

SB78 Elder Abuse Task Force

Wednesday, September 26<sup>th</sup>, 2012

9:10am-1:10pm

AMENDED

Members Present:

David Blake, Co-Chair-also present George Coddling

Joscelyn Gay, Co-Chair

Vickie Clark, Routt County Dept. of Human Services-represented by Valerie Brooks

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- represented by Steve Bender

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, Candace Black

Darla Stuart, Executive Director at Arc of Aurora

Amy Nofziger, Director of AARP Foundation-as represented by Boy Toye

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

Herb Jacob Jacobs, Colorado Medical Society

Meeting convened at 9:10am

Amendments to the September 12<sup>th</sup> minutes were made. David moved the minutes and Heidi seconded.

Policy Decisions and changes to the Mandatory Reporting Policy Decision document can be found on Attachment A. Dialogue to capture these changes are documented below.

- 1.) *Should we have mandatory reporting?:*  
David: Separation of the elder and at-risk population needs to be made more distinct. Additionally, I think the state should be forced to prioritize APS to the same manner and level that of Child Protective Services
- 2.) *Who should be mandatory reporters* was moved from #5 to #2. This was based off discussion suggesting that this chronologically makes more sense to place who should be subject to mandatory reporting after defining whether or not mandatory reporting should be required. Stronger language will be developed by Darla and David to separate the elder and at-risk adult population, as well as create a prioritization of funding for.  
A minority report was also discussed as some individuals could not come to a consensus on volunteers or clergy.
- 3.) *Statutorily, where should a mandatory reporting statute reside-Title 18 (criminal), Title 26 (APS) or both?* Peg will include language outlining the unintended consequences of modifying Title 26
- 4.) *To what types of behavior should mandatory reporting apply to?*  
David: I think that civil and criminal immunity shouldn't be included in this section; it belongs as a standalone statement. Further, this should be very strong. The task force agreed to move civil and criminal immunity to #6  
Peg: I would like to make sure that caretaker neglect is included.  
Additionally the task force agreed that the reference to REPEALING consent forms should be its own recommendation, making it number eight.
- 5.) *Who should be required to mandatorily report abuse of at-risk adult?*  
CRS 26-3.1-102(1)(b) should be amended to include: emergency providers; physical therapists; clergy (as defined in the Children's Code-CRS 19-3-304(2)(aa) and CRS 13-90-109(1)(c)); specification that both paid and unpaid workers in any of the professional areas listed in CRS 26-3.1-102(1)(a).  
Additionally, this language will be replicated in title 18, but will be modified to remove references to self-neglect and reporting; to specify that in instances of physical and sexual abuse, care taker neglect and financial exploitation, reporters are required to report.  
David: I will be supporting a minority report that reflects my opinion of including volunteers in this section of required mandatory reporters. Steve Bender also is in support of a minority report that reflects the necessity to include clergy as mandatory reporters at all times.
- 6.) *Should criminal penalties be applied to those who do not report?*  
The majority of the task force believes that a misdemeanor three is appropriate for those who fail to report is appropriate. A misdemeanor 3 under CRS 18-1.3-501 may result in a fine between \$50-750 or up to six months in county jail. David and Scott both agree that a "Good Faith" Immunity clause will need to be added. They both agreed to work on language that will include information about preexisting penalties (misdemeanor three) for false reporting.
- 7.) *Should investigations be mandatory?* Few changes were made to this policy decision. Peg asked that the language of a final report be submitted within 24 hours.
- 8.) *Elimination of consent form provision under CRS 6-21-103-*This portion was removed from recommendation #4 and created to be its own recommendation.

A letter from Colorado Counties Inc., was earlier distributed to the task force outlining concerns about unfunded mandatory reporting. In this letter CCI outlines that while the task force has been charged by SB78 to estimate costs and workload incurred by both state and county government, the data being used does not accurately reflect increases, as it does not take into consideration a rapidly increasing Baby Boomer population. Additionally, the letter outlines that while CCI is committed to seeing mandatory reporting succeed, the current shortcomings of the APS need to first be addressed. Ultimately, CCI states that without sustainable funding for mandatory reporting, members will likely oppose implementation of mandatory reporting.

Nancy: This letter is to demonstrate that we just don't have good data from Colorado to make actual decisions. I would also like to see studies that were referenced in the document presented by the Finance

subcommittee (Recommendations and Strategies Document). Further, we should be applying the REAL Colorado principles to these decisions that we are making (i.e. asking if these are responsive, efficient, accountable, local-state partnership) and prioritize recommendations. We really don't want television reporters questioning why caseloads went up and counties didn't have enough resources or time because we didn't (the task force) do a caseload study or have reflective data.

Joscelyn: We could make a recommendation from the task force that the Legislature fund a study for data on an increase of caseloads, leading to a prioritization.

Peg: There isn't any national data currently out there that we know of to provide a comparison for Colorado. A formal workload study would be something beneficial for counties as well as the criminal justice system.

David: I am opposed to doing any sort of study before implementing [mandatory reporting]. You shouldn't be supportive of a policy with the condition of "only if".

Nancy: I think it's fair to know the cost to counties and the impact. It would be irresponsible to go forward with random numbers that may or may not be sustainable.

David: We are the ones charged with coming up with these numbers.

Nancy: Unfunded mandates are best known by local government, which is why it's best to know the potential costs associated with mandatory reporting. We also don't have a data system that works (CBMS)—which is why we need to prioritize and develop a road map for mandatory reporting.

David: We need to arrive at the lowest cost possible; the study will come later down the road after we implement mandatory reporting.

Vicki: As it is now, counties are overburdened and underfunded. We need to talk about caseload ratio, what components that counties are going to have to take care of won't show up in a study. Also, none of this will be equitable across the state. I also believe that law enforcement isn't taking case impact into consideration.

David: If this current system is already overtaxed, then you shouldn't and can't support mandatory reporting. It isn't fair to leverage this policy to fix policies already in place.

Joscelyn: So should the recommendation be that we use South Dakota as a baseline as well as APS data? So our options are: Options #1- Not move forward without a study

Option #2: Use South Dakota as a baseline and then subtract 18-69 population and then add our figures in of exploitation which is 21%.

Peg: What if we introduce a third option: why don't we look at the recommended caseload average, bring counties to that level, get the data system fixed and then revisit the data collected about a year afterwards?

The task force agree to consider this option as well, though some members were still of a dissenting opinion.

(Changes made to the Recommendations and Strategies document can be found alongside the Mandatory Policy Decisions.)

Next meeting:

October 10<sup>th</sup>: The task force will look at the second half of the recommendations and strategies document

October 15<sup>th</sup>: A draft of the final report will be ready

October 24<sup>th</sup>: Review of Final Draft

Meeting Adjourned at 1:10pm