



MIKE DEWINE

★ OHIO ATTORNEY GENERAL ★

**OHIO ATTORNEY GENERAL'S ELDER ABUSE COMMISSION
JULY MEETING MINUTES
VERN RIFFE CENTER FOR GOVERNMENT AND THE ARTS
77 SOUTH HIGH STREET, 31ST FLOOR
WEST B & C CONFERENCE ROOM
MONDAY, JULY 25, 2011
9:30 AM – 3:30 PM**

MEMBERS PRESENT

NAME

Judith Brachman
Andrew Capehart
Oliver Corbin
Debra Downing
Rick Hoover
Cindy Farson
Eugene Fischer
Steve Hanson
Roland Hornbostel
Vicki Jenkins
Cindy Kuhr
Beverley Laubert
Leslie McGee
Jo Simonsen
Wayne Summerville
Thomas Swift
John Thatcher

REPRESENTING

Interests of the Elderly
Ohio Coalition for Adult Protective Services
Ohio Department of Public Safety
County Commissioners Association of Ohio
Ohio Department of Health
Ohio Association of Area Agencies on Aging
Buckeye State Sheriffs' Association
Supreme Court of Ohio
Ohio Department of Aging¹
Ohio Department of Developmental Disabilities
Ohio Victim Witness Association
Ohio State Long Term Care Ombudsman
Ohio Department of Job and Family Services
Ohio Domestic Violence Network
Ohio Department of Job and Family Services
Ohio Association of Probate Judges
Ohio Prosecuting Attorneys Association²

Ursel McElroy

Ohio Attorney General's Office

WELCOME – Ursel McElroy

- Opened the meeting by welcoming members.
- Agenda and housekeeping items reviewed.

REVIEW JUNE MEETING MINUTES – Commission

- June 27, 2011 meeting minutes approved.

ANNOUNCEMENTS – Commission

S. Hanson

- The date for the National Judicial Institute on Domestic Violence: Enhancing Judicial Skills in Elder Abuse Cases is August 29-30, 2011 in Columbus, Ohio. The event will run concurrent with the Ohio Summit on Aging Follow Up Event. Both events will be hosted by the Ohio Attorney General's

¹ Heather Reese – Ohio Department of Aging intern present

² Yelena Arishina – Knox County Prosecuting Attorney's Office intern present

Office, Supreme Court of Ohio and the Ohio Association of Probate Judges. Additional information is available at www.ohioattorneygeneral.gov/2011JudicialElderAbuseSkills and www.ohioattorneygeneral.gov/2011PostAgingSummit.

UNFINISHED BUSINESS – Commission

Legislation

- Rep. Mike Dovilla [R – 18th District] has expressed an interest in the elder abuse bill package proposed by the commission. The most recent draft was forwarded for his consideration. The draft contains outstanding items that require a decision by the commission to move forward. Prior to voting on these items, there was extensive discussion on each. .

- Extent of information contained in APS reports (lines 617 – 621 of LSC draft 128 2223)
The pros and cons of each position were discussed. In summary:
 - As an adult, the subject of the report has a right to know what has been reported about them and by whom.
 - Having all of the information contained in the report, may empower the individual to be involved with his/her safety planning.
 - Providing full disclosure of the reporter’s name and identifying information may discourage individuals from reporting suspected elder abuse, potentially leaving the victim in a dangerous situation without investigation.
 - Ohio is a mandatory reporting state. As such, we obligate people to report suspected elder abuse without providing any protection for them. Immunity exists, but it does not address retaliation or intimidation.
 - There is precedent for allowing the administrative agency discretion on the content of information released within reports (e.g., Ohio State Long Term Care Ombudsman).
 - Consider a provision that allows the administrative agency to redact the name and identifying information of the reporter if there is a threat of danger to parties involved. Question of court jurisdiction may be a matter of concern.

Voting Options:

- Option 1 – Leave language as written. Upon request, the information contained in the report is available to the adult (victim) who is the subject of the report.
 - Option 2 – Add language that limits the information contained in the report made available to the adult (victim) subject of the report. The Ohio Department of Job and Family Services will draft rules that outline the information limited.
 - Option 3 – Leave language as written with an exception: the reporter’s name and identifying information may be redacted if there is a risk of danger to the parties involved. The burden to prove the risk of danger is on APS.
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- Extent of APS involvement in financial exploitation cases (lines 118 - 120 of LSC draft 128 2223)
The pros and cons of each position were discussed. In summary:
 - Concern about the staffing capacity and expertise of APS to handle the additional duties that will be added, if “caretaker” is removed from the statute.
 - Staffing capacity should not determine language recommended by the commission, but best practices and what is in the best interest of the victim.
 - Changing the definition of exploitation is an option because originally it was written too narrowly. Consider defining “ongoing relationship” in rule and not statute.
 - Absent a language change, there won’t be consistency across the state in how financial exploitation cases are handled. Some jurisdictions will provide a wealth of intervention while others may not become involved with the case.

Voting Options:

- Option 1 – Remove “caretaker” from the definition of exploitation. This removes a barrier to APS intervention by eliminating the need to prove a relationship exists.
- Option 2 – Retain “caretaker” in the definition of exploitation. This prevents broadening the role of APS and possibly overlapping with law enforcement.
- Option 3 – Redefine “exploitation” to include the meaning of an “ongoing relationship” as defined in rules by the Ohio Department of Job and Family Services. If Option 3 is agreed upon, then consider adding the phrase “involving one or more transactions” to the definition.

Voting Options:

- Yes – add the phrase “involving one or more transactions” when creating the new definition of exploitation.
- No – do not add the phrase “involving one or more transactions” when creating the new definition of exploitation.
-
- **Other matters for consideration**
Additions to draft language that received prior consensus will be included in the updated draft:
 - Include an appeal or review process for APS cases based on procedural concerns.
 - Ohio Department of Aging will assign an intern to draft a template of the APS appeals process for review.
 - Require APS to maintain records of all intake reports, whether investigated or not, in statute.
 - Ohio Department of Job and Family Services to determine the information that must be retained through rule-making process.
 - Require the establishment of a statewide Elder Abuse Commission in statute.
 - Make the commission required, not discretionary - shall meet at least quarterly.
 - Create a separate section to address designated agencies that perform APS duties.
 - Clarify role of designated agencies to reflect best practice and accountability.
- Senator Dave Burke [R – 26th District] has expressed an interest in the elder abuse draft proposed by the commission, to staff of the Ohio Department of Aging. Burke should be considered as a possible sponsor of a companion bill in the Senate.
- Funeral fee language, originally proposed by the Ohio Coalition for Adult Protective Services as a source of revenue for APS has stalled. Senator Stewart, the primary sponsor of the bill, is no longer in the Senate. Commission will review the language to determine its level of support, if any, at next meeting.

NEW BUSINESS – Commission

- Yelena Arishina, intern of Knox County Prosecuting Attorney’s Office, distributed a summary of her research on the “Regulation of Licensure and Criminal Background Checks in Ohio” (*see attachment*). According to her research, non-medical aides in Ohio are not required to have a license, specialized training, or to pass a criminal background check. The research summary prompted discussion on background checks for home care providers as a matter of good public policy and a possible source of revenue for APS.

PUBLIC COMMENT – Commission

Rosanna Miller of Bellfontaine, Ohio

- Provided oral and written comments, along with new supplemental materials.
- Requested the following:
 - Commission assist with the alleged murder of her mother in Logan County.

- Commission assist with the alleged abuse of her father in Logan County.
- Commission address the ineffective response she alleges she received from local authorities and appeal proceedings.
- Matter has already been reviewed by local authorities and appeal proceedings.
- Ms. Miller reminded that the commission is not an investigative body and has no authority to become involved with individual cases.

ADJOURN

| Concerning the extent of information contained in APS reports, which option do you support? | | | | | |
|--|---|----------|----------|----------|----------------|
| Member | Agency | 1 | 2 | 3 | Abstain |
| Judith Brachman | Interest of the Elderly | | X | | |
| Andrew Capehart | Ohio Coalition for Adult Protective Services | | X | | |
| Oliver Corbin | Ohio Department of Public Safety | | | X | |
| Debra Downing | County Commissioners Association of Ohio | | X | | |
| Cindy Farson | Ohio Association of Area Agencies on Aging | | | X | |
| Eugene Fischer | Buckeye State Sheriffs' Association | | X | | |
| Steve Hanson | Supreme Court of Ohio | | | | X |
| Roland Horbostel | Ohio Department of Aging | | | X | |
| Vicki Jenkins | Ohio Department of Developmental Disabilities | | | X | |
| Cindy Kuhr | Ohio Victim Witness Association | | X | | |
| Beverley Laubert | Ohio State Long Term Care Ombudsman | | X | | |
| Ursel McElroy | Ohio Attorney General's Office | | | X | |
| Leslie McGee | Ohio Department of Job and Family Services | | X | | |
| Jo Simonsen | Ohio Domestic Violence Network | | | X | |
| Thomas Swift | Ohio Association of Probate Judges | | | X | |
| John Thatcher | Ohio Prosecuting Attorneys Association | | | X | |

| Concerning the extent of APS involvement in financial exploitation, which option do you support? | | | | | |
|---|---|----------|----------|----------|----------------|
| Member | Agency | 1 | 2 | 3 | Abstain |
| Judith Brachman | Interest of the Elderly | | | X | |
| Andrew Capehart | Ohio Coalition for Adult Protective Services | X | | | |
| Oliver Corbin | Ohio Department of Public Safety | | | X | |
| Debra Downing | County Commissioners Association of Ohio | | | X | |
| Cindy Farson | Ohio Association of Area Agencies on Aging | X | | | |
| Eugene Fischer | Buckeye State Sheriffs' Association | | | X | |
| Steve Hanson | Supreme Court of Ohio | | | | X |
| Roland Horbostel | Ohio Department of Aging | | | X | |
| Vicki Jenkins | Ohio Department of Developmental Disabilities | X | | | |
| Cindy Kuhr | Ohio Victim Witness Association | | | X | |
| Beverley Laubert | Ohio State Long Term Care Ombudsman | X | | | |
| Ursel McElroy | Ohio Attorney General's Office | | | X | |
| Leslie McGee | Ohio Department of Job and Family Services | | X | | |
| Jo Simonsen | Ohio Domestic Violence Network | | | X | |
| Thomas Swift | Ohio Association of Probate Judges | | | X | |
| John Thatcher | Ohio Prosecuting Attorneys Association | | | X | |

| Concerning “exploitation” definition, do you support adding a phrase “one or more transactions”? | | | | | |
|---|---|--|------------|-----------|----------------|
| Member | Agency | | Yes | No | Abstain |
| Judith Brachman | Interest of the Elderly | | X | | |
| Andrew Capehart | Ohio Coalition for Adult Protective Services | | X | | |
| Oliver Corbin | Ohio Department of Public Safety | | X | | |
| Debra Downing | County Commissioners Association of Ohio | | X | | |
| Cindy Farson | Ohio Association of Area Agencies on Aging | | X | | |
| Eugene Fischer | Buckeye State Sheriffs’ Association | | X | | |
| Steve Hanson | Supreme Court of Ohio | | | | X |
| Roland Horbostel | Ohio Department of Aging | | X | | |
| Vicki Jenkins | Ohio Department of Developmental Disabilities | | X | | |
| Cindy Kuhr | Ohio Victim Witness Association | | X | | |
| Beverly Laubert | Ohio State Long Term Care Ombudsman | | X | | |
| Ursel McElroy | Ohio Attorney General's Office | | X | | |
| Leslie McGee | Ohio Department of Job and Family Services | | X | | |
| Jo Simonsen | Ohio Domestic Violence Network | | X | | |
| Thomas Swift | Ohio Association of Probate Judges | | | | |
| John Thatcher | Ohio Prosecuting Attorneys Association | | X | | |

Simple majority voting rules applied.