like to work on this group, they will be working on expanding their membership after the legislative session. Please contact Kevin Hansen (kevin.hansen@state.mn.us), Deb Holtz (deb.a.holtz@state.mn.us), or Anita Raymond (araymond@voamn.org) if you have interest in participating on this group.

VAJP Legislative Preparation—Iris Freeman

Iris reported that the clarification in the subpoena language, brought to Senator Moua, will be handled as a free-standing piece of legislation. The statutory citation for the Private Right of Action will in all likelihood be included in the Revisor's bill early in the 2010 session.

Wednesday January 27, 2010 at 2pm there will be a meeting with Representative Hilstrom at her office to talk to her about the items discussed with Senator Moua.

Iris reminded all stakeholders to feel free to share initiatives they are working on this session as well as proposals of concern.

Other issues that organizations are working on:

Jane Ochrymowycz: Alzheimer's Association is going to bring up a Silver Alert System bill (with funding for training to come from the lottery fund).

Center for Elder and Justice and Policy—Kim Dayton

Resources available to have students do research, if anyone needs it. The center has a white paper on banks as mandatory reporters, which advocates that MN adopt mandatory reporting.

There was discussion that the Wiki site could have a bibliography of student research.

Kim is teaching a seminar on disability law, which requires the students to write a long paper. If you have issues that might be of interest to students writing a long paper pertaining to disability law, please let Kim know.

Wrap Up

Today there was a Focus group that was part of the Financial Exploitation Project--**thank you** to those who participated. The next focus group meeting is on January 22. The focus groups will provide background and recommendations for the drafting of a financial exploitation prevention/identification protocol that will then be presented to everyone.

Darrell Shreve—brought up his concern of the potential that providers will have to limit clients in customized living services (assisted living with elderly waiver funds) because of rate reductions made in the 2009 legislative session. Roberta Opheim reported that DHS is documenting what the effect of the eligibility and rate changes made. Bob Meyer—DHS long term care division is the person to contact for more information about that evaluation.

Next Meeting will be February 12, 2010 in Room 123 at William Mitchell College of Law from 3:00-5:00pm