

Vulnerable Adult Justice Project Meeting Notes

July 31, 2009, Wm Mitchell College of Law

Present: *Heidi Holste, Larry Johnson, Deb Siebenaler, Barb Doherty, Jennifer Kirchen, Derrick Barnes, Mary Youle, Darrell Shreve, Kristina Ebbott, Doug Beardsley, Kevin Hansen, Jason Flint, Amy Sweasy, Carmen Castaneda, Caroline Palmer, Patricia Jump, Kim Dayton, Lucas Cragg, Suzy Scheller, Lynda Olson, Steve Dopson, Kathy Kelso, Anita Raymond, Deb Tulloch, Sara Wilkinson, Marsha Berry, Ken LaBore, Kris Lohrke, Maura McNellis-Kubat, Ken Reed, Jane Ochrymowycz, Phil Carruthers, Para Patet, Kimberly Ziegler, Matt Anderson, Iris Freeman*

Following a welcome by Iris Freeman and introductions, there was a round of applause for our group's successful legislative initiative (Chapter 119) which takes effect August 1, 2009.

UPDATES

Deb Siebenaler, DHS, gave an update on new MN laws pertinent to vulnerable adults other than Chapter 119. Her PPT slides, which include summary APS data compiled in June 2009, are being distributed with these notes. One change in the VAA directs county APS to become the Lead Agency (a role earlier held by DHS Licensing) in cases where vulnerable adults receive services from Personal Care Provider Organizations. This was a controversial matter during the legislative session and will continue to be addressed.

Deb further discussed two budget related issues. No federal funds have yet been found to support the development of a centralized common entry point; however, Deb has initiated a charter initiative in DHS to continue working on that. Following the session, the unallotments announced by the Governor included reduced social service grant money to counties. The slides include information about current MN law (Minn. Stat. 256M.70) that should guide counties and designate protective services (child and adult) as the highest priorities. Still, counties are deeply concerned about the effect of the economy, public financing, and caseloads. The DHS policy bulletin summarizing all changes to the VAA will be finished soon.

Kris Lohrke reported that the MDH bulletin concerning VAA reports from nursing homes, boarding homes, and hospital swing beds is already on the MDH website. MN Department of Health Bulletin on Reporting http://www.health.state.mn.us/divs/fpc/profinfo/ib08_4.html

There was brief discussion of glitches in the streamlined reporting system, particularly the matter of county FAX numbers. Carmen reported that the Hennepin County FAX # for reports is 612-466-9706.

In the final update, the group paused to recognize and celebrate an award for Innovation in Policy that will be received by the ElderCare Rights Alliance and the Vulnerable Adult Justice Project at the Age and Disabilities Odyssey Conference on August 18. Kevin Hansen will accept the award on behalf of the stakeholders.

VULNERABLE ADULT JUSTICE PROJECT: Coordination

The stakeholder work that began with the leadership of the ElderCare Rights Alliance and the Center for Elder Justice and Policy at William Mitchell has reached an important milestone with the recent passage of legislation. There is strong interest among stakeholders in continuing to meet and work on issues in the vulnerable adult protection, although with such a vast arena of potential issues, priority setting will continue to be necessary.

Jan Golden, the new Executive Director of ElderCare Rights Alliance, was introduced and welcomed. Kevin Hansen, who began work on this project as a law student at the Center and later as a staff member at ECRA, announced that beginning August 10, he will be an Ombudsman Specialist in the Office of Ombudsman for Mental Health and Developmental Disabilities. Kevin will continue to participate in the Vulnerable Adult Justice Project. And Jan, speaking for ECRA, will continue to participate and support the work, with the administration of the project housed at Mitchell.

So “Home Base” for the work and the wiki site will, from here on, be the Center for Elder Justice and Policy. Iris Freeman, Adjunct Faculty, will serve as Coordinator. Beau Blouin, a Law Student Research Assistant in the Center and a former nursing home social worker, will provide research and administrative assistance. Other students will be assigned projects as necessary. The Center will maintain a small budget for incidentals (e.g. photocopies, soft drinks for meetings, and postage).

OK...SO NOW WHAT?

The remainder of the meeting was directed to discussion of what will be the priority purposes and issues for VAJP action. It will not be feasible to mount an effort similar to 2008-09 to pass a complex legislative initiative. Nevertheless, there are many issues that were identified last year and not pursued, either because of insufficient information, lower priority rank, or failure to reach consensus. Opinions were offered about the role of the VAJP when consensus is not reached in the future; however, no decision was reached.

Using a list of purposes and issues generated at the April 17 meeting, the following were considered. Underlined text conveys comments from the July 31 meeting. Using this discussion as a starting point, Iris will draft a VAJP work plan and priorities which will be sent to the group with the meeting notes. Members were asked to respond to the draft and be ready to move forward at the September meeting.

From April 17, 2009, VAJP Stakeholder Minutes...Brainstorm Areas of Future Activity

Roughly Categorized, with a few notes

PUBLIC AWARENESS

- Public relations campaign may be cost prohibitive without specific funding

- Potential perpetrators to know there are new laws in effect (let the public know of the consequences for certain actions, rather than catching them unaware)
- Exploring methods/opportunities to get volunteers to help various agencies out to provide an impact in several communities

-For some stakeholders, the advocacy for changes in law are by far the most important activities

-High value in communicating the VAJP priorities and 2009 legislation to county boards and other decision-making (funding) bodies. Carmen related recent example of Hennepin County officials taking strong interest in our work, inviting county staff to present information, and considering additional resources, such as a forensic accountant and additional investigative staff. Therefore, the VAJP could provide briefings (with panels that represent several stakeholders) to advance awareness of vulnerable adults and service gaps in local units of government.

PROFESSIONAL EDUCATION

- Educational component (brainstorm some best practices which encompass rural and metro concerns, and determine best method(s) to distribute throughout the state
- Sexual Assault Nurse Examiners (SANE/SARS Nurses) aren't trained to deal with elders or vulnerable adults when investigating allegations against vulnerable adults
 - working on training of how to interview victims and talk to family members (using language that's non-offensive, believing a report despite cognitive impairment)
 - developing best practices for these procedures
 - including judges who hear appeals on these decisions -Caroline Palmer, with the MN Coalition Against Sexual Assault, described federal funding that they will have to work on these issues. Collaboration may be possible. Caroline and Iris will meet to discuss possibilities.
- DHS creating an online training module for mandated reporters (to help train people) [Done] A memo about this was sent with the agenda. The web link should be placed on our wiki site.

FEDERAL LEGISLATION – CLEARINGHOUSE, ADVOCACY

- The Federal Elder Justice Act has been reintroduced in the U.S. Congress
- House author: Oberstar
- Senate authors: (Klobuchar, maybe, if she can be persuaded? and Franken who is now a member of the Senate Aging Committee.)

To the extent possible, we will try to include information about federal legislation in our meetings, especially if there are implications for resources in MN. Overall, though, this isn't a high priority.

MONITOR 2009 LEGISLATIVE ACTIONS

-This is a high priority.

- Follow-up on the CEP situation, however it transpires Continue to advocate for streamlining the reporting system.

- Reporting/response system affected by state/county level cuts in resources
- system reform and analysis of parts of systems and relevant financing concerns

-Can we survey counties on the changes to their staff/resources owing to the unallotment?
Possibly student research will allow us to do this.

- Looking at all of the bills that are out there and what have the new bills that have passed done to the status and quality of life for vulnerable adults (also looking at those things which have been introduced, which have fiscal notes, and have failed but are good ideas)

-There are other imminent or looming ramifications for vulnerable adults in the repeal of GAMC funding, and in nursing facility level of care changes (2011) to eligibility and access, which extends to the waived home care services as well.

-Issue of Lead Agency Jurisdiction for PCPO's is a high priority for Hennepin County and will likely involve multiple stakeholders.

CRIMINAL LAW

- Criminal Neglect Statute: Felony level penalty
- previously, consensus on this issue wasn't feasible

- Criminal Code Subcommittee would like to do more work (Sex Offender Registration Law, assault against vulnerable adults excluded, registration of perpetrators)
- gross misdemeanor violation from Minn. Stat. 244 is excepted under this

-Criminal Code Subcommittee is committed to starting its meetings again.

[NOTE: Provider and advocates' commitments to meet with Rep. Peppin during the Interim regarding neglect, with Rep. Kiffmeyer regarding restitution, and with Rep. Howes regarding the definition of vulnerable adult. His concern was about older people in the community being taken advantage of by home repair "deals."]

ISSUES DISCUSSED BUT NOT PURSUED IN 2009 / EMERGING ISSUES

- Reviewing non-priority item issues from earlier work

-Emergency safe placements/housing for vulnerable adult victims

- Vulnerable Adult Maltreatment Review Panel

-standards for power of attorney and other surrogates. Anita Raymond identified standards adopted by MAGiC and available on their website. Her information is:

Per your request, here is the link to MAGiC (Minnesota Association of Guardianship and Conservatorship): www.minnesotaguardianship.org On the left green bar, one can find the Standards of Practice documents: one for professional G/C; for professional POA, and a draft that is currently being voted on, for professional representative payees. (In the G/C Standards, readers can find the original Bill of Rights for Wards and Protected Persons, which was adopted by MAGiC in 1996, on which the new statutory Bill of Rights was based.)

- Put some standards/protocols in place to help counties across the state when assembling high- functioning Multidisciplinary Teams (per Minn. Stat. 626.5571)

- Tracking of alleged perpetrators when fired from or leaving a facility (any needed follow-up)
 - the facility does what it can to remove the perpetrator, but there may be no investigation, and that individual is free to find a position somewhere else
 - labor unions doing more investigations than the state may be able to do, not a consensus but no discussion of the issue

-facilities, owing to state legislation in 200?, have immunity from civil liability when providing information about an employee to another prospective employer.

- Retaliation against victims or staff members (who report or help with investigations)
 - ensuring there are no whistleblower actions

- Elders and vulnerable adults as victims of contractor fraud (paper from Ann Bebeau) perhaps relates to Rep. Howes' concerns

- Shut down facilities (DHS rightfully pulling funding away) ... report from an auditor that DHS should take over investigations of unlicensed PCA service providers (or organizations)
 - if the alleged perpetrator is convicted or there is a substantiation of abuse, they're not prevented from going on elsewhere to provide care (there's no regulation and this is a crisis for these individuals who need care)
 - no mandate for a relocation effort (like when someone is discharged from a nursing home) Where can people go when they are displaced from housing because care/services are go out of business or are not available?
 - there is expansion in this area for moving toward this model of services

[NOTE: language to clarify intent of Subd. 1 Access by Government to bank records – Carruthers] Sen. Moua and Rep. Hilstrom will introduce a bill early in session to correct this error. It might have been corrected in the Revisor's last bill of the session; however, among other challenges, that bill was never passed.

NEXT MEETING: Friday, September 25, 2009, 1:00 – 3:00 p.m., Room 125 Wm Mitchell