

SB78 Elder Abuse Task Force

Wednesday, July 25, 2012

9:00am-1:00pm

Meeting convened at 9:00am.

Members Present:

David Blake, Co-Chair

Joscelyn Gay, Co-Chair

Vickie Clark, Routt County Dept. of Human Services

Tammy Conover, Attorney at Steenrod, Schwartz, and McMinimee Law Firm

Sterling Harris, Chief Deputy Director of Colorado Organization for Victim Assistance

Dr. Rebecca Paskind, Ph.D. Associate professor at Metro State College

Heidi Prentup, Commander at Boulder County Sheriff's Department

Mary Catherine Rabbitt, Attorney at the Legal Center for People with Disabilities and Older People

Jerri Schomaker, Owner of Home Instead Senior Care of CO Springs represented by Jon Jennet

Nancy Sharpe, Arapahoe County Commissioner

Scott Storey, District Attorney with the Jefferson County DA's Office- represented by Sean Clifford

Darla Stuart, Executive Director at Arc of Aurora

Amy Nofziger, Director of AARP Foundation-represented by Bob Toye

Peggy Rogers, Colorado Department of Human Services

Chris Lines, Director of Colorado Medical Society

Anne Kerr Meier, Social Worker at Exempla Luthern Hospice-Collier Hospice Center

Arlene Miles, President and CEO of Colorado Health Care Association

Jenifer Waller, Senior Vice President at the Colorado Banker's Association-represented by Melanie Layton

Sean Clifford reviewed his proposed draft language for criminal penalties for at-risk adults. In his proposed language, Sean suggested changing the existing statute in 18-4-401(1) to include theft by those in a position of "trust, whether or not in the presence of the victim" as well as "theft against an at-risk adult or an at-risk juvenile knowing the victim is an at-risk adult or an at-risk juvenile, whether or not in the presence of the victim". Doing so would make it easier to prosecute financial exploitation of at-risk adults.

In order to create his proposed language, Sean used Florida's current statute as a model specific to financial exploitation by caregivers. However, it was noted that trying to mirror Colorado's statutes along the lines of Florida's statute would require a massive overhaul. Co-Chair Sean explained that law enforcement typically

doesn't take on financial exploitation cases because of the perception that these cases are civil in nature; with this in mind, Joscelyn asked Sean to compile the options of the civil and criminal statute as well as the pros and cons associated with both for the next meeting. During the August 8th meeting draft language will once again be reviewed. It was also noted that Florida's statute includes intimidation of an at-risk adult. Other keywords that could be considered as possible changes to Colorado's civil and/or criminal statute to capture financial exploitation include: undue influence, intimidation, willful, capacity, and knowingly. Sean will work on proposed language and send to Brandy DeLange at CCI: bdelange@ccionline.org prior to the August 8, 2012 meeting.

Melanie Layton reported that financial institutions are complying with statutory requirements to send "at-risk" adults consent packets granting access to their accounts when financial exploitation is suspected. Financial institutions are complying and are actually only required to send information to individuals who are perceived to be at-risk adults, however most send information to all customers. Jenifer Waller will be at the August 8th meeting and can elaborate more on the criteria used by banks to issue consent packets and reporting.

An overview of county services and APS training was given to the task force by Peggy Rogers from the Colorado Department of Human Services. These presentations focused heavily on the prevention and intervention side of services as well as a list of strategies presented by Peg. Currently, county departments are trained to conduct investigations. As it stands, APS does not have a budget for training, grants for Title XX (SSBG) currently fund any and all training. For SFY12, APS's training budget is approximately \$14,000.

Models from Oklahoma are currently being used and modified to create new curriculums for both case workers and supervisors. August 1, 2012, new rules passed will require: a five day training period, webinars for supervisors, and regional trainings. Additionally, counties attending trainings must complete a workbook before the meeting, four webinars for supervisors are required, and 30 hours of ongoing training for full time case workers, prorated for part time case workers is also required under the new rules. This training can be provided by a multitude of sources, including other organizations, a method of keeping track of other states' provided training, etc. Training is also required for APS teams and may consist of sending out informative letters to the community, community education and/or training, etc; a total of five events must be done. Concern about cost of sending case workers from smaller counties for five day trainings and other informational sessions has arisen and is something that needs to be considered when making recommendations for mandatory reporting. This is especially true for smaller counties where the child welfare caseworkers also handle the 12 APS calls that come in each year.

Strategies and outcome data: Colorado is comparable to other states in the number of elder abuse reports received, however few states have outcome data, so it is difficult to identify practices that are effective at protecting at-risk adults.

Discussion of strategy:

California: Has no state system, all county based; Ventura, California sends their APS team, an RN on contract, as well as a neuropsychologist specialist to visit and assess at-risk adults; Texas's : similar to California, Oklahoma. These three states are mandatory reporting. This practice has greatly reduced the risk for at-risk adults.

In a handout, Peg prioritized the strategies she felt were necessary for APS. Peg also cited the several "big system" issues that APS is faced with. For example, many individuals may not be in the database, making it hard to track issues and/or people over time. Additionally, mental health evaluations are altered to reflect illnesses like dementia once individuals age out of mental health providers. There was a widespread agreement among task force members that Colorado lack services for at-risk adults.

Capacity Evaluations also prove to be a problematic, as most are not done until ordered by a judge, which is often already too far into the legal process. Liability costs associated with said evaluations are also very high. The discussion of capacity frequently arises in the context of conservatorship. Many times the individual will have capacity as well as conservatorship, even if not evident initially. Often times it's difficult to determine when and if someone needs a capacity evaluation, and if necessary, these are only done in a few select languages (mostly English).

Home health providers are hesitant to get involved as liability is considerably high, it adds a level of complexity to the case, and most clients would prefer Human Services not get involved.

Safety Planning is reactive and proactive as it consists of: legal assistance, alternative housing, background checks of caregivers (which also acts as a preventative measure) and other services. Coordinated intervention is the key to both reactive and preventative planning; Denver is a great example of doing all of this.

Currently, Colorado is applying for grants to start up a pilot program that would provide multiple services in one-stop shop format. This implementation will be difficult in rural areas; best practices in these areas will need to be considered. The following task force members offered to bring information on coordinated care initiatives that they are aware of. Each were asked to identify 1.) How the initiative is funded and, 2.) How much it costs: Sterling Harris; Douglas County example; Vicki Clark: Mesa County example, Mary Catherine Rabbitt: Denver example, and Nancy Sharpe: Northern Virginia example.

Questions asked:

David: Are there any organizations that are willing to perform these evaluations pro-bono?

A: Sure, but most organizations charge for this and make the majority of their profits off these evaluations.

Q: Should law enforcement training be considered? What are some other trainings to be considered?

A: APS and law enforcement trainings should be held together, to help create a connectedness and fluidity to the process. Additionally, bank personnel should be included in this training process. This would empower all players involved.

*Is it possible to change laws around prior consent? Financial institutions should be able to report potential abuse/exploitation without consent.

Changing this law would require a change in the constitution and privacy laws.

David: Is it possible to determine capacity of someone at the APS level?

Peg: Yes, but this would be hard to do in smaller counties with limited workers/small amounts of resources.

Becky: Most case workers are not trained to do capacity evaluations and would be uncomfortable for most case workers to make these evaluations/

David: Is it possible to think outside of the box in this context and use models like Oklahoma?

Becky: What about two stages of determination?

Tammy: APS can do some of this.

Peg/Vicki: One possible recommendation/Solution could be creating regional APS specialists who specifically trained and only conducts capacity evaluations when necessary. This potentially will resolve several conflicts and reduce costs.

Strategies and Recommendations Discussed:

Observation: Lack of services available for at-risk adults include

- General safety net -Money for capacity evaluations
- Respite (caregiver support) - Mental health services
- Emergency Medications -Legal services
- House cleaning -DD services
- Transportation -Safety Planning with interdisciplinary teams

Strategies and Recommendations:

1. Community Education: for targeted professionals and services providers going into homes; media campaigns/PSA's. *(To be paired with #5)*
2. Coordinated Intervention: Utilizing existing APS teams, interdisciplinary teams, incorporate safety planning. Model to be looking at include: Mesa, Denver, Douglas. *(County TF members will work on wording) (can be combined with #3)*Possible all sized counties*
3. Regional APS Resource for small and medium counties (potential APS specialist goes here.): Shared caseworkers, forensic acct, guardianship etc.
4. Capacity Evaluations: Databases, work with NGO's, Pro-bono—result in cost savings, especially when population age increases.
5. Regional training of law enforcement personnel and APS personnel. Development of law enforcement liaisons (people and staff) with APS community and legal attorneys. *(To be paired with #1 and language to be cleaned up and specificity)*
6. Allow financial institutions to hold and/or transactions for at-risk adults. *(Combine with #7)*
7. Encourage federal delegation to exempt banking transactions from privacy (eliminate prior consent form) *(Sean to research state level)*
8. Fiscally neutral ways to prioritize at-risk cases (ideas-incentive structures, encourage dedicated staff) *(David to wordsmith more) (Fiscal subcommittee will make additional recommendations)*
9. Examine guardianship: conservatorship (related to mandatory reporting and rep. payee including, due process and public guardianship.
10. New case management data system: creation of database.
11. Background checks to identify abusers. Type of system (CBI)? Increase coordination and access to data; for whom? *(Darla to research more)*

Task force members identified in the above recommendations are to either craft or research and report back to the group August 8, 2012.

*Fleshed out language from strategies and recommendations located on separate document.

Future meetings:

September 12: The first draft of the Final Report will be due.

Meeting adjourned: 1:00pm