

VAA Stakeholder Large Group Meeting

William Mitchell College of Law

Friday, June 20, 2008

- opening remarks
- working on establishing subcommittee members for CMS/MDH discussions
 - dual reporting (online to MDH/orally to CEP), definitions (maltreatment), etc.
 - considerations also present in several subcommittees
 - discussions about the adverse events reporting structure used in hospitals
 - **Participating Members: Kris Lohrke, Carmen Castaneda, Darrell Shreve, Doug Beardsley, Heidi Holste, Sam Orbovich, Mark Wandersee, Deb Siebenaler, Jerry Kerber, Deb Holtz, Sue Voigt**
- survey initial results
 - thanks to those who sent it out to their constituencies and to those who've filled it out already from the VAA group
 - Kevin
 - modifying the statistical data to take out the "No Opinion" ratings (skewed)
 - results hopefully at July large group meeting
 - preserve the "raw data" document, divide comments into the various subcommittees
 - mail out to the Large Group when all done

Investigations

- review of last meeting's presentation
- research for the states who use a "flag" system for alleged perpetrators
 - Tennessee, Texas, etc.

- who can see the system of those who are “flagged” as under investigation? (vs. the substantiated perpetrator list)
- home care licensed by MDH vs. family caregiver (County APS)
 - lead investigative agency
 - CEP determining the proper lead investigative agency
- different ways that different agencies investigate
 - guaranteeing an equal degree of response regardless of the setting
 - perhaps not uniform investigating methodology
 - core investigative duties that COULD be uniform
 - methods used by one agency do not conflict with another agency
- guidelines being disclosed to the public
 - consistency among the 87 counties
 - do they need to be consistent across the state?
- one investigative agency regardless of where maltreatment occurs
 - variety of persons coming together to a situation that would require the handling of a situation where expertise may be lacking
 - time delay with investigations (prioritization based upon severity)
- Common Entry Point: one across the state and then filter out investigations
- Reporting Subcommittee cross-reference
 - appeal process by potential victim to a determination by an investigative agency’s choice not to investigate
 - would have to be referred out to another agency for determination (or another established group to review the decision)
 - opportunity to challenge (contact information provided)
 - moving up the chain within an agency
- connection among need to set priorities, timeframes for a response, limit on the public second-guessing decisions made or what’s happened

- standard by which we can count on a thorough, independent investigation no matter who may be conducting the investigation
- core investigative duties/procedures
 - cases investigated by an independent agency that might not get that prioritization
 - specialization beyond that point for the particular lead agency
 - perhaps a reference to Education & Training subcommittee...
- some states put their APS workers through “boot camp”
- subset of an investigative agency that specializes in financial exploitation
 - recognizing signs and responding accordingly (coordinating with other groups or departments)
 - resource organization to call upon for expertise (resource bank)

Education and Training

- review of last meeting’s presentation
- mandated reporter training
 - DHS and MDH reporters already receive this training
- who is providing the training to the mandated reporters?
- core competency standards for mandated reporters, despite other educational components that may be added
- licensed vs. unlicensed programs’ workers training components
- reference licensed facility requirements in the VAA statute
- community and general public awareness
 - there are no prohibited reporters
 - public advertising campaigns (TV, radio, billboard, newspaper, etc.)
- inclusion of PCAs within the suggestion of “others”
 - PCA → PCPO instead?

- addressing licensed home health agencies, unlicensed home care agencies (PCPO), independent agencies, informal caregivers
 - contracted-for services?
 - definitions in Minn. Stat. 256E.045
 - PCPO reference is Minn. Stat. 256B.0651 and .0653 to .0656
 - not using a term that's too broad that would include family caregivers
- importance of investigative procedures

BREAK

Protections

- Silver Alert
 - possibly some other concoction
 - Vulnerable Adult Alert?
 - Power of the name already used? Recognizable?
- Banks as mandated reporters
- POA restrictions
- Inheritance penalties for financial exploitation (similar to Slayer Statute)
- Revenue Recapture Act
- fine tune some protection definitions
 - reference to Definitions subcommittee
- start drafting legal language
- Arizona, Florida, Wisconsin, and Texas provisions incorporated into MN law
 - stronger protections against financial exploitation
- reference to Reporting subcommittee

- disqualification process for background studies unit
- potential loopholes?
- FAST teams (financial abuse specialty teams)
 - jurisdictional ability (throughout the state)
 - perhaps using language like this or strengthening this
 - reference to law enforcement
- expanding the registries
 - direct care provider registry
 - guardian registry
- expansion of background studies for family member access
 - looking at hiring someone to come into the home, checking that person out
 - tracking

Scope of Statutes

- list of “never” events for nursing homes
 - similar to what’s happened with hospital systems (care provided; improve quality of care provided)
- banks perhaps being required to be mandated reporters
 - reducing liability
 - educational components
 - examining California law to observe wording used
- limiting liability
 - using stronger language to prevent liability
 - “good faith” vs. “bad faith” ... litigating that intent
 - using “shall not” as to the bank’s ability to incur liability from a report

- using the term “financial institution” and its employees
 - tellers reporting to County APS suspected incidents
- VA review panel: strengthen vs. eliminate
 - intent to allow consumers to petition departments that investigated to do a second look at an incident
 - supposed to be made up of designees from DHS, MDH, Ombudsman’s Office, and Board on Aging
 - meets quarterly
 - there’s no teeth behind the review panel: Can some be added? See you later?
 - panel can make the department re-evaluate the already conducted investigation, but cannot force a department to do anything
 - department will review the case again, but can often keep the same finding
 - victim dissatisfied because they don’t fee
 - modify the process to allow the victim to be heard and feel like they’ve been heard?
 - perpetrator having a long list of appeal rights; why not the victim too?
 - appeal for a reconsideration, fair hearing, district court hearing, court of appeals
 - liberties of employment (civil) vs. jail time (criminal)
 - victims are misinformed that there will be some action taken
 - distinguishing between a court-system appeal and a VA review panel appeal
- adverse event reporting system (modeled off the hospital system)
 - mandated to report certain things to a confidential point
 - specifying what would constitute as the “never” events
 - cause analysis, what to do to fix, how resources are allocated: plan of correction to move forward with
- using the hospital system as translated to a nursing home/care facility setting

- banks required to keep a revocation of a POA on file and honor it
- “freezing” a VA’s assets FROM the perpetrator
 - allowing an agency or the VA himself/herself to access the funds to pay for care, living expenses, etc.
- language of going after someone who acts in “bad faith” using a POA

Reporting

- centralized system (one number and email and web capacity)
 - staff at the county level would be freed up to do more investigating of reports rather than having to staff phone lines to take the reports
 - current CEP referring to law enforcement and passing on to lead agency
- failure to report
 - statistics, civil or criminal action for those who’ve not reported as obligated
- Definitions subcommittee: reference Reporting and if an Oral report were to be required in future revisions of the VAA
 - aligning state definition with Federal definition (“maltreatment”)
- CEP exercising discretion with mandated reporters about what reports to take
- considering online reporting for EVERYONE at this time (not just NH with MDH)

Definitions

- “choice of lifestyle or living conditions” language
 - standards of living in the community as determined by a third party
 - when does harm enter into the equation
- not going after those who are poor or homeless (poverty imposing living conditions)
- adding a definition into the statutes for “Investigation”
- adding a definition into the statutes for “Core Investigative Methods” or a similar term

Wrap Up

- next steps: July 25th for Large Stakeholder Group
 - does this work for most?
 - proposed timeframe: 12:30-4:30pm again, as per usual
- CMS – Adverse Events Subcommittee
 - Kevin will email out to members to get a meeting scheduled
- Kevin getting survey comments/results out to the subcommittees and large group
- starting thoughts toward the Working Report we'll draft
 - tabling items that won't be feasible for the 2009 Legislative Session