

VAJP Stakeholder Group Meeting
Friday, November 13, 2009 from 1-3pm
William Mitchell (Room 125)

Members Present: Iris Freeman (Wm. Mitchell – CEJP), Kim Dayton (Wm. Mitchell – CEJP), Kevin Hansen (MH/DD Ombudsman Office), Deb Holtz (LTC Ombudsman Office), Darrell Shreve and Mary Youle (Aging Services of MN), Jennifer Kirchen and Deb Siebenaler (DHS – Adult Protection), Barb Doherty (MNALL/Little Brothers), Maura McNellis-Kubat (DHS – Licensing), Faye Bernstein (DHS – Adult Mental Health), Steve Dopson and Wendy Hull (Ramsey County APS), Janet Golden (ECRA), Kris Lohrke (MDH – OHFC), Amy Sweasy (Hennepin County Attorney’s Office), Carmen Castaneda (Hennepin County APS), Doug Beardsley (Care Providers of MN), Lucas Cragg (Kosieradzki and Smith Law Firm), Sara Blessing (Wm. Mitchell), Tara Patet (St. Paul City Attorney’s Office), Liz Morrissey (MNCASA), Ron and Jan Reshetar (Families Against Nursing Home Abuse - Albert Lea Family), Luke Neville (Hamline Law School), Shurree Arett (St. Paul Intervention Project), Anita Raymond (VOA – MN), Mark _____ and David Joyslin (Wm. Mitchell students), Nancy Dunlap (Minneapolis Police Dept.), Jane Ochrymowycz (Alzheimer’s Association), Greg Marita (Minneapolis Legal Aid Society), Ken LaBore and Suzy Scheller (Pearson Randall Schumacher and LaBore Law Firm), Nick Halbur (St. Thomas University School of Law), Erin Whitcomb (MSW Student, U of MN), Glennis Dudley (Northwoods Coalition for Family Safety), (Ramsey County Attorney’s Office)

- Introductions

- For those who wish to attend future meetings and don’t have a name card, please email your name and organizational affiliation to: advocacystrategy@aol.com to have a nametag created for our next meeting.

- Updates

National District Attorney’s Association (NDAA) Conference - Kevin Hansen, Amy Sweasy, Tara Patet, and Jennifer Kirchen took part and reported on excellent sessions.

National Adult Protective Services Association (NAPSA) Conference - Carmen Castaneda, Iris Freeman, and Deb Tulloch – Carmen noted: \$1+ million coming to MN for APS if Elder Justice Act passes on the Federal level (law enforcement training, safe houses, and other resources) and that many states are challenged by jurisdictional issues. She attended session on Univ. of California at Irvine study on bruises and wounds to as indicators of abuse and when it took place, sessions on financial exploitation and a session on coping with stress and burnout

National Academy of Elder Law Attorneys (NAELA) Fall Institute-Kim Dayton reported that it combined an introduction to elder law with special needs program (Veterans’ benefits, special needs trusts, elder mediation)

Minnesota Association for Guardianship and Conservatorship (MAGiC) Conference - Anita Raymond, Carmen Castaneda, Steve Dopson, Kevin Hansen – VAJP members attended and presented.

MNCASA Forensic Compliance Project – Update by Liz Morrissey: Sara Thome and Caroline Palmer, staff attorneys at MNCASA working on this project to improve the quality and management of the forensic medical examination process for victims of sexual violence. They are working with existing SMART (Sexual Assault Multidisciplinary Action Response) Teams in Cambridge, Goodhue, Beltrami, Itasca, Southern St. Louis Counties to help implement forensic compliance tools. There will be a 2010 conference on these issues. MNCASA is connecting with VAJP members to include session(s) on best practices for working with vulnerable adult victims.

MN Leadership Council on Aging: 2009 Policy Summit Janet Golden invited members to attend this conference at the Earle Brown Education Center on the St. Paul Campus of the U of MN on Tuesday, December 8 from 7:30am -2:30pm – includes session with gubernatorial candidates

Federal Elder Justice Act (EJA) – Iris reported on the initiative, introduced in Congress since 2003 and closer to enactment than ever before. Language is included in the Senate Finance version of Health Care Reform (see <http://mnvac.pbwiki.com> for more information). The Senate Finance bill is being reconciled with the Senate Health Education Labor and Pensions committee version of Health Care Reform, which does not contain the language. Since the US House Health Care Reform bill does not have the EJA provisions, it is essential that the full Senate adopt the language for the EJA to be enacted as part of the package. Enactment and funding would give states the first ever national funding stream for state APS plus funding for law enforcement training and many other resources. Kim reported that NAELA is devoting resources to advocacy for the EJA. NAELA representatives are meeting with First Lady Michelle Obama and other staffers about support for and importance of EJA. While the White House is silent on the EJA (but does not oppose it), Bill Benson, NAPSA's Policy Advisor is optimistic. Kathie Greenlee, new head of the Administration on Aging (and former Kansas Ombudsman) is emphatic in her wish to work with stakeholders to implement the law if it is passed. Contacting Senator Franken's office to support the EJA is still timely for VAJP members.

- Subcommittee Needs and Reports

The legislature meets for a shorter period of time in even-numbered years (2010), so major initiatives are not well suited. In fact, before the VAJP is ready to consider those, we are returning to the Research and Development process for new issues on the horizon and long-standing issues of difficulty/concern. Three Subcommittees will be meeting: Protections, Jurisdictional Issues (a new subcommittee), and Criminal Code.

Protections Subcommittee (Barb Doherty, Chair)

To serve on the subcommittee, email interest to Barb: bdoherty@visi.com

First meeting on Friday, December 4, 2009 in time for a report at the VAJP December 11

Issues to discuss in this subcommittee (1) background checks in facility resident admissions: information available to some, but not to all who may need the information (reliance on disclosure vs. external methods) (2) background checks for the whole range of people providing in-home care. Recent AARP national study found MN is very under-regulated in this area as compared to other states, (3) mediation services for elders/vulnerable, adults (4) VA Maltreatment Review Panel (appeals for victims) – Minn. Stat. 256.021, which is pertinent to jurisdictional issues too. Committee will meet to discuss issues and is encouraged to identify research questions for students at Wm. Mitchell Elder Justice and Policy Center.

Jane Ochrymowycz reported that the Alzheimer's Association is planning to introduce a "Silver Alert" bill authored by Rep. Haws. This issue was originally a part of the Protections Committee work and was addressed in amendments to the Integrated Crime Alert Network in Ch. 119 as well as in "Brandon's Law" passed in 2009.

Jurisdictional Issues Subcommittee (Deb Holtz and Kevin Hansen, Co-Chairs)

Those interested in joining, please email Kevin: kevin.hansen@state.mn.us

Issues to discuss: Lead agencies currently assigned to investigate reports of maltreatment, sort out what makes the most sense with the various settings and the limited resources available to agencies involved. Each state utilizes different structures/hierarchies for investigations

Criminal Code Subcommittee (Tara Patet, Chair)

This committee is continuing from prior years and has had one meeting since the legislative session to brainstorming priorities for 2010 and the future.

Issues to discuss: (1) In a conviction for Criminal Sexual Conduct by an employee/caregiver against a patient/resident in a facility), the perpetrator is not required to register as a sex offender under the current statutory provisions. That should be corrected and registration required. (2) "Caregivers" face an enhance penalty for assault of a vulnerable adult. Any assailant should face that enhanced penalty given the vulnerability of the victim. (3) Criminal Neglect statute: felony level penalty for great bodily harm or death of a vulnerable adult.

If members have further recommendations to the subcommittee for research or consideration, or if you'd like to attend a meeting, please contact Tara Patet (tara.patet@ci.stpaul.mn.us).

Issue brought up by Glennis Dudley

Presented case where she tried to obtain an Order for Protection (OFP) to protect a financial exploitation victim. There wasn't physical abuse, so the judge denied the OFP. Amy Sweasy: OFP meant for physical violence situations; recommended obtaining an HRO (Harassment Restraining Order) instead; language more broad. Depending on the facts, could make the argument that someone who's financially exploited is indeed being harassed (Minn. Stat. 609.748). Nick Halbur: also consider

protective order within Guardianship/Conservatorship statutes,

Planning for 2010 Legislative Session

Clean up language for the 2009 VAJP Changes

- Phil Carruthers reported earlier on need to clean up to the language in Ch. 119 on access of financial records by county attorney subpoena
 - Suzy Scheller reported earlier on Private Right of Action, 626.557 Subd. 20, reference to more clearly define "financial exploitation" as in 626.5572.
- Iris will facilitate setting up meetings with the two chief authors (Rep. Hilstrom and Sen. Moua) about these changes.

Follow-up Meetings with Legislators

- Heidi Holste (Rep. Howes) about definition of functional vulnerability – meeting requested
 - Larry Johnson and Kari Thurlow (Rep. Peppin) about felony level penalty for criminal neglect
 - Kari spoke with Rep. Peppin's aide (Peppin wants to meet closer to session, potentially the first week of December for the meeting)
 - Deb Holtz and Kevin Hansen (Rep. Kiffmeyer) about victim restitution, especially in matters of financial exploitation
- Other issues:* Guardians and Conservators (Guardianship Task Force)
- clarifications and/or changes to the revisions that were made in the 2009 session
 - report will be given on these priorities at the December 11 VAJP meeting

Center for Elder Justice and Policy – Wm. Mitchell College of Law Update

Research on model protocol for preventing financial exploitation project: Literature review phase nearly complete. In an update from Sara Blessing (CEJP Research Assistant), there are a number of assessment approaches, but little found that are specific to residential facilities. A number of them were developed for or by banks. In short, there's not a lot of information out there to work from. The next phase of the work will include interviews and Focus Groups, including Care Providers, Aging Services, LTC Ombudsmen Staff, Prosecutors, Law Enforcement, Private Attorneys, and the Aging Network.

Student registration for the Elder Justice and Policy Keystone class are underway. Placement opportunities for students are being made available by VAJP members as well as organizations outside of MN offering "virtual placements."

Next VAJP Stakeholder Meeting

- Friday, December 11th from 1-3pm
- St. Paul Police Department Western District Community Room (389 N. Hamline Ave., St. Paul, MN by the SuperTarget and Hardee's)

Meetings in 2010

January 15 and then 2nd Fridays of the month

2:00 – 4:00 p.m. at William Mitchell College of Law – room to be announced