

Vulnerable Adult Justice Project

September 9, 2011 – 2:00 – 4:00 p.m.

William Mitchell College of Law – Room **123**

Attending: Doug Beardsley (Care Providers), Rob Rodé (Voigt, Klegon, Rodé), Suzanne Elwell (MN Dept of Public Safety), Deb Siebenalre (Adult Protection), Barb Doherty, Maura McNellis-Kubat (DHS), Jennifer Kirchen (DHS APS), Deb Tulloch (Washington County APS), Suzy Scheller (Scheller Legal Solutions), Laura Orr (University of St. Thomas), Carmen Castaneda (Henn. Cy. APS), Tara Patet (St. Paul City Atty.), Jennifer Sorenson (MN Home Care Assn), Deb Peterson (AG – Medicaid Fraud), Gary Smith (Attorney at Law), Ellen Longfellow (Attorney at Law), Jill Adkins (Attorney at Law), Janet Reigstad (Stearns County APS), Caileen Kromhout (Augsburg - SW student), Iris Freeman and Kia Thrasher (WMCL), Jane Ochrymowycz (CEJP Advisory Board WMCL), Kathryn Jarvinen (Alzheimer's Association), Jennifer Wright (University of St. Thomas Law School), Dee Dee Van De North, Stella French (MDH-OHFC), Kristin Yahnke & Krista Griffith (University of St. Thomas Law School), Kris Maser (Maser, Amudson & Price), Maggie Samec (Ramsey County), Nate Swanson (WMCL), Shelly Carlson (Clay County Attorney), Emily Krech (Anoka County), Sean Burke (Legal Aid)

MINUTES

2:00 Welcome, Introductions & General Updates

- N.Y. State study “Under the Radar” Elder Abuse Prevalence study
 - o <http://www.lifespan-roch.org/documents/UndertheRadar051211.pdf>
- DHS created office of inspector general
 - o Duties: Fraud discovery
- Legislation in CA on optional reporting
- Provider representatives got together on felony neglect
 - o No longer on the agenda
 - o Future resolution in a working group?
- ABA Commission on Law and Aging Webinar
 - o Tuesday September 13, 1:00-2:00 (EST)
- Banking Bill (Dodd-Frank Bill)
 - o Established consumer protection financial bureau
 - Including Consumer Bureau
 - Mandated to develop office of protection for Older Americans
 - Scheduled to be active January 21, 2012

2:15 International Perspective on the Human Rights of Older Persons – Jill Adkins, J.D., LL.M.

- Human Rights of Older Persons is increasingly important in U.N. discussions
- Why are older persons the last to get international attention?
- Current push in the U.N. for international treaty on the Human Rights of Older Persons
 - o Procedural process is very political in U.N.
- U.N. has established a working group on the rights of Older Persons
 - o Looks at older persons globally to see if current treaties are sufficient to take care of older persons needs (or is a special treaty required?)
 - o Many countries' representatives didn't show up until the final meeting, and when they did, many countries did not see a need for a specialized treaty for older persons
- Current Regional Human Rights Mechanisms
 - o African Union
 - o European System
 - o Inter-American System
- Current Human Rights Mechanisms/organizations can have their own treaties
 - o African Union and Inter-American System have begun drafting treaties for the Human Rights of Older Persons
- Countries with younger histories (than the U.S.) are incorporating human rights within their Constitutions.
 - o "Human Rights" in the U.S. is embodied in activities and organizations like VAJP and its members
- U.N. discussions on Older Persons are on broad and general levels
 - o International discussions lacks people with experience in the legal system
- U.S. National Laws vs. Other International Laws
 - o U.S. laws encourage programs, policies and funding; but do not establish human rights for Older Persons
 - o Countries (like South Africa) create Human Rights by establishing them as Constitutional rights
- Issue of elder abuse is a hot topic internationally
- What protocol should there be for lawyers encountering elder abuse/neglect?
- Comments:
 - o When you right an international treaty, how do you decide the 'elder' age group?
 - Varies between countries
 - An age probably won't be written into the treaty; different cultures/countries may decide what an "older person" is for themselves?
 - o Case in CA; state vs. federal gov't: who enforces?
 - o Elder Law Norms at International level: how can we as advocates practically implicate these norms?
 - International Treaties attempt to establish standards
 - Articulation of norms has not yet happened (for Older Persons)
 - There is use for documents like Older Persons treaties to persuade legislators to embrace Older Persons Human Rights

2:45 Center for Elder Justice & Policy – notes on the new semester

- Work with Hennepin County on FAST (Financial Abuse Specialist Team) is reaching its endpoint in September

- October or November meeting will hopefully reveal final results for FAST project
- Grant proposals to provide support for VAJP (including support staff, and hopefully funding for public awareness campaigns)

2:50 Break

3:00 Substitute Decision-Making Network – discussion of shared public policy concerns and potential collaboration between the SDMN and VAJP

- Patricia Siebert and Jennifer Wright
- Focuses on issues of guardianship
- Formed 2 years ago
 - Issues with certification of professional guardians
 - Present Problems with guardian system in Minnesota
 - Lack of guardians, lack of training, lack of funding
 - Lack of functional alternatives to guardianship
 - Need for oversight in guardianship alternatives
 - Dealing with power of attorney
 - Focuses on how we can legislatively strengthen MN’s guardianship system.
- Organization functions for vulnerable people (not explicitly older persons)
- 4 groups Within the Network
 - Funding
 - Education/Technical Assistance
 - Alternatives to Guardianship
 - Legislative subcommittee
- Hopes to meld the two groups (VAJP and SDMN)
- Expand VAJP beyond maltreatment issues (encompass guardianship issues and other SDMN issues)
 - Consider younger vulnerable adults as well
- Future Relationship for VAJP and SDMN
 - Dissolve SDMN and encourage members to work for VAJP
 - SDMN becomes a work group within VAJP
 - SEMN continue as a separate group
 - May not continue to exist if not absorbed (in some fashion) by VAJP
- Comments from VAJP Members:
 - Goals are very closely aligned of VAJP and SDMN
 - There are already members in both groups (this could be more efficient)
 - Guardianship has been a concern of VAJP
 - Concerns:
 - Difficult for VAJP to take on all of the agenda of SDMN and agenda of VAJP
 - Budget for VAJP is tight
 - Will consensus on issues become more difficult? Will this make ‘moving forward’ on issues more complicated and challenging?
 - Identify areas of mutual concern:
 - Financial justice issue

- General consensus: welcoming to idea of incorporating SDMN into VAJP somehow

3:20 Survey results to date, work groups and work plan taking shape – discussion

- Justice System Response Group
 - What is VAJP role?
 - Having legislation fail twice: should try a different avenue?
 - Concern of legislator's with little experience in the history of attempts for legislative change
 - Effective legislation (improving language of legislation, even failed attempts, yields useful results)
 - Alternative:
 - Legislative Track team
 - Meet with lawmakers, and discuss history of proposed legislation by VAJP to present legislators
 - Justice System Group will need to be reorganized
 - Problems with group in the past: little feedback
 - Re-survey
 - Divide into criminal and civil?
 - Power of Attorney
- Definitions Group
 - Need for additional members
 - Maura- Temporary Chair
- Public Awareness Group:
 - Co-Chairs
 - Barb Doherty
 - Jennifer Kirchen

3:40 Work Groups that are ready can set touch base, set meetings

3:50 Wrap Up

Next Meetings (Same Location) – October 14, November 11, December 9