



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

April 20, 2009

The Honorable Joel T. Chaisson
President of the Louisiana Senate
P.O. Box 94183
Baton Rouge, LA 70804

Dear Senator Chaisson:

In response to House Concurrent Resolution No. 175 (HCR 175) of the 2008 Regular Session, the Louisiana Department of Health and Hospitals (DHH) submits the enclosed report. The report includes a study of existing laws on adult abuse and neglect, a study of the need for laws to protect those who cannot adequately protect themselves, an examination of the structure, operation, and outcomes of the programs established to protect vulnerable adults from abuse and neglect in Louisiana, and an exploration of ways to maximize resources necessary to viably operate a program that is cost-effective and administratively efficient for the protection of vulnerable adults.

In addition to the work of the Adult Abuse and Neglect Study Group, DHH is also working to enhance internal policies and procedures that focus on improving prevention of abuse and neglect within intermediate care facilities for people with developmental disabilities (ICF-DD). Efforts include:

- Conducting an in depth analysis of current abuse and neglect policies, the application of the policies within each facility, and the success of each policy;
- Expanding proven facility success models to other facilities;
- Providing additional staff training;
- Providing training and educational opportunities to local authorities;
- Implementing an Employee Assistance Program;
- Analyzing the disciplinary policies, actions taken against confirmed abusers, and the equitable application of the actions in accordance with the policies;
- Prioritizing the functionality of the Direct Service Worker Registry so that it can be used by all providers to screen staff with abuse findings;
- Developing extensive educational campaigns;

Speaker Joel T. Chaisson
April 20, 2009
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- Strengthening the quality assurance component of each office to include a focus on abuse and neglect; and
- Strengthening the role of the Client's Rights Officer that is housed in each ICF-DD.

The Department is available to discuss the enclosed report and recommendations with you at your convenience. Please contact Hugh Eley, assistant secretary of the DHH Office of Aging and Adult Services, at (225) 219-0223 with any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan Levine". The signature is fluid and cursive, with a large initial "A" and "L".

Alan Levine
Secretary

Enclosures



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

April 20, 2009

The Honorable Jim Tucker, Speaker
Louisiana House of Representatives
P.O. Box 44486
Baton Rouge, LA 70804

Dear Speaker Tucker:

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Alan Levine
Secretary

Enclosures

Bobby Jindal
GOVERNOR



Alan Levine
SECRETARY

State of Louisiana
Department of Health and Hospitals
Office of the Secretary

April 20, 2009

The Honorable Willie Mount, Chair
Senate Health and Welfare Committee
P.O. Box 94183
Baton Rouge, LA 70804

Dear Senator Mount:

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Secretary

Enclosures

Bobby Jindal
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Alan Levine
SECRETARY

State of Louisiana
Department of Health and Hospitals
Office of the Secretary

April 20, 2009

The Honorable Kay Katz, Chair
House Health and Welfare Committee
State Capital
P.O. Box 44486
Baton Rouge, LA 70804

Dear Representative Katz:

In response to House Concurrent Resolution No. 175 (HCR 175) of the 2008 Regular Session, the Louisiana Department of Health and Hospitals (DHH) submits the enclosed report. The report includes a study of existing laws on adult abuse and neglect, a study of the need for laws to protect those who cannot adequately protect themselves, an examination of the structure, operation, and outcomes of the programs established to protect vulnerable adults from abuse and neglect in Louisiana, and an exploration of ways to maximize resources necessary to viably operate a program that is cost effective and administratively efficient for the protection of vulnerable adults.

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April 20, 2009

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Alan Levine
Secretary

Enclosures



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

April 7, 2009

The Honorable Ernest D. Wooton, Chair
Administration of Criminal Justice Committee
P.O. Box 44486
Baton Rouge, LA 70804

Dear Representative Wooton:

In response to House Concurrent Resolution No. 175 (HCR 175) of the 2008 Regular Session, the Louisiana Department of Health and Hospitals (DHH) submits the enclosed report. The report includes a study of existing laws on adult abuse and neglect, a study of the need for laws to protect those who cannot adequately protect themselves, an examination of the structure, operation, and outcomes of the programs established to protect vulnerable adults from abuse and neglect in Louisiana, and an exploration of ways to maximize resources necessary to viably operate a program that is cost-effective and administratively efficient for the protection of vulnerable adults.

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Senator Ernest Wooton

April 7, 2009

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Secretary

Enclosures

Bobby Jindal
GOVERNOR



Alan Levine
SECRETARY

State of Louisiana
Department of Health and Hospitals
Office of the Secretary

April 20, 2009

The Honorable Yvonne Dorsey, Chair
Senate Judiciary C Committee
P.O. Box 94183
Baton Rouge, LA 70804

Dear Senator Dorsey:

In response to House Concurrent Resolution No. 175 (HCR 175) of the 2008 Regular Session, the Louisiana Department of Health and Hospitals (DHH) submits the enclosed report. The report includes a study of existing laws on adult abuse and neglect, a study of the need for laws to protect those who cannot adequately protect themselves, an examination of the structure, operation, and outcomes of the programs established to protect vulnerable adults from abuse and neglect in Louisiana, and an exploration of ways to maximize resources necessary to viably operate a program that is cost-effective and administratively efficient for the protection of vulnerable adults.

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Senator Yvonne Dorsey

April 20, 2009

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Alan Levine
Secretary

Enclosures

Report of the
Adult Abuse and Neglect Study Group,

Created by
House Concurrent Resolution (HCR) 174 of 2007
and extended by
House Concurrent Resolution (HCR) 175 of 2008

to the

House Committee on Health and Welfare
Senate Committee on Health and Welfare
House Committee on Administration of Criminal Justice
Senate Judiciary C. Committee
Speaker of the House of Representatives
President of the Senate

March 3, 2009

Executive Summary

The Adult Abuse and Neglect Study Group was established to study the existing laws on adult abuse and neglect and the need for laws to protect those who cannot protect themselves; examine the structure, operation, and outcomes of the programs to protect vulnerable adults from abuse and neglect in Louisiana ; investigate existing jurisdictions; explore ways to maximize resources necessary to viably operate a program that is cost-effective and administratively efficient for the protection of vulnerable adults; and other related issues.

Study Group members represent a broad spectrum of interested parties, including state officials, provider agencies, law enforcement, and social services. Consumers and their advocates were also included.

The adult protective services law was enacted in Louisiana in 1982 (R.S. 14:403.2, Act 518 of the 1982 regular legislative session). Two protective service agencies operate under this law. The Department of Health and Hospitals (DHH) operates Adult Protective Services (APS), which has responsibility for abuse and neglect cases for vulnerable adults aged 18 through 59. The Governor's Office of Elderly Affairs operates Elderly Protective Services (EPS), which has responsibility for cases involving elderly victims who are aged 60 and over.

Recommendations from the study group include:

- Centralized in-take would have benefit to both protective service agencies. The Work group recommends the necessary study and funding for the establishment of a 24/7 call center for adult protective services intake. As an interim step the committee recommends outreach to 211-Louisiana and similar entities) to ensure calls are referred correctly.
- The role and function of the Coordinating Council (CC) needs to be clarified, and a consistent model incorporating both EPS and APS be developed in accordance with the statute.
- The EPS and APS Programs need to coordinate training to make better use of scarce resources.
- The Elderly Services Officer (ESO) Law Enforcement Training needs to be continued with the inclusion of other vulnerable adults in the curriculum.
- The EPS and APS Programs need to continue to develop relationships with law enforcement entities by the inclusion of Law Enforcement on the regional CC.
- The Louisiana EPS and APS Programs need to be fully evaluated by an independent, outside agency with protective services experience.

- The committee recommends the amendment of R.S. 15:1503 to provide a clear definition of sexual abuse that can guide reports and investigations
- Professional community outreach efforts should increase.
- Community resources for elders and vulnerable adults should increase. Protective service agencies should have their own funds to purchase resources on behalf of clients.

HOUSE CONCURRENT RESOLUTION 175 STUDY GROUP REPORT

Report to the House Committee on Health and Welfare, the Senate Committee on Health and Welfare, the House Committee on Administration on Criminal Justice, the Senate Judiciary C. Committee, the Speaker of the House of Representatives and the President of the Senate.

The Adult Abuse and Neglect Study Committee would like to express its appreciation to the Louisiana Legislature for the opportunity to review the issues and provide recommendations that would protect Louisiana's most vulnerable citizens from abuse and neglect.

Charge of the Resolution

The Adult Abuse and Neglect Study Group was established by House Concurrent Resolution (HCR) 174 of the 2007 legislative session to

1. study the existing laws on adult abuse and neglect and the need for laws to protect those who cannot protect themselves;
2. examine the structure, operation, and outcomes of the programs to protect vulnerable adults from abuse and neglect in Louisiana ;
3. investigate existing jurisdictions;
4. explore ways to maximize resources necessary to viably operate a program that is cost-effective and administratively efficient for the protection of vulnerable adults;
5. and other related issues.

The work of the committee was extended under this charge by HCR 175 by Representative Katz with the final report due on March 3, 2009.

Membership

The membership of the study group was established in HCR 174. The study group has secured participation from all stakeholders or their designees that were enumerated in the resolution. The individuals (with their affiliations) that currently constitute the study group are as follows:

Julia Kenney/Michelle Breaux Perry	Representing the Secretary of the Department of Health and Hospitals
Kathy Kliebert	Assistant Secretary of the Office of Citizens with Developmental Disabilities
Brandon Burris	Executive Director of the Governor's Office

	of Disability Affairs
Jay Bulot, Ph. D.	Executive Director of the Governor's Office of Elderly Affairs
Danita LeBlanc	Representing the Assistant Secretary of the Office of Mental Health
Erin Rabalais	Manager of the Health Standards Section of the Department of Health and Hospitals
Hugh Eley	Assistant Secretary of the Office of Aging and Adult Services
Tasha West	Representing the Attorney General's Office
Chief Walter Smith	Representing the Louisiana Association of Chiefs of Police
Audrey Thibodeaux	Representing the Louisiana Sheriff's Association
Dixie Brown	Representing the Louisiana District Attorney's Association
Linda Sadden	The Louisiana State Long-Term Care Ombudsman
Nancy McPherson	Representing AARP
Koki Otero/Miranda Tait	Representing the Advocacy Center
Wallace Johnson	A person with a disability living in Louisiana
Mary Linda Francis	A senior citizen living in Louisiana
Lois Dalpiaz	A family member of a person with a disability living in a residential facility
Trudye Jones	A family member of a person with a disability living in Louisiana
Liz Hidalgo	A family member of a senior citizen with a disability living in a long-term care facility

In addition to these designated members, numerous staff from various relevant departments in state government have been attending work group meetings to lend their expertise and assistance to the work of the study group. These key staff members include

Lutricia McDonald	Elderly Protective Services
Ellen Estevens	Adult Protective Services
Robert Seemann	Adult Protective Services
Nancy Grush	DHH Legal
Kathleen Dawkins	DHH Legal
Robert Showers	OCDD
Beth Jordan	OCDD
Sandra Guthans	OAAS

Overview of Protective Services

Adult protective services are those services provided to insure the safety and well-being of elders and adults with disabilities who are in danger of being mistreated or neglected, are unable to take care of themselves or protect themselves from harm, and have no one to assist them.

Interventions provided by adult protective services include, but are not limited to, receiving reports of adult abuse, exploitation or neglect, investigating these reports, case planning, monitoring and evaluation. In addition to casework services, adult protection may provide or arrange for the provision of medical, social, economic, legal, housing, law enforcement or other protective, emergency or supportive services.

There are no federal requirements for adult protective services and so definitions and programs vary from state to state. All fifty states have an adult protective services program. Forty-two (42) states have a single program that provides services to all vulnerable adults. Thirty-three (33) of those states have a statute that defines eligibility based solely on age 18 or over and having a functional limitation. The other nine states define eligibility both as age 18 or over with a disability and as age 60 or 65 or older.

Eight states have either two separate programs, one for elders and another for other adults, or have a program only for elders with no protective services for younger adults with disabilities. States with two programs include but are not limited to Massachusetts, Oregon, Hawaii, Wisconsin, Nevada, and Louisiana. A few states, e.g. Pennsylvania, and Rhode Island have programs that only serve the elderly.¹

In 29 states, adult protective services programs are administered under a state human service agency separate from the State Unit on Aging (SUA). In 17 states, APS is administered by an SUA that is part of a larger human services agency. In five states adult protective services was part of an SUA that was an independent agency.² Three states adult protective services programs were located in other agencies.

All adult protective services agencies have authority to respond to reports in domestic settings. In 37 states the adult protective services program also responds to reports in institutional settings such as nursing homes, and in 31 states the adult protective services program responds in all settings. Settings in which adult protective services does not respond are usually handled by agencies such as licensing/certification agencies or ombudsman programs.

¹ National Adult Protective Services Association

² 2000 APS Survey, NCEA (totals include District of Columbia and territories).

Overview of Protective Services in Louisiana

The adult protective services law was enacted in Louisiana in 1982 (R.S. 14:403.2, Act 518 of the 1982 regular legislative session). The program was designed to serve all vulnerable adults, aged 18 and over and was housed in the Department of Health and Human Resources (DHHR). In practice reports of adult or elder abuse were handled by the same staff that did child protection work.

The law was amended in 1983 to provide immunity to reporters and was amended again in 1985 to add self-neglect and exploitation/extortion to the list of reportable offenses. The amendment also added the right of self-neglect victims to refuse services.

When DHHR was abolished in 1989, responsibility for adult protective services was placed in the Department of Social Services (DSS). However, DSS took the position that there was no funding for the program. They continued to respond to life or death situations only using child protection workers. By 1991, the Governor's Office of Elderly Affairs (GOEA) had obtained funding for a separate adult protective services program within their budget, which they transferred to DSS. However, DSS was unable to get the program in operation.

By 1992 the governor's transition team recommended moving the APS program out of DSS. However there was disagreement among the involved agencies and advocacy groups as to where to house the program. The eventual compromise was to create two separate programs and house one in the Department of Health and Hospitals (DHH) and the other in GOEA. GOEA was given responsibility for elders (individuals aged 60 and over) and DHH was given responsibility for vulnerable adults (aged 18-59). The program managed by GOEA will be henceforth referred to as EPS, while the program operated by DHH will be referred to as APS. The enabling legislation that created the two programs did not change the definition of who was covered by the law. It still referred to anyone who was over the age of 18 who was vulnerable to abuse.

Additional statutes have been enacted to govern reporting requirements for nursing homes and other residential facilities licensed by the state, for state run agencies and for abuse/neglect situations that involve the expenditure of state and federal funds. The Health Standards section of DHH will receive reports of abuse or neglect situations involving providers licensed by DHH. Health Standard's emphasis is on enforcing licensing standards and making systemic changes that may correct deficiencies being experienced by all of the clients of a given provider. Health Standards can sanction providers for failure to provide required care. The ultimate sanction would be to remove a provider's license to operate in Louisiana.

The Attorney General's Office operates a Medicaid Fraud Unit that may also become involved in abuse cases. Billing Medicaid for care that was not provided constitutes

Medicaid fraud. At times, such failure to provide care may rise to the level of abuse or neglect.

Finally, the State Long Term Care Ombudsman, housed within GOEA's Elder Rights Unit, has responsibility for investigating and resolving complaints made by or on behalf of residents of long term care facilities. Long-term care facilities include nursing homes, assisted living facilities, and personal care homes that serve individuals age 60 and over.

Therefore, while not specifically protective services agencies, the Attorney General's Office and the Health Standards section within DHH and the State Long-Term Care Ombudsman all have responsibility for activities that relate to the abuse and neglect of vulnerable adults.

Both APS and EPS use trained investigators/case managers whose responsibility is to prevent abuse, neglect and exploitation and bring community resources to bear in stabilizing an abuse situation. Both agencies have authority to seek court intervention to protect vulnerable adults who have been harmed or are at risk of harm and are unable to act on their own. For example, either agency may seek a court order to provide services or to remove a vulnerable adult from an abusive or threatening situation.

It should be noted that neither APS nor EPS are emergency responders and that when abuse or neglect threaten the safety of a vulnerable adult or rises to a criminal offense, a case will be referred to local law enforcement. Recent legislative developments (1999) have led to the establishment of Aged Law Enforcement Response Teams (including Elderly Service officers within law enforcement and specially trained District Attorneys) to work on these cases.

Accomplishments from 2008

Having begun its work in 2007, the Adult Abuse & Neglect Study Group was able to offer several recommendations in a preliminary report to the legislature dated March 3, 2008. Some of these recommendations required legislative action that was offered in the 2008 regular legislative session. These legislative accomplishments are as follows:

- Though RS 14:403.2 is in the criminal statutes, the only crimes it mentions are 1) failure to report abuse and 2) knowingly making a false report of abuse. The vast majority of the statute dealt with the administrative roles and responsibilities of the two protective service agencies. The task force worked with DHH to secure the sponsorship of Senator Martiny to offer legislation in the 2008 session that placed the administrative portions of the statute in Title 15, Criminal Administration. This legislation was enacted and signed by Governor Jindal (Act 181). Also included in this legislation was new law to create the crime of

retaliation against a person who makes a good faith report of abuse or neglect and to prevent interference with the reporting or investigation of abuse/neglect .

- Note: The movement of the administrative material out of Title 14 will mean that a “clean-up” piece of legislation should be offered in the 2010 session that will change all references to this material throughout the Revised Statutes from Title 14 to Title 15.

- The taskforce offered legislation to amend the criminal code to include battery of an adult protective service worker in the statute that creates the crime of battery of a child protective service worker. This legislation was enacted in the 2008 regular legislative session (Act 43)

Major recommendations

I. Centralized Reporting

The APS Study Group had previously identified several issues relevant to how reports of Elder and Adult Abuse are received in Louisiana. Chief among these were

- Confusion in the general public about how to report suspected abuse (See Appendix A, p. 17)
- Lack of 24/7 coverage of an intake line for some kinds of reports
- Reports to more than one agency makes it difficult, or even impossible, to have complete statistics on the numbers or kinds of reports
- Inconsistency from one office to another or one region to another as to how abuse allegations are processed

It was expressed in our meetings that a single, centralized in-take center, staffed 24/7 might be an improvement to our current system. Pursuant to this hypothesis, this committee submitted a survey to other states using the Adult Protective Services List Serve, inquiring of the experience in other states. Responses were received from 9 jurisdictions – Georgia, Maine, Minnesota, Missouri, Oklahoma, San Diego County, CA, Texas, Wyoming and Virginia. (Appendix B, p. 19)

All of these entities provided 24/7 coverage in some manner. Typically, some staff is on-call at all times, similar to the way this is handled in DHH’s APS program. Another common solution is to contract with another agency that has 24/7 operations – such as a suicide prevention hot-line or a child protection agency -- to handle the afterhours calls. Agencies that operated a 24/7 call center themselves typically took reports for more than just Adult and Elderly Protective Services. Frequently, Child Protection is handled by the same office.

Some states that have a call center for receiving reports, may also allow for reports to go to local offices of some kind. These states offer a web-based reporting system, so that local offices and state offices can all input cases into the same data base.

Every state refers emergency calls to 911. They may do this by telling the caller to hang up and dial 911. A few will make the call for the reporter, while keeping the reporter on the line. No one seems to be co-located with a 911 system.

On the average, a single in-take worker seems to handle 275-300 calls a month. Based on these results a call center handling APS and EPS calls would require a staff of 10-12 FTEs. If the calls currently handled by Health Standards, the Attorney General's Office, or Child Protection were added to this center the number of in-take workers would have to be much higher.

Every surveyed state's intake workers have degrees in social work or some related field. Some are former protective service investigators. All receive significant initial and on-going training.

It was reported anecdotally in our survey responses that states that have converted from local intake to a centralized system have seen an immediate 35% increase in protective services reports, which then held steady at the higher amount in subsequent years. Presumably this occurs both because making the report is easier and because calls are tracked more efficiently.

Some committee members were very interested in developing a call center for intake that was reached by a three-digit number, because of the ease of use for consumers. In researching this issue we determined that N11 technology presented several challenges that make it unfeasible at this time. However, working closely with the existing 211Information System might provide some benefits for in-take.

Recommendation

- Centralized in-take would have benefit to both adult protective service agencies. The Work group recommends the necessary study and funding for the establishment of a 24/7 call center for adult protective services intake. As an interim step the committee recommends outreach to 211-Louisiana (and similar entities) to ensure calls are referred correctly.

II. Agency Coordination

Coordination of APS, EPS and the other governmental units that have an impact on cases of abuse and neglect is a complex issue that was best examined by analyzing a group of related topics. The work of the Study group in this regard is summarized below and in appendix C, p. 22.

A. Local Coordinating Councils

The laws defining abuse and neglect of vulnerable adults and establishing the protective service agencies mandated the establishment of a local Coordinating Council (CC) in each region of the state. These councils, currently coordinated by EPS, are comprised of representatives from APS, EPS, Councils on Aging, Area Agencies on Aging, social service providers, healthcare providers, advocacy groups and others who have an interest in the welfare of elders and vulnerable adults. The membership, organizational structure, mission and level of participation vary from region to region.

Recommendation

- The role and function of the Coordinating Council (CC) needs to be clearly defined, and a consistent model incorporating EPS, APS and local law enforcement be developed in accordance with the statute.

B. Training

The training needs of EPS and APS overlap in many areas. Staffs of both agencies require training in investigations, interviewing techniques, and resource development. Both agencies operate under the same law. Neither agency has sufficient resources to provide all the training recommended in national standards.³

Recommendation

- The EPS and APS Programs need to coordinate training, conducting joint trainings wherever possible, to make better use of scarce resources.

C. Criminal Justice

Adult protection cases often become a criminal matter. Statutes require that physical and sexual abuse cases be reported to local law enforcement. Proper handling of such cases is enhanced when police and sheriff departments and district attorney offices have knowledge and experience about abuse and neglect of vulnerable adults.

EPS has benefited from LA R. S. 15:1237 - The Creation of the Aged Law Enforcement Response Team (ALERT) as a statewide network of law enforcement officers called "Elderly Services Officers." Three hundred plus law enforcement officers in 60 of the 64 parishes in Louisiana have received specialized training and certification to work with elderly and vulnerable adult victims of crime/abuse/neglect/exploitation. While APS and EPS are not first responders, law enforcement officers are and do encounter abuse problems in the community after hours when APS and EPS offices are closed. These specially trained ESOs have been invaluable to the EPS and APS Programs.

EPS and APS have also benefited from LA R.S. 15:1237 which also calls for ALERT Assistant District Attorneys (ADA). On June 3, 2008 the Louisiana District Attorneys

³ Core competencies for APS caseworkers. NCEA/NAPSA Training Resources Development Project. November 2005.

Association designated ALERT ADAs in 41 of the 42 Judicial District Attorneys Offices who felt it was their collective responsibility to ensure that elders live their lives safely and with dignity. The ALERT ADAs have received specialized training to work with elderly victims of crime/abuse/neglect/exploitation. The ALERT statute also requires that these same DAs receive cases involving vulnerable adults.

Recommendations

- The Elderly Services Officer (ESO) Law Enforcement Training needs to be continued and expanded with the inclusion of how to respond to other vulnerable adults in the curriculum.
- The EPS and APS Programs need to continue to develop relationships with law enforcement entities by the inclusion of Law Enforcement on the regional CC.

D. Agency Unification

The Adult Abuse & Neglect Study Group met for two years to study the existing laws on adult abuse and neglect. The group's charge has been to examine the structures, operations, and outcomes of the programs established to protect vulnerable adults from abuse and neglect in Louisiana and to investigate the roles and responsibilities of existing jurisdictions, to explore ways to maximize resources so that program operations are fiscally and programmatically efficient and effective.

The Study Group examined how to achieve its legislative mandate, while maintaining the two distinct entities that are EPS and APS.

One question that is yet unanswered by the Study Group is *should these two agencies be combined or consolidated in some way?* Neither the full committee nor its subcommittees felt qualified to answer this question and in turn recommended that the EPS and APS Programs need to be evaluated by an independent, outside agency with protective services experience. However, as a result of many of the committee recommendations, it became apparent that there were opportunities for these two agencies to work more closely together, consolidate resources, and more closely align in the future. Given the current economic realities, it is incumbent upon the Study Group to consider this issue.

At the invitation of the Chair, the two agency heads directing EPS and APS, met with her as a leadership work team to consider the question just stated. The following summary memorializes a thoughtful conversation among the three principals about an approach to more closely aligning the structure of the two agencies, and ultimately all state agencies with related investigative and regulatory functions with the possibility of unifying agencies.

At the end of the brainstorming session, both agency heads agreed that the desired outcome of more efficient and effective program operations that serve the needs of vulnerable populations might be achieved at any one of four phases proposed during this deliberative dialogue. Performance measures developed and carefully evaluated as each phase was fully implemented would determine if the desired outcome, as stated above, was achieved. If the desired outcome was not achieved and additional improvements were needed, the next phase would be implemented. The phase at which the desired outcome was achieved would determine the degree to which the structure should be unified.

A Four Phase Approach to Unifying EPS and APS

Phase 1: Create Regional Teams

Required Tasks:

- Examine and revise MOU as needed.
- Maintain separate locations.
- Formalize the regional Coordinating Councils (CC).
- Clarify the purpose and leadership composition of the CC.
- Define the roles and responsibilities of each member of the CC.
- Develop and implement training and expectations for a multi-disciplinary team approach to the work of the CC.
- Develop performance measures and evaluate outcomes.

Costs:

- MOU revisions.
- Training and facilitation.
- Meeting materials and supplies.

Phase 2: Joint Processes and Systems

Required Tasks:

- Conduct a program audit to identify opportunities for joint processes and systems (including data sharing) and legal impediments to creating them.
- Develop shared vision, mission, and values.
- Develop unified policies and procedures, including training standards.
- Develop joint contracts wherever possible.
- Conduct joint training and education.
- Integrate IT structures.
- Develop data sharing and data analysis protocols.
- Develop centralized reporting templates and protocols.
- Develop performance measures and evaluate outcomes.

Costs:

- MOU revisions.
- Program audit.
- IT integration.
- Centralized reporting.

- Legislative changes.

Phase 3: APS/EPS Unified Command

Required Tasks:

- Develop unified functions.
- Develop joint investigative protocols.
- Develop Joint Investigation Teams.
- Conduct investigative training.
- Develop unified organizational structure.
- Relocate facilities under one roof.
- Develop performance measures and evaluate outcomes.

Costs:

- MOU revisions.
- Investigative protocols.
- Budget integration.
- Legal integration.

Phase 4: Consolidation of All Related Services

Required Tasks:

- Expand Program Audit to evaluate:
 - related investigative and regulatory functions within other agencies to include Health Standards, Ombudsman, DSS, Licensing, CPS, MFCU, AG's Office, Medicaid Fraud, etc.
 - where economies of scale could be achieved.
 - where effectiveness would not be hindered.
 - how roles and responsibilities within each entity could be combined.
- Analyze laws and develop legislative revisions where needed, specifically budget authority.
- Site facilities and equipment.
- Consolidate agencies and leadership.
- Develop performance measures and evaluate outcomes.

Costs:

MOU revisions.
 Program audit.
 Consolidation and siting of facilities and equipment.
 Legal analysis and integration.

Recommendation

- The Louisiana EPS and APS Programs need to be fully evaluated by an independent, outside agency with protective services experience.

Other recommendations

- While sexual abuse is clearly a type of abuse subject to mandatory reporting under R.S. 14:403.2 (Abuse and neglect of adults; reports; investigation; waiver of privileges; penalties; immunity), the statute contains no definition of sexual abuse. This leaves reporters uncertain as to exactly what situations must be reported and responders uncertain as to what cases to substantiate as sexual abuse. While certain forms of sexual mistreatment are defined in criminal law, other kinds of potentially harmful sexual activity, such as creating a highly sexualized environment for an individual who lacks capacity to consent need to be addressed. The committee recommends the amendment of R.S. 15:1503 to provide a clear definition of sexual abuse that can guide reports and investigations
- Community Education is a vital function of protective services agencies. On-going community education is necessary to increase the percentage of abuse reports that are made to proper authorities. At this time, neither protective service agency has dedicated resources to perform this vital function. Community Education programs, when they occur, are performed by investigators alongside their investigative duties or by community volunteers. National statistics indicate that only 20% of abuse and neglect cases are ever reported⁴. Additionally the number of reports continues to increase. Abuse and neglect reports increased almost 20% from 2000 to 2004.⁵ Predicted population growth among older adults in particular can only predict dramatic growth in both reported and unreported cases of abuse and neglect, requiring increased, professional community outreach efforts. Additionally, Louisiana has a higher rate of disability among those 18-59⁶, which would lead to a greater need for resources to adequately care for vulnerable adults that are abused or neglected.
- In Louisiana, neither protective service agency has any service dollars in its budget. The role of protective service workers is to mobilize existing resources from other sources. Increasingly, catalyzing good outcomes for clients is hampered by the lack of community resources to marshal on behalf of clients. A particularly noteworthy service need is for the emergency placement of a vulnerable adult in need of supportive care who must be removed from their current living situation in order to protect them from further abuse. Communities in Louisiana generally lack such resources. In other states the protective service

⁴ National Elder Abuse Incidence Study (1998)

⁵ The 2004 Survey of Adult Protective Services

⁶ US Census 2000

agencies have service dollars that can be used to purchase emergency services on behalf of their clients. Louisiana's protective service agencies would be well served to have service dollars included in their budgets as well.

APPENDIX A

Responding to Abuse/Neglect/Exploitation

Abuse Occurs In:	Victim Age Is:	Report to:	Investigation by:	Protect /Arrange Services:
Community (non-licensed setting and/or accused is not staff)	18-59	<u>APS</u>	<u>APS</u>	APS
	>59	<u>EPS</u>	<u>EPS</u>	EPS
Community (non-licensed setting but accused is staff of private provider)	All Ages	Licensing agency (DSS or HSS)	Internal by provider	Provider
	18-59	OAAS or OCDD (if waiver recipient) APS (if waiver recipient)	Licensing agency (DSS or HSS) APS (by MOU)	OAAS or OCDD (if waiver recipient)
	>59	EPS	EPS	APS (by MOU)
Private facility/provider licensed by HSS (e.g., ICF/MR, NF, PCA, SIL, etc.)	All Ages	HSS	Internal by provider HSS	
Private facility/provider licensed by DSS (e.g., Board & Care, Assisted Living, etc.)	All Ages	DSS	Internal by provider	APS
	18-59	APS	DSS APS	
	>59	EPS	EPS	EPS
DHH non-residential programs/services (accused is staff)	All Ages	Licensing agency (HSS or DSS) if licensed program. OS/BPS Internal per DHH Policy.	Licensing agency (HSS or DSS) if licensed program. OS/BPS	Internal per DHH Policy
DHH 24-hour facilities (dev. centers, mental hospitals & acute units, OAD inpatient facilities or affiliates) (accused is staff.)	All Ages	Internal per DHH Policy. Licensing agency (HSS or DSS) OS/BPS	Licensing agency (HSS or DSS), at their discretion. OS/BPS	Internal per DHH Policy

NOTES: 1. **Child Protection (DSS/OCS)** has jurisdiction in **any** setting when the alleged victim is <18 years of age and the alleged perpetrator is considered a caregiver (family or paid). Such incidents shall be reported to the local Child Protection office. They investigate, protect, and monitor. This jurisdiction is in addition to that of any appropriate licensing or regulatory agency. 2. **Criminal Investigation and Prosecution** is handled by local law enforcement and district attorneys in all settings **except** that the AG's **Medicaid Fraud Control Unit** also has investigative authority in NF's, ICF/MR's, and in board & care facilities that house residents who receive Medicaid. The AG's office may investigate or assist local law enforcement and may prosecute with the consent of the DA. Per DHH Policy, facility/program managers should notify local law enforcement when there is reason to believe a crime has been committed.

Abbreviations:

APS- Adult Protective Services, Office of Aging and Adult Services

OS/BPS- DHH Office of the Secretary/ Bureau of Protective Services

EPS- Governor's Office of Elderly Affairs, Elderly Protective Services

HSS- DHH-Bureau of Health Services Financing, Health Standards Section

OAAS- DHH Office of Aging and Adult Services

OCDD-DHH Office for Citizens with Developmental Disabilities

DSS- Dept. of Social Services, Bureau of Licensing

Appendix B

Centralized Intake Survey Data

Key to responses

Populations served

C=children

A= Adults with disabilities

DD=Adults/children with Developmental disabilities only

E= Elders

Com= cases arising in the community

Fac= cases arising in facilities

Scope

I= Complete intake, case assigned to investigator

R= Referral to appropriate agency for intake

I/R= Serves as call center for information and referral for general community

services

CC=Crisis Counseling

R = Referrals can be made to callers whose reports not deemed to be ANE

Other

Emergency calls

L911= directly linked to 911

R911= Tells the caller to hang up and dial 911

Other

After hours

AM = Answering Machine

Con = Contracted to another agency

OC – staff on-call 24/7

Reports to others

LE = Law enforcement is mandated to report to APS/EPS

NR = Not Reported

State	Populations Served	Scope	Calls/month	#FTE	24/7	After hours	Emergency calls	Reports to others	Worker Qualifications
GA	A, E, com.	I,R	2500	8	N	AM	R911	LE	Same as cas MGR.
ME	A, E	I,R	1250	4	N	Con	R911	LE & other mandated cross referrals	4 yr SS degree and LSW
San Diego	A, E	R, I/R, Other	3500-5000	16	N	Con	L911	LE	BA/BS
WY*	C,A,E	I	NR	NR	Y	OC	NR	LE	NR
TX	C, A, E, com, fac Other	I	72,500	300	Y		R911	NR	BA/BS, SS preferred
OK*	C, A, E	I	NR	NR	Y	OC	R911	NR	NR
MN*	A, E, Fac., Com.	I	1250	NR	N	Varies by county	Counties provide Emergency protective services	LE	NR
MO	A, E, Fac., Com.	I	6000	17	Y?	OC	R911, OC staff and Linked to MH Crisis intervention	Mandate all reports to Protective Services	BS in SW or related plus one yr exp in protective services or MSW
VA**	C, A, E	R	1200	5.5	Y	OC	O,	Reports	Degree in

			APS, 6888 total				makes call to 911	also made to local offices of DSS or LE	SW or related field
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*Not centralized. Calls taken on a regional, local or county basis.

** Reports made to central 24/7 hotline or to local agencies

Appendix C
Comparison of APS and EPS

	APS	EPS	Best Pract	Coordin ator
Mission Statement	The Department of Health and Hospitals, Office of Aging and Adult Services Adult Protective Services is committed to preserving and protecting the rights of persons 18-59 years of age with disabilities to be free from abuse, neglect, exploitation, or extortion. In pursuit of this commitment and in accordance with the provisions of La. R.S. 15:1501, et. seq., OAA/APS is committed to establishing systems to provide protection to individuals who are unable to independently provide for themselves or to manage their resources and who are harmed or threatened with harm through the action or inaction of themselves or those entrusted with their care.	The purpose of Elderly Protective Services is to protect adults 60 + years of age who cannot physically or mentally protect themselves and who are harmed or threatened with harm through the action or inaction by themselves or by the individuals responsible for their care or by other persons.		
Total Budget FY '07-'08	\$2,089,705	\$2,400,000.00		
Average Caseload	83 Cases Avg.	144 Cases Average Yearly Per EPS Worker		
Average Length of Time Cases Remain Open	92 Days	DO NOT HAVE STAT EXAMPLE: Region 3: 455 Accepted 44 Cases 60 Day Review 13 Cases 90 Day Review 3 Cases 120 Day Rev.		
Intake Process	A. Number of Staff performing Intake: 3 including manager	A. Number of Staff Performing Intake: 8 total, one in each office.		

	<p>B. Regular working hours of intake staff: 7:30am-5:00 pm (overlap)</p> <p>C. How Intakes are Handled Afterhours:</p> <p>1. Calls are screened by answering service, and</p> <p>2. APS supervisor or manager on call is contacted for cases needing emergency response.</p> <p>D. # of Intakes received during FY '07-'08: 1,848</p> <p>(data entered into OTIS)</p> <p>E. Number of Cases Opened from Intakes: 1,438 (1st Report)</p> <p>1,520 (2nd Report)</p> <p>F. Number of Cases not Accepted from Intakes: 373</p> <p>G. <u>Reject Reasons</u>:</p> <p>Not Eligible-----190</p> <p>Case already open-----8</p>	<p>B. Regular working hours of intake staff: 8:00am-4:30 pm.</p> <p>C. How intakes are handled Afterhours:</p> <p>EPS is not an emergency response agency.</p> <p>The phones have voice mail instructing the caller to dial 911 in case of an emergency (the same thing we say to do in emergency cases during working hours).</p> <p>If it's a non-emergency, we request a contact phone number and they are called back the next day.</p> <p>D. # of Intakes received during FY '07-'08: 3,675</p> <p>E. # of cases opened from intakes: 3,449</p> <p>F. # of cases not accepted from intakes: 226</p> <p>G. <u>Reject Reasons</u>: This data is not captured, but a brief review of unaccepted cases shows that cases are not accepted for three reasons:</p> <p>1. Client is under age 60</p>	
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Insufficient Info-----90			
Facility Case-----8			
I & R only-----5			
Info Only-----6			
Referral Only-----2			
Sufficient Protection in Place-----54			
Whereabouts unknown----10			
<u>H. Numbers and Types of Referrals:</u>			
Health Standards-----43			
Advised not eligible-----2			
Advocacy Center-----2			
APS assessment-----1			
Battered Spouse-----4			
Called child protection-----1			
Case mgmt.-----1			
APS casework-----5			
Coroner-----4			
Other DHH offices-----1			
EPS-----86			
Waiver units-----5			
Home Health-----1			
OCDD-----11			
Ombudsman-----1			
Law Enforcement-----12			
Public Health-----2			
Referred to child protection-5			
Referred to provider-----15			
	2. The report does not meet the definition of abuse or exploitation		
	3. Complaint is a criminal matter that happened in the distant past		
	H. Numbers and types of referrals: TOTAL: 9,676		
	BREAKDOWN:		
	Social Referrals 5,150		
	(See Attachment 1)		
	Medical Referrals 3,099		
	(See Attachment 2)		
	Referrals for Financial 340		
	(See Attachment 3)		
	Legal Referrals 1,087		
	(See Attachment 4)		

	Shelter-----2 Trained/Coached provider---1 DSS Licensing-----2			
Priority System	<p>Priority One (High Prioritization): A report which alleges</p> <ol style="list-style-type: none"> 1. Adult in need of protection is abused/neglected/exploited/ extorted, and has suffered serious harm or serious physical injury which, if left untreated, may result in permanent physical damage or death. 2. Examples include but are not limited to head injuries, spinal injuries, severe cuts, broken limbs, severe burns, and/or internal injuries. 3. Also includes sexual abuse where there is danger of repeated abuse, 4. Situations where medical treatment, medications, or nutrition necessary to sustain the adult are not obtained or administered, as well as over-medication and unreasonable confinement. 	<p>High Priority: The alleged victim:</p> <ol style="list-style-type: none"> 1. Has severe and functionally limiting physical disability, 2. Has severe and functionally limiting mental illness or mental confusion, 3. Is totally dependent on others for income/financial resources which are being misused, 4. Lives in a structurally unsound home with severe health and/or safety violations, 5. Requires immediate medical attention for abuse/neglect, 6. Is the victim of sexual abuse, 7. Is subject to unrestricted access by an alleged perpetrator, 		

	<p>Staff must respond to Priority One cases as rapidly as possible, but <u>within 8 working hours of receipt in the Bureau of Protective Services.</u></p> <p>Case response means that the APS specialist must attempt a face-to-face visit with the adult in need of protection within this 24-hour period.</p> <p>Number of Priority 1 cases received: <u>182</u></p> <p><u>Priority Two (Medium Prioritization):</u> A report which alleges the adult in need of protection is:</p> <ol style="list-style-type: none"> 1. Abused, neglected, exploited, or extorted, and, as a result, is at risk of imminent serious physical injury or harm. <p>Priority 2 reports may include but not be limited to those situations in which</p> <ol style="list-style-type: none"> 1. There is failure to provide or obtain mental health and medical treatment which, if untreated, may cause serious harm to the adult. 	<p>8. Is totally dependent on others for basic necessities of life that are not being provided.</p> <p>Staff must respond to Priority One Cases as Rapidly as possible, but <u>Within 8 working hours of receipt from Intake Specialist within Regional Office.</u></p> <p>Number of Cases Received: <u>785</u></p> <p><u>Medium Priority:</u> The victim:</p> <ol style="list-style-type: none"> 1. Has moderate physical disability/requires prosthesis or hands-on assistance to be ambulatory, 2. Has periodic confusion and impaired reasoning abilities, 3. Is partially dependent on others for financial resources and/or management, 4. Lives in a home with some structural or safety problems 		
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	<p>2. This includes self-abusive behavior, and failure to treat physical ailments.</p> <p>3. It could also include inadequate attention to physical needs such as</p> <p>insufficient food,</p> <p>medicine,</p> <p>inadequate heat or excessive heat, unauthorized use, and/or exploitation of the victim's income or property.</p> <p>Staff must respond to Priority Two cases as rapidly as possible, but <u>within (5) working days</u> of receipt in the Bureau of Protective Services.</p> <p>Case response means that the APS specialist must attempt a face-to-face visit with the adult in need of protection within a five working day period, so long as the investigation of Priority One Cases is not delayed.</p> <p>Number of cases: <u>1,199</u>.</p> <p><u>Priority Three (lowest prioritization):</u> These reports include</p> <p>1. All other allegations in</p>	<p>which pose moderate risk,</p> <p>5. Lacks adequate supervision of basic needs, which, if left unchecked, will endanger health and well-being,</p> <p>6. Has minor injury or injuries, has psychological symptoms due to neglect and/or abuse,</p> <p>7. Is in a situation which is very likely to get worse without intervention,</p> <p>8. Is partially dependent on others for basic necessities of life.</p> <p>Staff must respond to Priority 2 cases as soon as possible, but <u>within 3 working days</u> of receipt from the Intake Specialist in the Regional Office.</p> <p>Number of cases received: <u>1,657</u></p> <p><u>Low Priority:</u> The alleged victim is</p> <p>1. Ambulatory, has minimal</p>		
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	<p>which the adult in need of protection is alleged to be abused, neglected, exploited, and extorted which do not involve risk of serious physical injury or harm and pose no immediate threat of serious injury or harm.</p> <p>Priority Three allegations involve the failure to assure that the victim's basic needs are provided.</p> <p>These needs include but are not limited to:</p> <ol style="list-style-type: none"> 1. Adequate housing, nutrition, medical and mental health needs, 2. Proper clothing for the weather conditions, and 3. An environment free of safety hazards. <p>Priority 3 reports also will include those situations when verbal and emotional abuse is used as a means of controlling the victim including but not limited to harassment, cursing, degrading remarks, intimidation, ridicule, and threatening to withdraw care.</p> <p>Staff must respond to Priority 3 cases as rapidly as possible, but within (10) working days</p>	<p>physical disability,</p> <ol style="list-style-type: none"> 2. Has minimal mental disability/mild retardation-occasional mild confusion, 3. Is financially independent, 4. Lives in a home that meets minimal standards, 5. Is able to care for his/her basic needs, 6. Has minor injury or injuries, or minor signs of neglect. <p>Staff must respond to Priority 3 as quickly as possible once Priority 1 and 2 are initiated.</p>		
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	<p>of receipt by the Bureau of Protective Services.</p> <p>Cases response means that the APS specialist must attempt a face-to-face interview with the adult in need of protection within this (10) working day period, so long as the investigation of Priority 1 and 2 cases are not delayed. Investigation of Priority 3 cases may be limited if a specialist has 25 or more active cases in any one month period.</p> <p>Number of cases: <u>57</u></p>	<p>Number of cases: <u>1,233</u></p>		
# of cases responded to within appropriate time frame	1,159	785 (Same # as High Priority)		
# of cases not responded to within appropriate time frame	221	NONE		
Disposition of Cases Closed During the Year (2,446 total)	<p>A. Substantiated, consent to services-----1,134</p> <p>B. Substantiated, lacks capacity-----N/A</p> <p>C. Substantiated, no services needed-----N/A</p> <p>D. Substantiated, competent/refuses services-----N/A</p> <p>E. Unsubstantiated-----809</p> <p>F. Unsubstantiated, with concerns-----391</p> <p>G. Unable to Locate</p> <p>H. Deceased</p>	<p>A. Substantiated, consent to services-----794</p> <p>B. Substantiated, lacks capacity-----217</p> <p>C. Substantiated, no services need-----312</p> <p>D. Substantiated, competent/refuses services-----246</p> <p>E. Unsubstantiated-----867</p> <p>F. Unsubstantiated, with concerns-----438</p> <p>G. Unable to locate-----118</p> <p>H. Deceased-----131</p> <p>I. Other-----N/A</p>		

	<p>I. Other-----110 (for G, H, and I). J. # of Repeat Cases----</p> <p>2444/1848</p>	<p>J. # of repeat cases-----N/A</p> <p>3123/3449</p>		
# of Inquiries and Referrals Requested During the Year	580	226		
# of Community Presentations Made During the Year	86	168		
# of Media Contacts Made During the Year	0	4		
Training During the Year	<p>A. Inservice Training Time and Training Topics:</p> <p>8 days. APS org, confidentiality, the law, populations, medically needy, eligibility/intake, safety/access, documentation, APSS role, abuser traits, signs/symptoms, joe client case, risk assessment, serious incident investigation training.</p> <p>B. Outside Source Training Time and Topics:</p>	<p>A and B. Inservice Time and Training:</p> <p>5 days. All new staff persons are required to complete basic skills training and on the job training.</p> <p>(See Attachment 6)</p> <p>NOTE: EPS has had a stable staff for a number of years.</p>		

	<p>7 days. Training provided by NAPSA Conference and Texas APS. Staff Attendance is rotated year to year.</p> <p>C. Fundamental Training Provided to New Staff: See Attachment A.</p> <p>D. Training by SO versus Contract Regions- no contract regions.</p>	<p>B. Each investigator is required to obtain 40 hours of training per year.</p> <p>This includes in-service training by staff and outside sources.</p> <p>Training topics are related to aging and abuse issues.</p> <p>C. Fundamental Training Provided to New Staff: All new staff persons are required to complete basic skills training and on the job training.</p> <p>D. Training by SO versus contract regions- the state and contract office are required to meet the same training standards.</p>		
<p>Total Number of Legal Referrals</p>	<p>A. Act 80 notification:309</p> <p>B. Number of Actions Listed Under APS Law:36</p> <p>C. Number of Referrals to DA's Office: 2</p>	<p>A. Act 80notifications: 120</p> <p>B. Number of Actions Listed Under EPS Law: 46</p> <p>C. Number of Referrals to DA's Office: 108</p>		

	<p>D. Number of Referrals to the Coroners Office for OPC, PEC, CEC Issues:22</p> <p>F. Number of Interdiction Requests to DA/Contract Attorney/APS/Family: Occassionally, DO NOT COLLECT THIS INFO.</p> <p>G. Number of Other Legal to Law Enforcement: N/A</p>	<p>D. Number of Referrals to the Coroners Office for OPC/ PEC/CEC: 114</p> <p>F. Number of Interdiction Requests to DA/Contract Atty/EPS/Fly: 47</p> <p>G. Number of Other Legal to Law Enforcement: 439</p>		
Total # of Employees	24	42.5		

Report of the
Adult Abuse and Neglect Study Group,

Created by
House Concurrent Resolution (HCR) 174 of 2007,

to the

House Committee on Health and Welfare

Senate Committee on Health and Welfare

House Committee on Administration of Criminal Justice

Senate Judiciary C. Committee

Speaker of the House of Representatives

President of the Senate

March 3, 2008

HOUSE CONCURRENT RESOLUTION 174

STUDY GROUP REPORT

Report to the House Committee on Health and Welfare, the Senate Committee on Health and Welfare, the House Committee on Administration on Criminal Justice, the Senate Judiciary C. Committee, the Speaker of the House of Representatives and the President of the Senate:

The Adult Abuse and Neglect Study Committee would like to express its appreciation to the Louisiana Legislature for the opportunity to review the issues and provide recommendations that would protect Louisiana's most vulnerable citizens from abuse and neglect.

Charge of the Resolution

The Adult Abuse and Neglect Study Group was established by House Concurrent Resolution (HCR) 174 of the 2007 legislative session to

1. study the existing laws on adult abuse and neglect and the need for laws to protect those who cannot protect themselves;
2. examine the structure, operation, and outcomes of the programs to protect vulnerable adults from abuse and neglect in Louisiana ;
3. investigate existing jurisdictions;
4. explore ways to maximize resources necessary to viably operate a program that is cost-effective and administratively efficient for the protection of vulnerable adults;
5. and other related issues.

Membership

The membership of the study group was established in HCR 174. The study group has secured participation from all stakeholders or their designees that were enumerated in the resolution. The individuals (with their affiliations) that currently constitute the study group are as follows:

Dale Marioneaux/Karen Rimes	Representing the Secretary of the Department of Health and Hospitals
Kathy Kliebert	Assistant Secretary of the Office of Citizens with Developmental Disabilities

Final Draft

February 29, 2008

Matt Rovira	Executive Director of the Governor's Office of Disability Affairs
Godfrey White	Executive Director of the Governor's Office of Elderly Affairs
Pat Gonzalez	Representing the Assistant Secretary of the Office of Mental Health
Erin Rabalais	Manager of the Health Standards Section of the Department of Health and Hospitals
Hugh Eley	Assistant Secretary of the Office of Aging and Adult Services
Tasha West	Representing the Attorney General's Office
Robert C. Johnson	Representing the Louisiana Association of Chiefs of Police
Audrey Thibodeaux	Representing the Louisiana Sheriff's Association
Dixie Brown	Representing the Louisiana District Attorney's Association
Linda Sadden	The Louisiana State Long-Term Care Ombudsman
Nancy McPherson	Representing AARP
Koki Otero/Miranda Tait	Representing the Advocacy Center
Wallace Johnson	A person with a disability living in Louisiana
Mary Linda Francis	A senior citizen living in Louisiana
Lois Dalpiaz	A family member of a person with a disability living in a residential facility
Trudye Jones	A family member of a person with a disability living in Louisiana
Pat Faxon	A family member of a senior citizen with a disability living in a long-term care facility

In addition to these designated members, numerous staff from various relevant departments in state government have been attending work group meetings to lend their expertise and assistance to the work of the study group. These key staff members include

Lutricia McDonald	Elderly Protective Services
Ellen Estevens	Adult Protective Services
Nancy Grush	DHH Legal
Kathleen Dawkins	DHH Legal
Robert Showers	OCDD

Final Draft

February 29, 2008

Beth Jordan	OCDD
Sandra Guthans	OAAS

The Study Group has met three times since September of 2007. Additionally the Study Group has formed two sub-groups that have met at least bi-weekly since January of 2008.

Progress to Date

The Study Group's first task was to assemble relevant materials. Study group members have received three compact discs that contain all relevant Louisiana statutes; commentary on these statutes from Westlaw; policy and procedure manuals, organizations charts, policy memos and budgets for Elderly Protective Services and Adult Protective Services; previously compiled self-study documents from the two protective service agencies; and reports compiled by the National Association of Adult Protective Services Agencies. The group has also heard a presentation describing the materials provided.

In order to facilitate the work required by HCR 174, the study group divided into two sub-groups, each with its own task. These are as follows:

- The Statute Review Sub-group was tasked with reviewing Louisiana's existing laws on abuse and neglect, particularly as it related to reporting requirements, for the purpose of suggesting improvements.
- The Administrative and Program Review sub-group was charged with reviewing the administrative structure, rules, operations (i.e. programs), and costs/budgets of the agencies which respond to reports of adult abuse and neglect, and making recommendations to improve the efficiency and effectiveness of programs serving vulnerable adults.

The following areas of concern have surfaced in the work of the study group to date:

1. Confusion on the part of the public in where or how to report abuse or neglect
2. The lack of a definition of sexual abuse in the abuse/neglect statute
3. The presence of administrative procedure in the criminal abuse/neglect statute
4. The recruitment and retention of a qualified workforce.
5. The level of funding and prioritization of protective services within the state system.
6. The lack of dedicated training resources for protective service workers.
7. A bi-furcated system for intake and investigations involving two agencies that share a common mission.

Preliminary Recommendations:

The Study Group is able to make the following preliminary recommendations at this time:

- While sexual abuse is clearly a type of abuse subject to mandatory reporting under R.S. 14:403.2 (Abuse and neglect of adults; reports; investigation; waiver of privileges; penalties; immunity), the statute contains no definition of sexual abuse. This leaves reporters uncertain as to exactly what situations must be reported and responders uncertain as to what cases to substantiate as sexual abuse. While certain forms of sexual mistreatment are defined in criminal law, other kinds of potentially harmful sexual activity, such as creating a highly sexualized environment for an individual who lacks capacity to consent need to be addressed. The committee is considering a recommendation for the amendment of R.S. 14.403.2 to provide a clear definition of sexual abuse that can guide reports and investigations.
- Though RS 14:403.2 is in the criminal statutes, the only crimes it mentions are 1) failure to report abuse and 2) knowingly making a false report of abuse. The vast majority of the statute deals with the administrative roles and responsibilities of the two protective service agencies. For example, it describes reporting and investigation procedures, exchanging of information between relevant agencies, how case records are to be kept, civil remedies, and many other matters that probably should not be in the criminal code. The Study Group is considering a recommendation that necessary matters that are not criminal in nature be transferred to a more appropriate section of the Louisiana Revised Statutes. This is similar to the child abuse reporting and child protective laws, where the reporting penalties are in R.S. 14:403 and the administrative duties are elsewhere outside Title 14. Also under consideration is a recommendation that this matter be referred to the Louisiana Law Institute so that they may determine the best method for dividing the statute.
- The Study Group has struggled with the complexity of making a report of abuse or neglect to the proper authorities. The age of the person allegedly abused, the location where the abuse occurred, and the identity of the alleged perpetrator all impact which agency should receive the report of abuse or neglect. The members of the public who may observe abuse and neglect and persons who are being abused often do not know who they should call. Except for local law enforcement, none of the relevant agencies are able to maintain an intake number staffed by trained workers 24/7. The Study group is considering a recommendation that a three-digit state-wide number be maintained to accept all reports of abuse and neglect for all persons aged 18 and over. The call center

where these call are received should be staffed by trained in-take workers 24 hours per day, 7 days per week.

- Related to the above is the administrative structure for protective services offices in Louisiana. The Study Group has just begun to examine this important issue and would want to make a detailed recommendation at a future time.
- The Study Group also intends to recommend a protocol for choosing the best practices in investigating allegations of abuse and neglect and delivering services to those who have been injured. Having these guidelines in place will direct the state in its implementation of policies and procedures in this area.
- Finally, in its review of best practices, the Study Group intends to recommend a mechanism or mechanisms for monitoring and evaluating program effectiveness and ensuring accountability for outcomes.
- The work of the study group with its attendant sub-groups has progressed to the point that the group has evaluated the size of the task before it. It is not possible for the study group to complete its work and make a comprehensive set of recommendations to the legislature by the March 3rd deadline. It is therefore the recommendation that the legislature extend the term of the Adult Abuse and Neglect Study Group at least until March 3, 2009 so that the work of the study group may be completed

Final Draft
February 29, 2008