

***Adult Protection  
Coordinating Council***

***Annual Report***

***2009***

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## **I. Foreword**

Pursuant to action by the South Carolina Adult Protection Coordinating Council, an Annual Report for the calendar year 2009 is submitted to the Council as a written summary of the Council's accomplishments and plans for future activities. This report serves as a public record of compliance with the Council's statutory duties as written in the South Carolina Code of Laws, Section 43-35-310.

## **II. History**

In 1990, a group of concerned individuals presented testimony at the Joint Legislative Committee on Aging Public Hearing regarding the depth of concern about the adult protection system in our state. As a result of this testimony, a Joint Resolution was sponsored by the Joint Legislative Committee on Aging mandating the South Carolina Long Term Care Council to convene an Advisory Committee on Adult Abuse, Neglect and Exploitation. On April 24, 1991, Governor Carroll A. Campbell, Jr., signed the Joint Resolution into law.

The former Long Term Care Council convened the required Advisory Committee which identified the problem areas in the adult protection system and made comprehensive recommendations to improve the system in the areas of training, employment issues, advocacy, public awareness, care issues, coordination and legal issues. The Advisory Committee then completed the development of the Omnibus Adult Protection Act. It was signed into law by Governor Campbell on June 11, 1993, with an effective date of September 11, 1993.

Generally, the Omnibus Adult Protection Act:

Created an effective system for reporting, investigating and prosecuting adult abuse, neglect and exploitation and included role clarification for the entities involved.

Clearly defined the protected class of individuals. Vulnerable adult means a person age 18 years of age or older who has a physical or mental condition which substantially impairs the person from adequately providing for his or her own care or protection. This includes a person who is impaired in the ability to adequately provide for the person's own care or protection because of the infirmities of aging including, but not limited to, organic brain damage, advanced age, and physical, mental or emotional dysfunction. A resident of a facility is a vulnerable adult.

Repealed several Sections of the Code of Laws of South Carolina, 1976, and placed all applicable Sections in one area of the Code.

Addressed overlapping jurisdictions.

Addressed confusing and duplicate reporting requirements.

Clarified and set out identical statutory definitions of abuse, neglect and exploitation for instances that occur in the community and in facilities. Previously, the Department of Social Services and the Long Term Care Ombudsman program operated under different definitions.

Set out the circumstances under which law enforcement can take an adult into protective custody (See Section 43-35-45).

### **III. Legislative Intent**

The General Assembly found it necessary to create the Omnibus Adult Protection Act: 1) To provide a system of adult protection in South Carolina; 2) To clarify the roles and responsibilities of agencies involved in the system; 3) To provide a mechanism for problem resolution and interagency coordination; 4) To address continuing needs of vulnerable adults; 5) To uniformly define abuse, neglect and exploitation for vulnerable adults in all settings; 6) To clarify reporting procedures for allegations of abuse, neglect and exploitation; 7) To provide procedures for emergency protective custody; 8) To define the role of the court in the adult protection system; and, 9) To provide services in the least restrictive setting possible.

### **IV. Adult Protection Coordinating Council**

Article Three of the Act created an Adult Protection Coordinating Council under the auspices of the State Department of Health and Human Services (DHHS). The Council was created because of the depth of concern about the need for frequent, continued coordination and cooperation among the entities involved specifically in the adult protection system. The twenty-two member Council is composed of twenty public and private organizations and two gubernatorial appointees. (See Appendix A.) It is thought to be the first council of its type in the United States. Staffing for the Council is provided by the Bureau of Long Term Care and Behavioral Health of the DHHS.

### **V. Summary of Activities**

Members of the Council continue to make every effort to coordinate activities in the adult protection system. The Council consists not only of members from traditional health and human services agencies, but from a variety of public and private entities. There is coordination among various state level agencies and departments. The public and private sectors are working together through this Council to develop resources and coordinate services.

The Council is committed to accountability for the accomplishment of its statutory duties as it relates to the adult protection system and as outlined in the Act. (See Appendix B.) Activities to address statutory duties sometimes overlap. Activities undertaken by the

Council over the past year to address its mandates are discussed below.

### *Legislative Committee*

The Legislative Committee had been established to consider potential amendments to the Omnibus Adult Protection Act (OAPA). The Committee reconvened in 2008 to review the legislation introduced in 2007 that did not advance before the session ended and to develop further amendments to the OAPA. These additional amendments were adopted by the Council and pursued during the 2009 legislative session.

During 2009, the Council focused its efforts primarily to its legislative initiatives. At the end of the legislative session, H.3358 that amended the OAPA had passed the House and was assigned to Senate Medical Affairs Committee. S.343, the Concurrent Resolution, had passed the Senate and was assigned to House Ways and Means Committee. Council will continue to pursue these legislative changes during the 2010 session.

### *Abuse Registry Committee*

The Abuse Registry Committee combined with the Legislative Committee to consider enabling legislation for a registry of perpetrators of vulnerable adult abuse. While there was support for a registry in concept, due to the inherent complexities, there was no consensus to establish a registry. Subsequently, the Joint Abuse Registry and Legislative Committee recommended and Council adopted a proposed concurrent resolution to request the Budget and Control Board to require agencies with investigative authority to make available on the internet, to the extent legally possible, cases of abuse, neglect and exploitation of vulnerable adults that were substantiated or resulted in criminal convictions.

The concurrent resolution was introduced in the House and Senate during the 2009 legislative session and will continue in the legislative process during the 2010 session. The resolution passed the Senate and was assigned in the House to the House Ways and Means Committee.

### *Training*

The Council remains committed to training and education for law enforcement, human services and other professionals who serve vulnerable adults who may be at risk of abuse, neglect and exploitation. In addition to providing general, basic training for a diverse audience, training has been provided for specific professional groups.

Updating the previously developed training manual was put on hold during 2009 while efforts were underway to further amend the OAPA. The legislative efforts initiated in 2008 continued during the 2009 legislative session.

While pursuing amendments to the OAPA, the Council decided statewide training should be resumed. The Training Committee initiated planning and scheduled regional training events

for February and March, 2010. The training will focus on interviewing and communicating with special populations such as the elderly, people with mental illness or mental retardation, people with limited English and the hearing impaired. Additionally, there will be an overview of the OAPA and discussion regarding the investigative entities roles, responsibilities and expectations.

### *Public Awareness*

The Council is committed to promoting education as a means of prevention and recognizes the importance of public education as a tool for the prevention of abuse, neglect and exploitation of vulnerable adults. Initial efforts of the Council were focused on the education of law enforcement personnel, human services providers and other professionals who serve vulnerable adults who may be at risk for abuse, neglect and exploitation. Public awareness is critical to timely reporting of incidents, to intervention and prevention, and to a decrease in the incidence and prevalence of abuse, neglect and exploitation of vulnerable adults.

The Council's previously developed financial exploitation brochure was revised during 2008 in collaboration with the Department of Consumer Affairs. It was adopted by Council and in 2009, disseminated to Council members for distribution electronically to their agencies and/or networks. Budget limitations prohibited printing and public distribution.

Governor Mark Sanford issued a proclamation for February 2009 as Vulnerable Adult Awareness Month.

The Public Awareness Committee was sunset in 2009. The Committee will be reconvened upon direction of the Council.

### *Data*

Data from the investigative entities is found in Appendix C. The investigative entities include the Department of Social Services (DSS), Adult Protective Services and the Lieutenant Governor's Office on Aging, State Long Term Care Ombudsman. SLED's Vulnerable Adult Investigations Unit is responsible for investigations in facilities operated by or contracted for operation by the Department of Mental Health and the Department of Disabilities and Special Needs. The Attorney General's Office, Medicaid Fraud Control Unit, investigates Medicaid fraud and financial exploitation cases.

### *Other Activities*

Council received a report from Ms. Carol Cornman, USC Office for the Study of Aging, regarding the status of the mistreatment prevention training for nursing homes. The training curriculum had been completed and a CD-ROM was available with the training curriculum and handouts of the management and direct care staff modules.

Mr. Tony Kester and Ms. Denise Rivers provided an update on activities of the Lt.

Governor's Office on Aging. Brochures regarding SC Access and the Office of Lt. Governor Andre Bauer were distributed. Information was provided regarding grants applied for, or awarded to, the Office on Aging.

Protection and Advocacy (P&A) provided a report on its investigation of community residential care facilities. P&A issued a report with recommendations as a result of its investigation.

## **VI. Future Directions**

Coordination and collaboration among member agencies and entities to meet training needs will continue. The Council will conduct regional training sessions in February and March 2010.

A proclamation for February 2010 as Vulnerable Adult Awareness Month will be requested. Amendments to the Omnibus Adult Protection Act and other pertinent statutes will be pursued with the General Assembly.

**Appendix A**  
**2009 Members/Designees**

Chair:

Mr. Jeff Moore, Executive Director  
S. C. Sheriffs' Association

Vice-Chair:

Ms. Karen Price, RN, Director  
Bureau of Certification, S. C. Department of Health and Environmental Control

Mr. Bill Gambrell, Esq., Director  
Medicaid Fraud Control Unit  
Office of the Attorney General

Ms. Kathi Lacy, Associate State Director, Policy  
Department of Disabilities and Special Needs

Mr. Wilson Dillard, Administrator  
Mountainview Nursing Home  
S. C. Health Care Association

Honorable Denny W. Neilson, Chair  
Joint Legislative Committee on Aging

Mr. Mark Fallaw, Chief  
North Police Department, S. C. Police Chiefs' Association

Mr. William Bilton, Esq., Executive Director  
S. C. Commission on Prosecution Coordination

Ms. Gloria Prevost, Director  
Protection & Advocacy for People with Disabilities, Inc.

Ms. Stephanie Calhoun  
Board of Long Term Health Care Administrators  
S. C. Department of Labor, Licensing and Regulation

Ms. Joan Bainer, RN, Administrator  
State Board of Nursing  
S. C. Department of Labor, Licensing and Regulation

Mr. Frank Adams

Office on Aging, Office of the Lieutenant Governor

Ms. Rita Yarborough, Instructor  
Criminal Justice Academy

Mr. Mark Binkley, Esq., General Counsel  
S. C. Department of Mental Health

Captain Patsy Lightle  
SLED, Special Victims Unit and Adult Fatality Review Committee

Vacant  
S. C. Medical Association

Ms. Alice Hughes  
S. C. Association for Home and Hospice Care

Mr. Sam Waldrep  
S. C. Department Health and Human Services

Ms. Dale Watson, State Long Term Care Ombudsman  
Lieutenant Governor's Office on Aging

Ms. Mildred Washington, Director  
Adult Protective Services  
S. C. Department of Social Services

**Appendix B**  
**Duties of the Council**

Omnibus Adult Protection Act, Section 43-35-330, Duties of Council.

(A) Duties of the council are to:

- (1) Provide oversight in adult protection and to recommend changes in the system;
- (2) Identify and promote training on critical issues in adult protection;
- (3) Facilitate arrangements for continuing education seminars and credits, when appropriate;
- (4) Coordinate agency training when possible to avoid duplication;
- (5) Coordinate data collection and conduct analyses including periodic monitoring and evaluation of the incidence and prevalence of adult abuse, neglect, and exploitation;
- (6) Determine and target problem areas for training based on the analysis of the data;
- (7) Promote resource development;
- (8) Assist with problem resolution and facilitate interagency coordination of efforts;
- (9) Promote and enhance public awareness;
- (10) Promote prevention and intervention activities to ensure quality of care for vulnerable adults and their families;
- (11) Provide technical assistance for developing memoranda of agreement among involved entities;
- (12) Promote coordination and communication among groups and associations which may be affected by the Adult Protection Coordinating Council's actions through the use of memoranda of agreement.

## **Appendix C Data**

The data below represents the total number of reports for the investigative entities for the period of time indicated.

ADULT PROTECTIVE SERVICES - Total reports for the State fiscal year July 1, 2008 through June 30, 2009: 3,357

For further information, call the Division of Adult Services, State Department of Social Services at 803-898-7318.

LONG TERM CARE OMBUDSMAN - Total reports for the State fiscal year July 1, 2008 through June 30, 2009: 3,862

For further information, call the State Long Term Care Ombudsman, Lieutenant Governor's Office on Aging at 803-734-9898.

MEDICAID FRAUD CONTROL UNIT – Total reports for calendar year 2009: 348

For further information, call the Medicaid Fraud Control Unit, South Carolina Attorney General's Office, at 803-734-3660.

VULNERABLE ADULT INVESTIGATIONS UNIT – Total reports for calendar year 2009: 778

For further information, call the Vulnerable Adult Investigations Unit, SLED, at 803-896-7654.