

SB78 Elder Abuse Task Force
Wednesday, September 12th, 2012
9:15am-12:50pm

Members Present:

David Blake, Co-Chair-also present George Coddling

Joscelyn Gay, Co-Chair

Vickie Clark, Routt County Dept. of Human Services

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

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

Dr. Rebecca Paskind, Ph.D. Associate professor at Metro State College- represented by Renee Riviera

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

Nancy Sharpe, Arapahoe County Commissioner

Scott Storey, District Attorney with the Jefferson County DA's Office- also present, Sean Clifford, Candace Black (soon to be replacing Sean Clifford)

Darla Stuart, Executive Director at Arc of Aurora

Amy Nofziger, Director of AARP Foundation

Peggy Rogers, Colorado Department of Human Services

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

Arlene Miles, President and CEO of Colorado Health Care Association-represented by Natalie Kiomp

Jenifer Waller, Senior Vice President at the Colorado Banker's Association

Also present:

Eddie Busam

Juanita Rios-Johnston

Howard Paul-Emergency Medical Association

Meeting convened 9:15am

Approved Amended minutes from the August 8th – moved by Mary Catherine and seconded by Nancy.
Approved minutes for the August 22nd – moved by Mary Catherine and seconded by Amy.

Information for following meeting: an official vote for all recommendations will be taken to reflect all perspectives and capture any dissenting opinions if necessary. Please be sure to attend this meeting and/or have your proxy attend.

II. Mandatory Reporting

- a. Should we have mandatory reporting?
A distinct “yes” will need to be added to mandatory reporting language.

Original language “There is unanimous consensus that at-risk adults are in need of the same level of protection as abused and neglected children. The State needs to commit adequate resources to allow for a sustainable APS system.”

Mary Catherine: I don’t remember agreeing on the language of same protection for at-risk adults as children.

Joscelyn: We can amend the language to say, ‘similar protection’.

Peg: You want to prepare for the simultaneous influx of money, and reflect this in your language. Maybe modify *needs* with *must*.

The following changes were made (to the last statement): “The State ~~needs~~ ***must*** to commit adequate resources to allow for a sustainable APS system ***at the time of implementation of mandatory reporting***.”

- b. Statutorily, where should mandatory reporting reside Title 18 (criminal) or Title 26 (APS) or both?
Language will need to be added describing why the group has decided to have the amended language reside in Title 18 and leave Title 26 unchanged. ***Gini and Brandy will add this language and clarify further.***
- c. What areas of behavior should mandatory reporting apply to?

Sean: Mandatory reporting of course is good, but if it isn’t protective for financial institutes under both civil and criminal code, financial institutions will have a large concern about the liability associated with mandatory reporting. A negligent standard and reasonable cause will have to be added. We as a subcommittee have also agreed that consent forms will need to be repealed (CRS 6-21-103).

Jenifer: We (financial institutions) will need to see the draft language on these changes.

Scott will get formal language to the task force.

- d. Who should be required to mandatorily report abuse of at-risk adults? The existing list PLUS physical therapists and EMT’s with the pending decision of clergy and volunteers.

Jerri: Have we considered the process for mandatory reporting for those who are already licensed, like caretakers?

The following decisions were made: the term *urged* will be used in the APS statute. *Required* will be used under the criminal code and for physical and sexual abuse and financial exploitation. Discussion also focused around the fact that clergy should be mandatory reporters when operating in an unofficial capacity (i.e. providing drug counseling, etc.) At any other time, clergy should not be required to report any suspected abuse (i.e. confessionals, etc.). Ultimately, the group decided to include clergy in the same manner (and with the same guardrails) as they are included in the Children’s Code (CRS 19-3-304(2)(aa)).

The subcommittee however, could not come to a consensus as to whether or not volunteers should be mandatory reporters. Co- chair David Blake drafted two options defining volunteers as mandatory reporter:

Option 2 – (XXXX) Volunteers. Uncompensated volunteers, including unpaid caregivers of any person or entity are urged to report pursuant to (XX). Further, although volunteers are not mandated reporters, they are encouraged to obtain training in the identification and reporting a child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect.

Option 1 – (XXXX) Volunteers. Uncompensated volunteers of any organization required to be registered with the Secretary of State and whose mission is entirely or in part to assist the elderly population or through the course of regular business interacts often with the elderly are required to report pursuant to (XX) above [who has observed the mistreatment, self-neglect, or exploitation of an at-risk elderly adult who has reasonable cause to believe that an at-risk adult has been mistreated, is self-neglected, or has been exploited and is at imminent risk of mistreatment, self-neglect , or exploitation (this would be consistent with new language)] shall notify a non-volunteer person or employee with supervision of the volunteer and the person so notified shall report or cause a report to be made. A volunteer who makes a report to the person designated pursuant to this paragraph shall be deemed to have fully complied with this subsection.

Darla: I'm concerned that training for volunteers (under mandatory reporting) wouldn't be good enough (not in depth enough to actually identify abuse, exploitation, etc) and would deter people from volunteering.

Jerri: I also worry about the liability associated with volunteers becoming mandatory reporters, and the risk and negative impact that it puts on organizations that recruit these volunteers.

David: The intention of this was to cast a wide net, to capture the population of people who work most closely with at-risk adults. Additionally, there are training opportunities for volunteers who are working with this segment of people to go to. Those aren't trained should be subject to civil liability. If a volunteer sees something that could be abuse they need to report it to the organization they're working for; they [the volunteer] won't be required to call the police; and this should effectively, remove the volunteer from any direct line of liability. Additionally, training and making the volunteers mandatory reporters empowers them.

Peg: Volunteers as mandatory reporters will probably result in an increase in reports- specifically not the type that we need. Volunteers should be trained on the warning signs, report back to their supervisors and then officials can make the final report to APS.

Joscelyn: Why don't we just put forward the current statutory list plus EMT's (Emergency Medical Service Providers), clergy, physical therapists, and a specification of both paid and unpaid professionals acting in a professional-charitable fashion?

The majority of the task force agreed with this approach.

David: I would like to put forward a minority recommendation, which would capture the type of people that work most directly with the elders and at-risk adults, like volunteers with Meals on Wheels, etc.

- e. Who should be subject to mandatory reporting? The following decision was made: Elders ages 70 and above; however, the task force also believes that when resources are available, mandatory reporting should be expanded to at-risk adults eighteen and over. ***Gini and Brandy will add language further explaining the reasons for starting with age 70 and then later expanding.***
- f. Should criminal penalties be applied to those who do not report? The following was decided: The majority of the task force believes that an M3 (misdemeanor three) resulting in fines between \$50-750 or six months in jail..

Darla: I still would like to see the first penalty to be a class two petty offense and then increase punishment for each of offense.

- g. Should investigations be mandatory? Language drafted by Heidi was presented to the group (see attachment A for language). After consideration, 48 hours was struck from her original language, noting that it generally takes at least a week to get reports out and that in most cases, these reports are shared verbally (and should remain that way) within 24 hours. Additionally, this language is thought to be strictly a criminal investigation tool, and would not apply to things such as investigation of self-neglect. Some cases, however, warrant joint investigations by both Law Enforcement and APS teams. ***Gini and Brandy will create a side-by-side table comparing Title 18 and 26.***

Concerns with Strategies and Recommendations

David: I want to be mindful that the terms “at-risk” and elders are being used interchangeably, which is misleading and confusing for those reading the report. I’m also concerned about the level of detail that the current recommendations and strategies are going into. Is it really necessary to detail how many clipboards a caseworker may need? This level of detail will drive the fiscal note up; we should consider doing more with less.

Nancy: I think it’s fair to say that counties are already doing a lot more with a lot less currently. I agree we should be mindful and prioritize what we need—outline what can be done in the short term versus the long term.

Next meeting: September 26th.

Draft report due: October 10th.

Final Report: October 24th.

Meeting adjourned: 12:50pm