



**MIKE DEWINE**

★ OHIO ATTORNEY GENERAL ★

**OHIO ATTORNEY GENERAL'S ELDER ABUSE COMMISSION  
AUGUST MEETING MINUTES  
VERN RIFFE CENTER FOR GOVERNMENT AND THE ARTS  
77 SOUTH HIGH STREET, 31<sup>ST</sup> FLOOR  
WEST B & C CONFERENCE ROOM  
MONDAY, AUGUST 22, 2011  
9:30 AM – 3:30 PM**

**MEMBERS PRESENT**

**NAME**

Judith Brachman  
Andrew Capehart  
Oliver Corbin  
Debra Downing  
Dustin Ellinger  
Eugene Fischer  
Frank Fleischer  
Stephanie Graubner Nelson  
Roland Hornbostel  
Vicki Jenkins  
Beverley Laubert  
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  
Buckeye State Sheriffs' Association  
Ohio Coalition for Adult Protective Services  
Supreme Court of Ohio  
Ohio Department of Aging  
Ohio Department of Developmental Disabilities  
Ohio State Long Term Care Ombudsman  
Ohio Department of Job and Family Services  
Ohio Association of Probate Judges  
Ohio Prosecuting Attorneys Association

Ursel McElroy

Ohio Attorney General's Office

**WELCOME – Ursel McElroy**

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

**REVIEW JULY MEETING MINUTES – Commission**

- July 25, 2011 meeting minutes approved.

**ANNOUNCEMENTS – Commission**

*F. Fleischer*

- The Ohio Coalition for Adult Protective Services was awarded a Victims of Crime Act (VOCA) grant for the next 12 months to continue operating the Ohio HOPES hotline and website designed to assist victims of elder abuse and their families.

*A. Capehart*

- Registration is open for the National Adult Protective Services Association Annual Conference in Buffalo, NY. It is anticipated that the two-day conference will host nearly 600 participants with greater than 60 workshops to choose from. A financial exploitation summit will be held immediately

following the conference. The event is funded, in part, by the U.S. Department of Justice. Additional information is available at [www.apsnetwork.org](http://www.apsnetwork.org).

*U. McElroy*

- The dates for the National Judicial Institute on Domestic Violence: Enhancing Judicial Skills in Elder Abuse Cases are 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 Office, Supreme Court of Ohio and the Ohio Association of Probate Judges. Additional information is available at [www.ohioattorneygeneral.gov/2011JudicialElderAbuseSkills](http://www.ohioattorneygeneral.gov/2011JudicialElderAbuseSkills) and [www.ohioattorneygeneral.gov/2011PostAgingSummit](http://www.ohioattorneygeneral.gov/2011PostAgingSummit).

*R. Hornbostel*

- Roland Hornbostel, Deputy Director for Programs of Policy, is retiring from the Ohio Department of Aging. His last day is September 30, 2011. Consequently, the Commission will need to replace him as Chair of the Justice Subcommittee.

**UNFINISHED BUSINESS – Commission**

**Funding**

Funeral Fees

- Originally proposed by the Ohio Coalition for Adult Protective Services, a bill designed to utilize funeral fees as a source of revenue for Adult Protective Services has stalled. Senator Stewart, the primary sponsor of the bill, is no longer in the Senate. The Commission reviewed the draft language to determine its level of support.
- The bill requires funeral directors to collect a \$50 fee each time they obtain a burial permit and to forward the fee to the county department of job and family services (CDJFS). It requires the CDJFS to forward the funds received to the Ohio Department of Job and Family Services (ODJFS). These monies will create the Adult Protective Services Fund in the state treasury and will be utilized for the investigation of elder abuse, neglect, and exploitation. It is projected that the bill could generate \$5.4 million annually.
- The pros and cons of the language were discussed. In summary:
  - The language is not clear on cremation. As written, it doesn't allow for fee collection of a cremation.
  - The language is not clear on payment. As written, the monies will be collected by the CDJFS. CDJFS will pass collected monies to ODJFS for redistribution to the CDJFS. In light of administrative costs, there is concern that the net amount will be reduced.
  - The bill was referred to as “regressive” during earlier legislative hearings.
  - Attaching the funeral fee language to the draft bill currently proposed by the Commission, will likely change the path of the Commission's bill. It may have to be heard in a Finance Committee if funding is attached. There are a number of state agencies represented on the Commission that may not support language that imposes a fee.
  - The monies could better position Ohio if the Elder Justice Act appropriates funding to states for pilot projects.
  - Senator Chris Widener [R-10<sup>th</sup> District] suggested as a possible sponsor for the funeral fee bill.
  - Questions arose from the Commission that require answers from OCAPS before further consideration can be given. OCAPS will work on their strategy during their board meeting this month and will return with answers at the September Commission meeting. F. Fleischer is the lead.
- How would the monies raised be expended? How will it help meet the needs of elder abuse victims?

- How can you guarantee counties will not use the additional revenue to supplant current monies dedicated to the program?

#### Licensure of Home Health Agencies

- 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”. 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 possible source of revenue for Adult Protective Services.
- The pros and cons of the recommendation were discussed. In summary:
  - Ohio currently doesn’t license the agencies that provide the services of non-medical aides. Hence, background checks are not required. There are exceptions when an individual is providing services within a Medicaid waiver.
  - The costs associated with background checks has been an issue of concern and often viewed as cost prohibitive, particularly for smaller agencies. A balance is needed between requiring background checks and minimizing the cost burden to agencies.
  - There is a provision in the Affordable Care Act (*Nursing Home Transparency Section*) that may bring more standardization to the issue. The Act specifies who has to receive a background check and how often it must be done.
  - Federal monies have been available for pilot projects on statewide background checks. Ohio has opted not to pursue these dollars in light of huge costs incurred by previous participants (i.e., Michigan awarded 3 million to participate in a pilot project that ultimately cost them \$9 million).
  - Currently, the Attorney General’s Bureau of Criminal Identification and Investigation handles the background checks for the state. In most cases, only the initial background check is sought.
  - Where background checks are required, the treatment varies across state agencies. For example, the Ohio Department of Developmental Disabilities requires the owner/administrator of a facility to take a background check, while the Ohio Department of Aging does not.
  - Commission concluded that at this time, background checks would not be a good source of revenue.

#### Estate Recovery

- Medicaid Estate Recovery raises an estimated \$17 million annually.
- The pros and cons of the recommendation were discussed. In summary:
  - Currently, the monies collected from estate recovery are being used for the Medicaid line item in the state budget.
  - Estate recovery dollars are generally collected by older individuals and if used to help fund Adult Protective Services, it would be used for older individuals.
  - It is a viable source of income that should be considered in the next biennium.

#### Other

- Potential funding from the Elder Justice Act to strengthen Adult Protective Services should remain a focus.

#### **NEW BUSINESS – Commission**

- Matters to be considered in the next meeting:
  - Gaining a better understanding of the forensic center model for the prevention and treatment of elder abuse. Arrange guest presentation by Mary Twomey, Co-Director of the Elder Abuse Forensic Center in Santa Ana, CA. U. McElroy and A. Capehart to work together.

- Creating ways to assist local prosecutors in elder abuse cases. Consider Ohio's existing Child Abuse Professional (CAP) Fund operated by the Attorney General as a model.
- Strengthening the relationship between Veterans Administration agencies and Adult Protective Services.

**PUBLIC COMMENT – Commission**

Rosanna Miller of Bellfontaine, Ohio

- Provided oral and written comments, along with supplemental materials.
- Requested the following:
  - Commission assists with the alleged murder of her mother in Logan County.
  - Commission assists with the alleged abuse of her father in Logan County.
  - Commission addresses 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 advised that the materials provided were duplicates of the materials provided in prior meetings.
- Ms. Miller reminded that the commission is not an investigative body and has no authority to become involved with individual cases.

**ADJOURN**