

State Plan for Alzheimer's and Related Disorders Working Group

Legal Sub-Group

Run Time: 9:05-10:30

Thursday, November 1, 2012

Item Building (next to CORO East Building)

167 Point Street

Providence, RI 02908

Present: Lindsay McAllister (Lt. Governor's Office), Kathy Heren (Alliance for Better Long Term Care), Tom Enright (Chair), Glenn Friedman (Lifespan), Mark Sjoberg, Stacy Paterno, Joe Proietta, Parish Lentz.

Recruitment Efforts

1. Mark Sjoberg brought up the possibility of engaging students at Roger Williams Law School in this subgroup, specifically in regards to guardianship. Currently, Mr. Sjoberg is an adjunct professor there and stated that exposing law students to the field of geriatrics is important because it is a booming field of law.
 - o Tom Enright also noted that many state plans have a clause written into the regulations that allow for law students to participate and practice, if under the supervision of a licensed attorney.
2. Mark Sjoberg went on to discuss the importance of probate judges and courts in guardianship and related law. **Most people present agreed that while this sub-group does not have authority to change rules, it could issue recommendations to the probate commission for rule changes.** Any way of ensuring that these recommendations will be implemented is to have the members of the probate commission attend the meetings and draft the recommendations alongside.
3. List of people to contact: Liz Tobin, John Martinelli, Ann Mulraney, Marmon Harminoff (probate judge), Marth Criplin, Roger Demers.

Driver's Licenses

1. There was discussion about the different ways in which an older adult's license can be revoked or regulated. Many of the ways are discrete, such as having the family physician write a letter to the DMV. It was noted that while these options are out there for families, many of them are not aware that they exist.
 - a. Kathy Herrin said that she would write a column in the senior times journal and potentially, the legal group would work with the smaller newspapers to disseminate the information.
 - b. Lindsay McAllister will look at what the AARP has published in regards to this issue and
2. A few people in the group noted that while it is a public safety issue when impaired older adults are behind the wheel, **many family members do not feel comfortable taking away the keys or licenses because they see that as a restriction of the older adult's freedom of mobility. Often times, tensions within the family can rise as a result.** The question was brought up of the extent of confidentiality that the DMV provides when a family member is trying to take away driving privileges for an older family member and it was decided that the DMV should be a partner with the legal sub-group if there is to be recommendations within the State Plan as to institutional changes.

State Plan for Alzheimer's and Related Disorders Working Group

- a. The sub-group will also look into how the police deal with such cases.
3. The sub-group identified the need to find authorities on this issue (caregivers, police, doctors, etc.) to collect anecdotes of such incidents of unsafe driving by adults with Alzheimer's and dementia.
 - a. Lindsay McAllister noted that she will bring this up with the research sub-group.

Guardianship

1. Tom Enright opened up the topic of guardianship in the state by asking for ways in which we can take the best practices from other states and amend them to better the guardianship laws in Rhode Island.
2. Mark Sjoberg stated that the issue of guardianship is heavily tied into the probate courts.
3. Glen Friedmann noted that temporary guardians need Decision Making Assessment Tool (DMAT) concurrence. Once someone has the appointment of temporary guardianship, the guardian can sign documents that allow him/her to retrieve personal health record reports. Senior abuse occurs when the seniors have a power of attorney, but their guardians or trustees abuse it.
4. **Many members of the sub-group noted that guardianship comes with a lot of procedural red tape and there are inconsistencies in procedure across each separate probate court in the state.** There are many interpretations of the statutes. See Statute 33-26 (Probate Commission) for more information on how statutes overlap with local rules).
5. Tom Enright noted that Peter Lews and Wes Jackson would be good people to talk to in regards to how we can attempt to standardize interpretations of laws regarding guardianship because they are members of the probate commission. Lindsay will follow up with Tom on this.
6. Kathy Heren noted that the government should be the one to implement the volunteer guardianship program because there are many people without family members and without access to guardianship. She pointed out Statute 33-15-8.1 as a law that specifically deals with temporary guardianship. There are limitations to temporary and volunteer guardianship roles, such as the fact that they are not the ones to sign off on the medical bills. **The Legal sub-group will consider making recommendations pertinent to revising the statute.**
7. Glen Friedmann and Stacy Paterno brought up the question of what it is that this sub-group envisions the guardians or volunteers to be doing in terms of care. They discussed the need to look at the best practices of other states and model Rhode Island's plans off of them. Perhaps a good place to start is to look at the Cornerstone Program and see how that can be expanded because as it stands currently, it is very restrictive. Lindsay and Tom will work to follow-up on this for a future meeting.
8. The meeting was adjourned.