

**Vulnerable Adult Justice Project**  
**Stakeholders meeting**  
**William Mitchell Room 223**  
**March 12, 2010**

Present: Iris Freeman and Kim Dayton(Wm. Mitchell--CEJP), Sarah Leonard, Ashley Helgason, Mark Schulz, and Gary Smith (Wm. Mitchell Students), Mary Youle (Aging Services of Minnesota), Sheri Hansen (Lac Qui Parle County Adult Protection), Jane Ochrymowycz (Alzheimer's Association), Deb Siebenaler (DHS-Adult Protection), Laura Orr and Jennifer Olin (University of St. Thomas Law Students), Janet Golden (ElderCare Rights Alliance), Cindy Carlson (Hennepin County Adult Protection), Barb Doherty (Little Brothers, Friends of the Elderly), Stella French and Kris Lohrke (Office of Health Facility Complaints), Nick Halbur (University of St. Thomas Law School), J. J. Hasbargen and Deb Peterson(MN Attorney General's Office), Maura McNellis-Kubat (DHS-Licensing), Pam Zimmerman (Metro Area Agency on Aging), Amy Sweasy (Hennepin County Attorney's Office), Deb Tulloch (Washington County Adult Protection), Sgt. Ann Bebeau (St. Paul Police Department), Larry Johnson (Care Providers of Minnesota), Ben Rosene (Ramsey County Attorney's Office), Tara Patet (St. Paul City Attorney's Office), Greg Marita (Minneapolis Legal Aid Society), Jennifer Kirchen (DHS-APS), John Simshauser (EJPK graduate, in private practice), John McCullough (Consultant, trainer), Steve Dopson (Ramsey County Adult Protection), Nathan Swanson (William Mitchell Student and intern at Voigt, Klegon, and Rode)

Welcome and Introductions

General and Legislative Updates

- Correction from last meeting: Jane's update about Social Security Administration's Compassionate Allowance and SSDI applies to early onset Alzheimer's disease, as well as four other types of dementia.
- Status Report on Elder Justice Act: Language of Elder Justice Act remains imbedded in Senate healthcare bill. Status is fluctuating. First of the updates on Wiki site is about Elder Justice Act.
- *Deb Siebenaler and DHS policy bill:* Bill number SF2933, HF3234. DHS policy bill was heard in the Senate on Wednesday (3/10) and Deb will testify before the House on Wednesday (3/17). Section 19 directs

Common Entry Points to send all reports of alleged maltreatment to Lead Agencies. Section 6 provides recipient protections when housing or services are terminated and originated in a working group looking at emergency relocation.

- *Minnesota Department of Health Technical Policy*: Bill numbers SF2923, HF3196 are moving forward. Required providers to give more information to county when negative action (like license being suspended) is being taken. If licensed provider's license is revoked, they cannot get a license for 5 years and they cannot become a personal care provider organization.
- *Guardianship Bill* has to meet deadline in the Senate today. Kevin and Deb Holtz are at the Capitol. Bill number SF2796, HF3128
- *Other pertinent state legislation*:
  - Revisor's bill adds statutory citation for financial exploitation to the private right of action added to the Vulnerable Adult Act in 2009. Bill number SF2647(Moua), HF2970 (Kulick-Jackson).
  - A free-standing bill will clarify county attorneys' access to bank records during investigations other than VAA. SF2952 (Moua), HF3139 (Bigham).
- *Hennepin County Attorney's Office and Bankers' initiative-- Amy Sweasy*: Goal was to make bankers mandatory reporters but was met with strong opposition. An agreement was made with the banks to conduct joint training for banks as reporters of VAA allegations. Banks continue to be concerned about liability.
  - Iris received an email from a community banker who wanted to report that a vulnerable adult was being exploited but was held back by bank's general counsel. With his permission, she forwarded his question to Tess Rice, General Counsel at the Minnesota Bankers Association, who was willing to help.
  - Ms. Rice indicated that when any of us finds that a bank's attorney is impeding action on a vulnerable adult case, we can recommend that the attorney consult the Association for advice.
  - Discussion: How much of the problem is bank's inability to identify who is a vulnerable adult? Sometimes capacity is fluctuating.

Criminal Code Subcommittee-- Tara Patet reported on two Vulnerable Adult bills that originated in the Subcommittee.

- First bill (HF3276, SF 3194): adds criminal abuse sexual contact in facility to list of offenses for which offender would have to register. This bill passed the House Public Safety Committee last week, and rereferred to the Finance committee although committee members had several questions about frequency and applicability to the Albert Lea case.
- Second Bill (HF3333, SF3195): removing caregiver distinction from gross misdemeanor assault on VA. Representative Kohl worried about creating special classification for “special interest groups.” After other questions and discussion, the bill was rereferred to the Finance committee.
- We are unaware of any cost to either bill but we’ll have to see what comes out in a Fiscal Note.
- Last year: more complex bill, much longer session. There was time and opportunity to visit will committee members before the bill was heard.
  - Lot of education to do, lawmakers for the most part are unfamiliar with vulnerability.
  - Reminder for next year of the importance of meeting with lawmakers to educate them about VA issues.
- Other work on horizon for Criminal Code Subcommittee: criminal (felony) neglect of a vulnerable adult. In past, it was not possible for all stakeholders to agree.
  - Student research on definitions of neglect, exemptions and defenses, ranges of penalties, case law. Ways to define egregious cases (think maggots, feces, exposed skeleton, etc.)
  - Hope to reach proposal that can go forward.

Protections Subcommittee—Barb Doherty

- April meeting will be April 1, 2010, not the Friday before the Stakeholders’ meeting.
- Two members of the Department of Corrections came to speak about prisoners, ex-prisoners, and nursing home placements.
  - They have a couple of medical centers, but no skilled nursing facility.
  - There is a forensic nursing facility in St. Peter, but there are no residents in it.

- Maura read an article about it, but there is still some question who will be moving into the facility.
  - 72 out of 9400 inmates need skilled nursing care. State of Texas has about three facilities for their inmate population— Texas' inmate population is much higher than Minnesota's.
  - Conditional release inmates have trouble being placed in homes. Gave an example, had to leave a conditional release inmate at the emergency room because, after calling 62 nursing homes, no one would take him.
  - CMS has refused to provide Medicare coverage for a facility, so state dollars would not get a federal match.
  - Sex offenders admitted as residents in home: a very general posting on a bulletin board was all the notice that other residents and their families have gotten.
- Kristina Ebbott, a student research assistant, reviewed OHFC cases on resident-to-resident assault to see whether there were correlations between resident-to-resident violence in earlier convictions.
  - Appeared to be a pattern of residents with dementing illnesses and inadequate staff supervision.
- Is requirement of disclosure of background when entering nursing homes enough?
  - Department of Corrections foresees the need to have a separate facility.
  - Problem about people with criminal backgrounds in their far past getting into homes.
- Maltreatment review panel
  - Kim Treadwell, a student research assistant, looked into whether there were maltreatment review panels in other states and if so, what are their powers are.
  - Lack of consensus on what the problems and solutions are with the panel.
  - What is the range of ways in which people have seen the panel? (i.e. do not change anything; completely overhaul it, etc.)
  - Other states have panels that are similar to Ombudsman in authority or more policy based panels.

Jurisdictional Issues Subcommittee—Iris Freeman for Kevin Hansen and Deb Holtz

- Lead Agency Jurisdiction Chart from Kevin Hansen
  - In 1995, County level Common Entry Points and lead investigative agencies were designated to simplify the system of reports and responses. Services for vulnerable adults have changed since 1995, as has terminology.
- There has been powerful change in the scope and type of service in assisted living, and home care services.
  - Need for better definition of what kinds of home care services are under what jurisdiction.
- The goal of this work is clarification. There is no expectation that any lead agency's jurisdiction will change.
- Issues arise in financial exploitation when perpetrator, victim, and financial institution are in different counties.
- Assisted Living "without services": an individual can live in an assisted living facility without purchasing services. Some questions about what exactly this would be.
- Please email Kevin Hansen with any changes you see to the chart.
  - Residential Habilitation, Non-residential habilitation, and waived services are licensed by DHS but not on the chart.
- Goal is to make sure that all the services that vulnerable adults receive are connected to a lead agency. Before we can do effective community outreach about reporting VAA allegations, we have to know which agency is expected to respond.

Center for Elder Justice and Policy—Iris Freeman

- Update on Financial Exploitation Protocol Project
  - Due to be completed by June
  - Interviews and Focus Groups have yielded a wealth of information
  - Once draft is done, it will be send to all those who participate in interviews, focus groups, and to the VAJP
  - Research is revealing differences in county policies and priorities as well as other issues in the system.
  - Protocol promotes intervention in financial exploitation before all the victim's resources are depleted.

- Differences in county policies and priorities need to be acknowledged.
- Ethical considerations (e.g. vulnerable adult's mental capacity to decide to dispose of assets) make some cases especially challenging.

**Next meeting will be at WMCL in Room 123, Friday April 9 from 3:00 to 5:00pm**