



VAGAL SC

Vulnerable Adult Guardian ad Litem of SC

Vulnerable Adult Guardian ad Litem Program of South Carolina

Training Objectives

Upon completion of the training, participants will:

1. Understand and articulate the process of the appointment of Guardians ad Litem for vulnerable adults
2. Define the role of the Guardian ad Litem within the Adult Protective Services court process
3. Demonstrate the requirements for information gathering, interviewing involved persons, and writing a report to present to the court on what is in the best interest of the vulnerable adult



V A G A L SC

Vulnerable Adult Guardian ad Litem of SC

History & Overview

The Beginning of VAGAL SC

- The Supreme Court ruled in 2009 that attorneys would no longer be appointed as GALs for vulnerable children and adults
- A program existed for children (CASA), but no mechanism existed to provide GALs for adults
- In June 2010, the South Carolina Bar Elder Law Committee, proposed a Statewide Adult Guardian ad Litem Program



The Development of VAGAL SC

Key Players:

- SC Department of Social Services Adult Protective Services division
- USC Arnold School of Public Health
- SC Department of Health and Human Services



Result:

A 3-year pilot program began August 1, 2011

VAGAL SC Legislation

On May 16, 2014, VAGAL SC enabling legislation was signed into law by Governor Nikki Haley

May 2014

July 2016

The program moved from USC Arnold School of Public Health to Office on Aging in July 2016

OMNIBUS ADULT PROTECTION ACT

S. C. Code of Laws §43-35-10, et seq.

- Governs the system of adult protection in SC
- Objectives of the law include, but are not limited to:
 - Identifying and clarifying the roles of the entities involved with vulnerable adults
 - Providing procedures for emergency protective custody of vulnerable adults
 - Article two of the Omnibus Adult Protection Act establishes the VAGAL SC program

VAGAL SC Today

Total Number of Cases Since Program Began: 4,600+

New Cases
Opened in
FY2021:

422

New Cases
Opened in
FY2022:

394

New Cases
Opened in
FY2023:

350

New Cases
Opened in
FY2024:

325

FY: Fiscal Year (July 1 – June 30) | Information updated Jan. 2025

VAGAL SC Today

Age

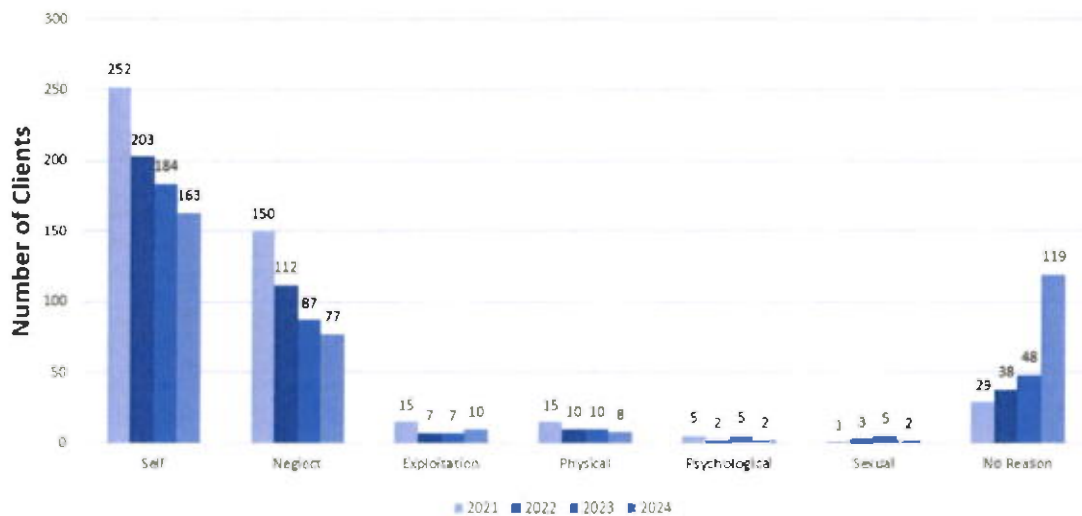
32% – Under 60
68% – 60 & Over

Gender

59% – Female
40% – Male

VAGAL SC Today

Custodial Intervention of VAGAL SC Clients



HLO

VAGAL SC Today

Final Placement (Closed Cases)

25% - Returned to living at home by themselves, with family, or with other caregivers

23% - Skilled Nursing Facility (SNF)

20% - Residential Care Facility (RCF)

2% - DDSN Facility

1% - Psychiatric hospital/substance abuse treatment facility

11% - Deceased

16% - Resolved in another way OR unknown; for ex. Boarding home, jail, out-of-state facility

Useful Acronyms

VA – Vulnerable Adult

GAL – Guardian ad Litem

SCDSS – SC Department of Social Services

APS – Adult Protective Services, a division of SCDSS

ALF – Assisted Living Facility

CRCF – Community Residential Care Facility

ADLs – Activities of Daily Living (eating, bathing, toileting, dressing, transferring/mobility)

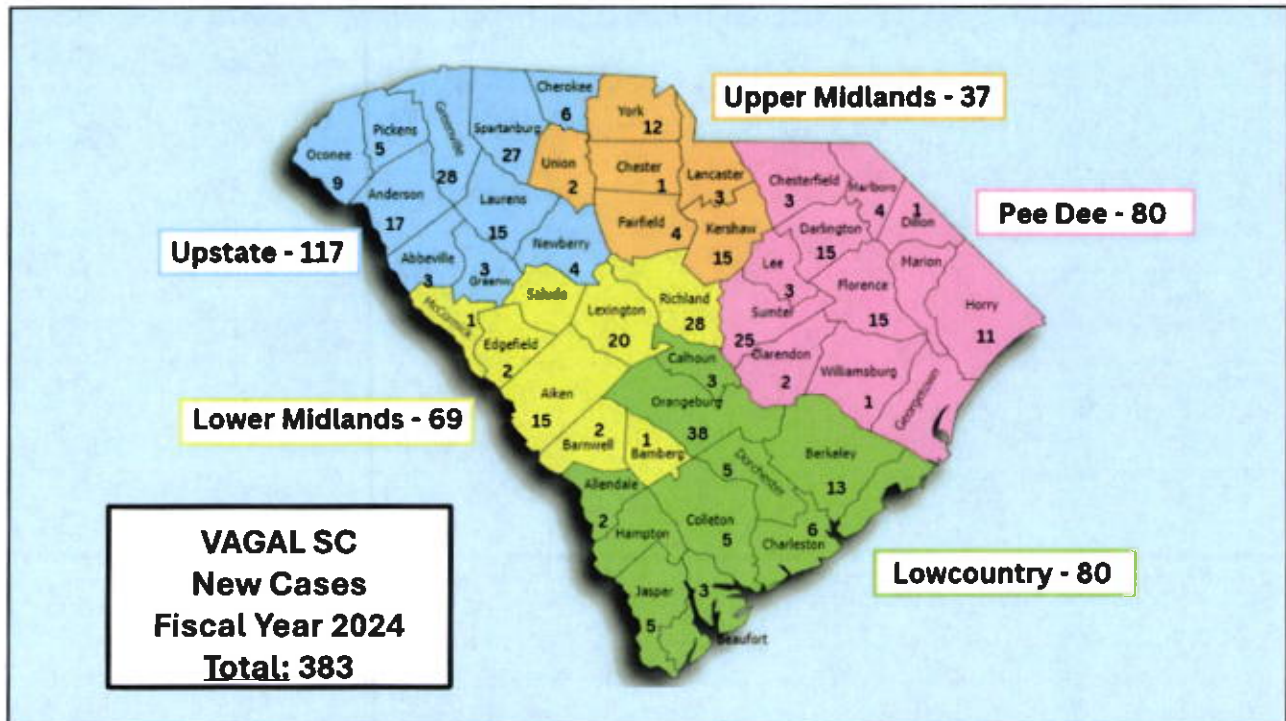
IADLs – Instrumental Activities of Daily Living (cooking, cleaning, laundry, managing finances, etc.)



Poll Question #1

In the last state fiscal year, which county had the most new cases?

- A. Greenville
- B. Richland
- C. Spartanburg
- D. Orangeburg
- E. Charleston





Questions?



V A G A L SC

Vulnerable Adult Guardian ad Litem of SC

Volunteer Training Presentation



Objectives

- ☐ Define a vulnerable adult in South Carolina
- ☐ Learn how a vulnerable adult is taken into SCDSS protective custody
- ☐ Identify role and steps of serving as a GAL

Vulnerable Adults & DSS Investigations

**Who is
considered a
Vulnerable
Adult in SC?**

- A person 18 years or older who has a physical or mental condition which substantially impairs the person from adequately providing for his or her own care or protection. ~SC Omnibus Adult Protection Act Section 43-45-10

**What does DSS
investigate?**

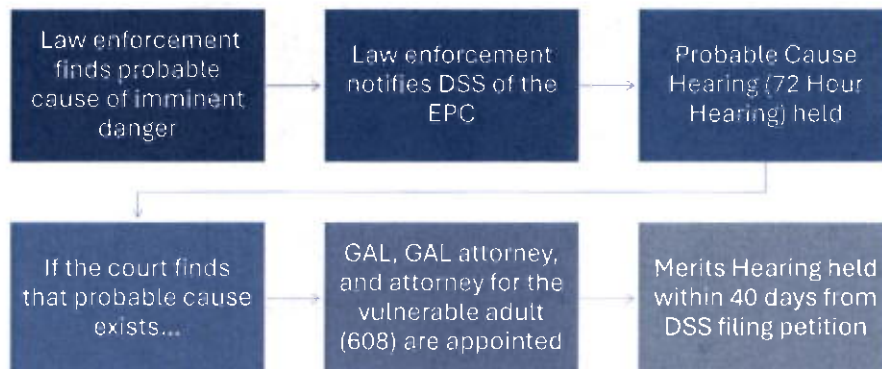
- DSS investigates neglect, abuse, exploitation of a vulnerable adult by a caregiver, and self-neglect that occurs in the community.

**Two ways
adults are
taken into
custody:**

**Emergency
Protective Custody
(EPC)**

Order of Ex Parte

1. Emergency Protective Custody (EPC)



Example Probable Cause/ 72- Hour Hearing Order

STATE OF SOUTH CAROLINA
COUNTY OF EXAMPLE
South Carolina Department of
Social Services

FILED

Plaintiff
vs.
Defendant

IN THE INTEREST OF: Jane Doe
DCB: (00-00-0000)
A Vulnerable Adult

IN THE FAMILY COURT
EXAMPLE JUDICIAL CIRCUIT
0000 DCB-00-0000

72 HOUR HEARING ORDER
(Adult Protective Services)

PRESIDING JUDGE:
DATE OF HEARING:
ATTORNEY FOR PLAINTIFF:
DSS CASE MANAGER:
VULNERABLE ADULT: Not present
ATTORNEY FOR VULNERABLE ADULT:
COURT REPORTER:

This matter came before me for a hearing pursuant to a complaint submitted under S.C. Code Ann. § 43-35-55 by which the adult was placed into emergency protective custody by law enforcement.

The above listed persons were present. Ms. Doe is currently at 1234 Example Road, Example County, and was unable to appear for today's hearing. Based on the evidence presented, review of the file, and the statements made by counsel, I make the following findings of fact and conclusions of law:

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

1. This proceeding is proper, and this court has jurisdiction over the parties and as to the subject matter.

2. Order of Ex Parte

SCDSS petitions
Family Court for
custody of the
vulnerable adult

Family Court
appoints a GAL,
GAL attorney,
and attorney for
the vulnerable
adult

Merits Hearing
held within 40
days of SCDSS
filing petition

Example Ex Parte Order of Custody

STATE OF SOUTH CAROLINA
COUNTY OF EXAMPLE
South Carolina Department of
Social Services.

FILED
Plaintiff, vs. 00
CASE NO. 00-00000

Defendant:

IN THE INTEREST OF: John Smith
DCHS: 000000000
A Vulnerable Adult

IN THE FAMILY COURT
EXAMPLE JUDICIAL CIRCUIT
0000-DE-00-0000

**EX PARTE ORDER OF
CUSTODY**
[Adult Protective Services]

This matter came before me for a hearing pursuant to a complaint and affidavits submitted under S.C. Code Ann. § 43-35-53 seeking an *ex parte* order for protective custody to protect the vulnerable adult.

Based upon the information in the Complaint and Affidavits, this Court has jurisdiction over the parties and subject matter.

After a review of the complaint and supporting affidavits, I make the following findings of fact and conclusions of law:

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- John Smith is a vulnerable adult as defined in S.C. Code Ann. § 43-35-10(1) because he suffered from a stroke and was found in unsafe living conditions which substantially impaired him from adequately providing for his own care and protection.
- There is probable cause to believe that by reason of abuse, neglect, or exploitation, there was imminent danger to John Smith's life or physical safety due to allegations that John Smith recently suffered a stroke and did not have a proper caregiver or a suitable place to live.

What Happens to the Vulnerable Adult in Protective Custody?

If taken into custody by EPC (law enforcement), the vulnerable adult will be sent to the hospital for medical evaluation



Once medically cleared for discharge, DSS “places” adults in:

Facilities (CRCF, ALF, SNF)

Boarding homes or motels

Home with family/friends



Some remain in the hospital on a “social hold” until placement is found

Poll Question #2:

Which of the following ways can an adult be taken into protective custody?

- A. By a concerned community member
- B. By Law Enforcement when an adult is in imminent danger
- C. By DSS petitioning Family Court
- D. Both B and C

?

Assigning a GAL

- ✓ VAGAL SC receives a request for a GAL from the county the adult was taken into custody
- ✓ VAGAL SC assigns an available volunteer as the GAL (usually within 24 hours)
- ✓ VAGAL SC emails the GAL the court pleadings
- ✓ VAGAL SC mails a hard case file to the GAL



Example Pleadings: Summons

STATE OF SOUTH CAROLINA
COUNTY OF EXAMPLE
South Carolina Department of
Social Services,
Plaintiff,
vs.
Defendants
IN THE INTEREST OF: John Smith
DOB: 00-00-0000
A Vulnerable Adult

FILED
JAN 10 2025
CLERK OF COURT

IN THE FAMILY COURT
OF EXAMPLE JUDICIAL CIRCUIT

**SUMMONS and
NOTICE OF HEARING**
(Adult Protective Services)

CERTIFIED TRUE COPY
of original, filed in this office
DATE: 01/10/2025
CLERK OF COURT
(EXAMPLE, SC)

YOU ARE HEREBY SUMMONED and served with the complaint in this action. You are not required to answer the complaint, but if you do, you should serve a copy of your answer upon plaintiff through its attorney at 1234 Example Road, South Carolina. YOU ARE FURTHER NOTIFIED AND SUMMONED TO APPEAR as follows:

1. For a 72-hour probable cause hearing to be held at the Example County Family Court, Court, 1234 Example Road, South Carolina on 00-00-0000.
2. For a full hearing on the merits hearing to be held at Example County Family Court, 1234 Example Road, South Carolina on 00-00-0000.

PLEASE TAKE FURTHER NOTICE that, as a named Defendant in this action, you have the right to be present and represented by an attorney. If you cannot afford an attorney, the court will appoint an attorney to represent you. It is your responsibility to contact the Clerk of Court's Office, 1234 Example Road, South Carolina, to apply for appointment of an attorney to represent you if you cannot afford an attorney.

Example Pleadings: Complaint

STATE OF SOUTH CAROLINA
COUNTY OF EXAMPLE

South Carolina Department of
Social Services

Plaintiff, -vs- DA
IN
CLERK OF COURT
OFFICE

Defendants

IN THE INTEREST OF: John Smith
DOB: (00-00-0000)
A Vulnerable Adult

IN THE FAMILY COURT
EXAMPLE JUDICIAL CIRCUIT

(COMPLAINT
(For 543-35-45 or 543-35-55)
(Adult Protective Services))

Plaintiff alleges as follows:

1. The plaintiff is the agency charged with the duty of providing for the protection of vulnerable adults, as defined by S.C. Code Ann. § 43-35-10, et seq.
2. The adult is a resident. The adult is a resident and citizen of Example County, currently residing at 1234 Example Road, Example, SC and is in need of protective services and/or protective custody as follows:
 - a. On 00-00-000, the Police Department responded to 1234 Example Road in Example County. Upon arrival, it was determined that 80-year-old John Smith, could not safely reside in his home due to his physical condition. He was recently released from the hospital after a fall and recovering from a stroke. He was without a caregiver at the residence and the residence was deemed uninhabitable by Code Enforcement. On 00-00-0000, Mr. Smith agreed that he needed an alternative place to stay and a caregiver for assistance with his care. He agreed to be transported and placed in a facility located by SCDSS.

Example Pleadings: Affidavit

STATE OF SOUTH CAROLINA
COUNTY OF EXAMPLE

South Carolina Department
of Social Services

Plaintiff

IN THE INTEREST OF: John Smith
(00-00-0000)
A vulnerable adult

IN THE FAMILY COURT OF THE
EXAMPLE JUDICIAL CIRCUIT

AFFIDAVIT OF REASONABLE
EFFORTS
(Reasonable Efforts Not Possible)

Affiant, being duly sworn as a representative of the South Carolina Department on Social Services (SCDSS), states the following:

1. Affiant is the Case Manager currently assigned to the above-referenced case.
2. Plaintiff was unable to offer preventive/protective services to John Smith to prevent the necessity for removal of the vulnerable adult for the following reasons:
Vulnerable adult was placed into Emergency Protective Custody by Example County Sheriff's Department.

Further, Affiant avers as follows:

Steps of Serving as a GAL



1 Step 1: Obtain GAL Order of Appointment

GALs cannot begin working on a case until they receive their GAL Order of Appointment

The GAL Order of Appointment is sent to the GAL by SCDSS or Family Court

The GAL should receive it within 5-7 business days, or at least 2 weeks before the Merits Hearing

Print or save a digital copy (you will need it to access information on the adult)

Example: GAL Order of Appointment

STATE OF SOUTH CAROLINA
COUNTY OF EXAMPLE
South Carolina Department
of Social Services,
Plaintiff,
IN THE INTEREST OF: John Smith
(00-00-0000)
A vulnerable adult

IN THE FAMILY COURT OF THE
EXAMPLE JUDICIAL CIRCUIT
**ORDER OF APPOINTMENT
OF GUARDIAN AD LITEM
AND ATTORNEYS FOR
THE GUARDIAN AD LITEM &
THE VULNERABLE ADULT**
ESTIMATED FINAL COPY
OF ORIGINAL FILED IN THIS OFFICE
DATE: _____
CLERK OF COURT
COUNTY, SC

This matter comes before the court pursuant to a petition for the appointment of a guardian ad litem to represent the best interests of John Smith, a vulnerable adult. I find that _____ has volunteered to serve as a guardian ad litem with the South Carolina Vulnerable Adult Guardian ad Litem Program and is a proper person to serve as the guardian ad litem in this case.

I therefore find, pursuant to S.C. Code Ann. § 43-15-45(c) the said individual is appointed as guardian ad litem for the vulnerable adult. I further find the said guardian ad litem's responsibilities and duties shall include but are not limited to:

- (1) representing the best interest of the vulnerable adult;
- (2) conducting an independent, balanced, and impartial investigation to determine the facts relevant to the situation of the vulnerable adult. An investigation must include, but is not limited to:
 - (a) obtaining and reviewing relevant documents. The guardian ad litem shall have access to all records, including medical records of the vulnerable adult in order to evaluate the adult's condition and make a recommendation to the court concerning future care. Further, pursuant to 45 CFR 164.512 (e)(3), this order grants a covered entity to disclose to the guardian ad litem of the vulnerable adult's protected health information in response to a discovery request for the purpose of a judicial proceeding;
 - (b) meeting with and observing the vulnerable adult on at least one occasion;
 - (c) visiting the home settings or the facility of residence if deemed appropriate;

Poll Question #3:

When can a GAL begin working on a case?

- A. After the GAL receives the Order of Appointment
- B. After the GAL receives the hard copy case file by mail
- C. As soon as the case is assigned by email, and the volunteer receives the initial pleadings
- D. After the Merits Hearing

?

2 Step 2: Contact SCDSS

Example Email to SCDSS Team Leader

Good afternoon, Ms. Wonder Woman,

I have been appointed as GAL for Clark Kent. Can you please let me know who his case manager is and share his current location and medical records?

Please don't hesitate to reach out to me to discuss this case in detail. I look forward to working with you.

Thank you,
Captain America
803-123-4567



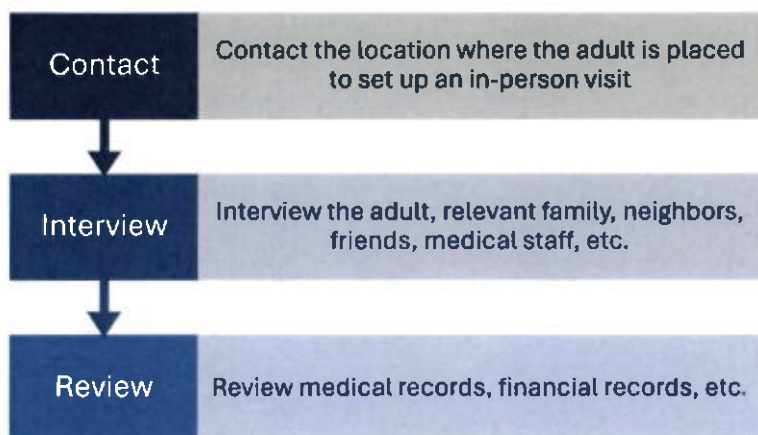
Poll Question #4:

When working with the SCDSS team leader and case manager, it is important to:

- A. Maintain a good rapport
- B. Introduce yourself and provide your contact information
- C. Ignore the case manager and only communicate with DSS through your attorney
- D. Both A and B



3 Step 3: Interview & Assess



Interview questions/techniques in can be found in the Volunteer Handbook

4 Step 4: Write the GAL Report

- Summarizes information the GAL learned during their assessment
 - Please include the adult's wishes in the report, or explain why you could not get this information
- Send the draft report to your VAGAL SC Regional Coordinator 5 days before the hearing for review and/or case staffing
- The finalized GAL report should be distributed to all parties at least 3 days before the hearing
 - Please send the report to your attorney and the SCDSS case manager and team leader
- GAL Report Word template will be emailed to the GAL

Report Writing Tips



Write in third-person (avoid using "I")



List events in chronological order, from earliest to latest



Use words such as "reported," "stated," and "explained"



Check spelling and grammar

Your Regional Coordinator will provide you with additional resources for report writing

Example GAL Report

Vulnerable Adult Guardianship of Estate of SC

Guardian of Estate Report to the Family Court

Docket Number: 19-0000000000

Type of Hearing: Monthly Date: 01/01/2025

This report was prepared for the benefit of the court and is not intended to be used for any other purpose. It is subject to change based on the facts.

To: Jane Doe

Guardian of Estate

Attorney for Guardian of Estate:

Attorney for Vulnerable Adult:

DSS Case Manager:

DSS Attorney:

Observations:

On 01/01/2025, Law Enforcement responded to 1234 Example Road in Example County. Upon arrival, Law Enforcement found 80-year-old Jane Doe lying on the floor of her apartment. It is unknown how long Ms. Doe remained on the floor. Ms. Doe was confined and appeared to have dementia. Ms. Doe is incontinent and needs assistance with her care. She is a known fall risk and has a history of wandering. Her son is her primary caregiver but frequently leaves the home to make trips to the neighborhood store. He leaves Ms. Doe with unreliable caregivers who have admitted to using medication on her in the home. Ms. Doe was transported to the hospital for evaluation. Law Enforcement placed her under Emergency Protective Custody as there was substantial risk to her from physical safety.

History:

Personal History:

Jane Doe is an 80-year-old female born on 01/01/1945. She has no significant medical history of behavioral disturbance, mental illness, or severe physical or mental illness. Ms. Doe requires supervision and assistance with bathing, grooming, dressing, feeding, and walking.

Procedural History:

1. 01/01/2025: PCT - 19-0000000000

2. 01/01/2025: Monthly

Interviews and Document Review:

Review of SC DSS legal case file

Communication with SC DSS case manager and other staff

Telephone interview with Jane Doe

Telephone interview with Law Enforcement

Review of medical records from Example Health Hospital

Review of bank records from Example Bank

Guardian of Estate Observations:

On January 01, 2025, GAL conducted an in-person interview with Jane Doe at Example Nursing Home. Ms. Doe appeared with grounded and dressed appropriately. During this interview, Ms. Doe was not oriented to person, place, or time. Ms. Doe was pleasantly confused and did not appear to be aware of her situation.

On January 01, 2025, GAL reviewed medical records on Jane Doe. Ms. Doe was diagnosed with vascular dementia and it was recommended that she receive care in a skilled nursing setting. Ms. Doe was also found to have severe protein-calorie malnutrition.

On January 01, 2025, GAL reviewed bank records on Jane Doe. GAL observed more than 250 Cash App transactions between Jane Doe and her son and other relatives within a 12-month period. Some transactions exceeded \$100 each. GAL noticed that Ms. Doe receives approximately \$4,000 per month in income which is quickly spent through ATM withdrawals, Amazon purchases, and Cash App transactions. GAL observed that Ms. Doe's son was listed on the account as payable on death.

On January 01, 2025, GAL conducted a telephone interview with Mrs. Doe's SC DSS case manager. GAL was notified that Law Enforcement was investigating Mr. Doe's role in neglect and financial exploitation. GAL was informed that the son was instructed not to spend Mr. Doe's funds, and efforts would be made to secure the account.

On January 01, 2025, GAL conducted an interview with Law Enforcement regarding Mr. Doe's case. The Officer confirmed that Mr. Doe's son was under investigation for financial exploitation of Mr. Doe.

Guardian of Estate Recommendations:

Based on the information obtained through interviews and document review, GAL recommends that:

1. Jane Doe should be declared a vulnerable adult as defined by S.C. Code Ann. § 13-35-10(1).
2. SC DSS should retain custody of Jane Doe and her legal case should remain open.
3. The income of Jane Doe should be redirected to pay for the care of her placement and care.
4. Jane Doe's bank accounts should be secured from her son and other relatives.
5. SC DSS should petition the Probate Court for a guardian and conservator to be appointed for Jane Doe.
6. This case should be reviewed within three (3) months.

Date: _____

Guardian of Estate

The DSS Court Report: Comprehensive Evaluation

- Circulated to all legal parties at least 5 days before the scheduled Merits Hearing (S.C. Code of Laws, Section 43-35-45)
- Their report includes:
 - The adult's address
 - The case summary
 - A list of all agencies providing services to the adult
 - A list of services provided to the adult by APS
 - APS recommendations

Example: SCDSS Comprehensive Evaluation

STATE OF SOUTH CAROLINA	IN THE FAMILY COURT OF THE ELEVENTH JUDICIAL CIRCUIT 0000-DR-00-0000
COUNTY OF EXAMPLE	
South Carolina Department of Social Services	
	Vulnerable Adult Comprehensive Evaluation
IN THE INTERESTS OF: John Smith DOB: 00-00-0000 A Vulnerable Adult	
<u>NOTICE: PURSUANT TO SOUTH CAROLINA CODE OF LAWS 43-35-45, THIS EVALUATION MUST BE PROVIDED TO THE COURT, THE GUARDIAN AD LITEM, AND THE ATTORNEY AT LEAST FIVE (5) WORKING DAYS BEFORE THE HEARING ON THE MERITS.</u>	
Case Summary:	
Mr. Smith was recently released from the hospital after a fall and recovery from a stroke. He was without a caregiver at his home and the home was deemed uninhabitable by Code Enforcement. Mr. Smith's wife lives with their daughter in the daughter's home, and she is unable to care for Mr. Smith. SCDSS located placement for Mr. Smith, and he initially agreed to be transported to the placement. However, Mr. Smith later stated that he no longer wanted to reside at the placement located by SCDSS. Due to Mr. Smith not having a caregiver or safe place to return to, Law Enforcement placed him into Emergency Protective Custody. At this time, Mr. Smith agrees to reside in a camper on his family's property until the home can be repaired.	
(1) The vulnerable adult's current address and with whom the vulnerable adult is residing: Mr. Smith is currently placed at Example Personal Care Home located at 1234 Example Road, South Carolina.	
(2) A list of all persons or agencies currently providing services to the vulnerable adult and the nature of those services: a. Mr. Smith is currently placed at Example Personal Care Home where he can receive guidance with his care. b. Mr. Smith has Medicare. c. Mr. Smith receives \$800 as SSI and retirement. d. SCDSS APS.	

Poll Question #5:

The DSS comprehensive evaluation provides all of the following information except:

- A. The vulnerable adult's current address
- B. The GAL's recommendations to the court
- C. A list of all agencies providing services to the vulnerable adult
- D. APS recommendations to the court

?

5 Step 5: Attend Merits Hearing

Merits Hearing Purpose

The Merits Hearing is held to determine if there is "merit" or evidence that the adult meets the definition of a vulnerable adult in need of protective custody.

It allows the court to thoroughly examine the facts and make a decision or judgment in the case.

Merits Hearing Outcomes

Agreement: GAL, DSS, and adult agree that the adult does not meet the definition of a VA in need of protective custody (case closes)

Agreement: GAL, DSS, and adult agree that the person is a vulnerable adult in need of protective custody (case remains open)

Consent Order: If all parties reach an agreement, a Consent Order can be submitted in lieu of attending court if no issues need to be put on the record

No Agreement: The judge makes a ruling, or the case is continued and reset for a trial or contested hearing

Continuance: Hearing rescheduled to a later date due to a lack of agreement, time constraints, or other issues

The Vulnerable Adult's Presence at Court

- The vulnerable adult has a right to be present at court (only their attorney can waive their appearance)
- DSS is responsible for arranging transportation or virtual participation for the adult
- Let your attorney know if the adult is present (they can advocate for the case to be heard sooner)



Court Etiquette



Dress professionally



Turn off/silence devices



Make your presence known



Limit noise in the courtroom



Stand when the Judge enters and/or addresses you



Take your calendar with you



Poll Question #6:

When attending court:

- A. It is important to dress appropriately
- B. Try to limit noise in the courtroom
- C. You must stand when the Judge enters the courtroom
- D. All of the above

?

6

If the case **remains open**
after the Merits Hearing...

Step 6: Case Tracking Phase

Check

GAL meets with or checks on
adult at least once a month

Communicate

GAL stays in contact with
SCDSS for status updates

Hearing

Any party can request a hearing
through their attorney at any
time, if necessary

Update

GAL updates their original
report for a Judicial Review
Hearing

Example: Updated GAL Report for Judicial Review



Telephone interview with Law Enforcement
Review of medical records from Example Health Hospital
Review of bank records from Example Bank

Continuation of Liberty Observations:

On January 01, 0000, GAL conducted an in-person interview with Jane Doe at Example Nursing Home. Ms. Doe appeared well-groomed and dressed appropriately. During this interview, Ms. Doe was not oriented to person, place, or time. Ms. Doe was pleasantly confused and did not appear to be aware of her situation.

On January 01, 0000, GAL reviewed medical records on Jane Doe. Ms. Doe was diagnosed with vascular dementia, and it was recommended that she receive care in a skilled nursing setting. Ms. Doe was also found to have severe protein-calorie malnutrition.

On January 01, 0000, GAL reviewed bank records on Jane Doe. GAL observed more than 250 Cash App transactions between Jane Doe and her son and other relatives within a 12-month period. Some transactions exceeded \$100 each. GAL noticed that Ms. Doe receives approximately \$4,000 per month in income which is quickly spent through ATM withdrawals, Amazon purchases, and Cash App transactions. GAL observed that Ms. Doe's son was listed on the account as payable on death.

On January 01, 0000, GAL conducted a telephone interview with Mr. Doe's SADS case manager. GAL was notified that Law Enforcement was investigating Mr. Doe's son for neglect and financial exploitation. GAL was informed that the son was instructed not to spend Mr. Doe's funds, and efforts would be made to secure the account.

On January 01, 0000, GAL conducted an interview with Law Enforcement regarding Mr. Doe's case. The Officer confirmed that Mr. Doe's son was under investigation for financial exploitation of Ms. Doe.

Update for 01/01/2025 Judicial Review:

On February 01, 0000, GAL visited Jane Doe at the nursing home. Ms. Doe had a pleasant demeanor and was watching television in her room. Ms. Doe informed GAL that she was doing well but was unable to answer other questions. Ms. Doe was very confused during this visit.

On March 01, 0000, GAL was notified that Jane Doe was appointed a guardian and conservator through Probate Court to manage her finances and health. GAL confirmed that Mr. Doe's bank accounts were secured.

On April 01, 0000, GAL was notified that Mr. Doe's income was directed to pay for the cost of her placement and care at Example Nursing Home.

Continuation of Liberty Recommendations:

Based on the information obtained through interviews and documentation, GAL recommends that:

1. Jane Doe should no longer be declared a vulnerable adult as defined by S.C. Code Ann. § 43-35-10 (11).
2. Jane Doe should be released from SCDSS custody, and her legal case should close.
3. Jane Doe's APS treatment case should remain open per SCDSS policy.

Date:

Guardian of Laws

7

Step 7: Attend Judicial Review Hearing

Judicial Review Purpose

Provide an update to the court on the status of the adult

Determine if the adult **still** meets the legal definition of a vulnerable adult as defined by S.C. Code Ann. § 43-35-10 (11)

Determine if the adult should remain in DSS custody, or be released

Set a time-frame for when the case should be reviewed again (if applicable)

8

Step 8: Case Closure

Complete	Complete Information Gathering Form in its entirety
Include	Include all court orders, GAL reports, relevant emails and GAL notes in the case file
Record	Record the case closing date
Calculate	Calculate and record total GAL hours
Mail	VAGAL SC provides a postage-paid envelope for case file return

Self-Determination



GALs should always advocate for an adult's right to self-determination when the adult has capacity

Adults have the right to:

- ✓ Make their own decisions
- ✓ Refuse/accept medical treatment and medications
- ✓ Live in deplorable conditions
- ✓ Refuse or accept services offered by APS
- ✓ Engage in illegal behavior
- ✓ Make decisions that could put them at risk (return to an abusive home, give money away, spend Social Security on nonessential items)

Mindfulness & Self-Awareness



Remember...

- The “best interest” of the adult is for them to make their own decisions when they have the capacity to do so
- Advocating for self-determination does not equal approval

Ask yourself...

- Is what I want for the adult in conflict with their rights to make their own decisions?
- Is my compassion, my wish to help this person, influencing my recommendations to the court?
- Am I projecting my own beliefs, values, and opinions on my adult?

Ways to Determine Capacity



Note that a lack of capacity is not an official or legal declaration of incompetence

Capacity vs. Competency

- Probate Court is the only court that can declare an adult **incompetent**
- **Guardian** handles their medical/placement decisions
- **Conservator** manages their finances
- Some adults require a Guardian, Conservator, or both



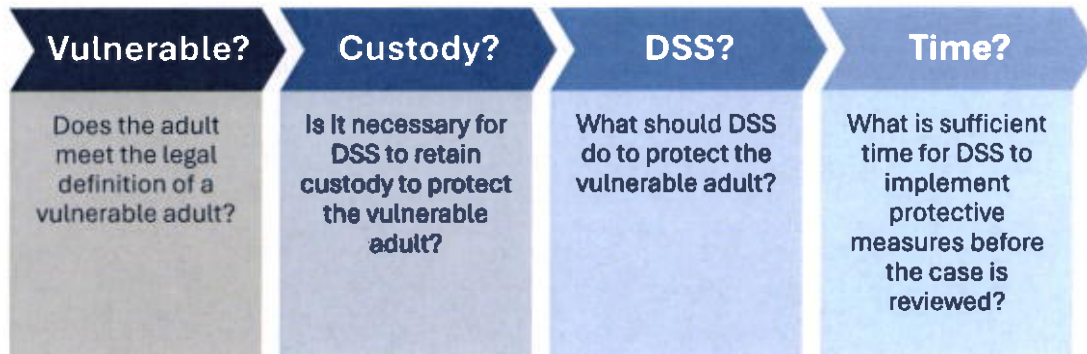
See Fact Sheets under tab 5 for additional Probate details

GAL Report Recommendations



Recommendations

Remember the “purpose” of the hearing and address it when making recommendations

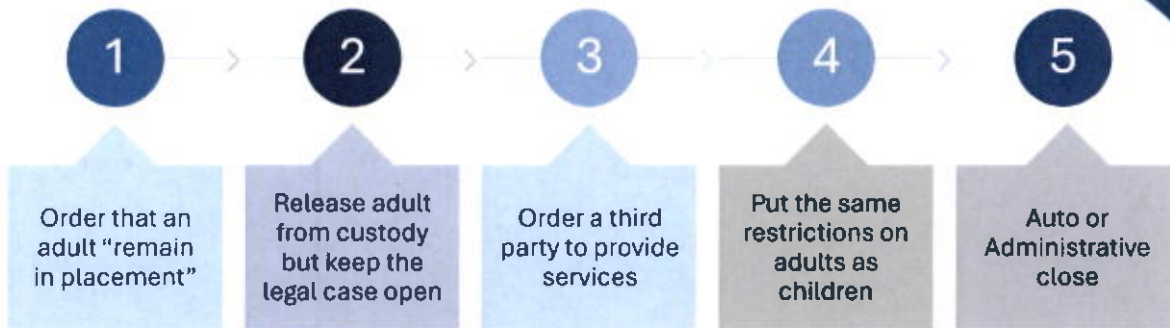


Example Recommendations


GAL Recommendations:

1. Jane Doe should be declared a vulnerable adult as defined by S.C. Code Ann. § 43-35-10 (11)
2. SCDSS should retain custody of Jane Doe
3. SCDSS should search for appropriate placement for Jane Doe in the least restrictive environment possible based on her level of care
4. The income of Jane Doe should be redirected to pay for the cost of her placement and care
5. Case should be reviewed within three (3) months

Court Orders Should Not...




Tips for Serving as a GAL



Setting Boundaries

- Establish your communication preferences
- You do not have to give out personal contact information, instead use:
 - Google Voice number
 - VAGAL SC office number
 - Designated GAL email address
- Encourage clients and their families to contact the appropriate channels during crises (911, DSS, etc.)
- Take breaks, walk away, listen to music, read books, go for walks, stand and stretch
- Talk with your regional coordinator if you need guidance on setting appropriate boundaries



Setting Boundaries

Some things to remember...

- ☒ GALs cannot provide transportation
- ☒ GALs cannot provide care to adults
- ☒ GALs cannot let adults stay at the GAL's home
- ☒ GALs are not service providers

Home Visit Safety

- Notify the adult or caregiver that you are coming
- Conduct home visits in pairs or let someone know where you are going
- Take your cell phone with you
- Park in a well-lit, visible area and lock the car
- Carry as little as possible into the home
- Avoid sitting on upholstered furniture
- Be aware of all possible exits and stand/sit between the adult and the door
- Examine your surroundings carefully
- Return to the car with key ready, check front and back seats, and floor before getting in
- Use hand sanitizer and masks, as appropriate – we will provide these



Facility Visit Safety

- You may want to call first to confirm if the adult is there
- Bring a copy of your Order of Appointment (digital or print)
- Take your cell phone with you
- Carry as little as possible into the facility
- Be aware of all possible exits and stand/sit between the adult and the door
- Examine your surroundings carefully
- Use hand sanitizer and masks, as appropriate – we will provide these





Defusing Techniques

- Assess the adult's current state
- Avoid sudden movements
- Avoid confrontation
- Maintain eye contact and personal space
- Use a calm tone when speaking
- Leave if the situation escalates

Poll Question #7:

As much as you may want to, it is prohibited to:

- A. Pack up the adult's belongings and bring them home with you
- B. Provide the adult with your contact information and let them know when it is best for them to contact you
- C. Let the adult know that you care about them
- D. Bring the adult a snack



VAGAL SC Resources for Vulnerable Adults

- **VAGAL SC Guide for Vulnerable Adults**
 - You will receive a guide in your case file to give to your vulnerable adult
 - Includes contacts, court details, and answers to questions they may have regarding their case
- **Vulnerable Adult Fund (VAF)**
 - Exists to provide comfort and entertainment items to vulnerable adults (ex: TVs, radios, coloring sets, dolls, snacks, etc.)
 - GALs can request funds to purchase items for their clients
 - Regional Coordinator will make the purchase
- **VAF Packs**
 - VAF assembles and provides packs for vulnerable adults
 - Packs may include blankets, clocks, crackers, notebooks, pens, etc.

VAGAL SC Resources for GALs

Volunteer Handbook: Includes information on serving as a GAL with helpful attachments (OAPA, flow charts, interview tips, fact sheets, medications, report template, AAA offices, and glossary)

Quick Reference Guide: Provides an overview of GAL steps, court, terminology/acronyms, and FAQ

VAGAL SC Volunteer Page: Volunteers are given access to this webpage once they become official. It includes GAL report templates, the staff directory, and other GAL resources

VAGAL SC Volunteers: Each region hosts 6-8 regional meetings per year where volunteers receive updates, connect, and staff/discuss cases

VAGAL SC Regional Coordinators: We are here for you!



Department on Aging Resources



VAGAL SC: Provides GALs to advocate for the best interests of abused, neglected, and exploited vulnerable adults in SCDSS protective custody

Dementia Care Specialist: Provides local support and education to persons with dementia and their caregivers

Alzheimer's Resource Coordination Center/Council: Provides small grants to community entities to develop respite and education programs

GetCareSC.com: Web resource that allows seniors, family caregivers, and adults living with disabilities to search for providers in their area

Department on Aging & Area Agency on Aging (AAA) Resources



Family Caregiver Support Program: Training, support groups, counseling, respite, supplemental services, information services, referral services

Nutrition Services: Group dining, home-delivered meals

Supportive Services: Information & Referral/Assistance for homecare (personal care, housekeeping, minor repairs) transportation, and legal services

Evidence-Based Programs: Health promotion, caregiver training, falls prevention

Long-Term Care Ombudsman: Advocate for the rights of individuals living in long-term care facilities

State Health Insurance Program (SHIP): Personalized insurance counseling and assistance for Medicare beneficiaries and their families

Mandated Reporting

As a GAL, you are a mandated reporter

- ❑ Those who work with vulnerable populations and are legally required to make a report when they observe or suspect abuse, neglect, or exploitation.
- ❑ Reports must be made within 24 hours - abuse must be reported immediately. Failure to report is a misdemeanor and can carry up to a \$500 fine and up to 6-month imprisonment.

DSS 1-888-227-3487

Abuse, neglect, or exploitation by caregiver in the community

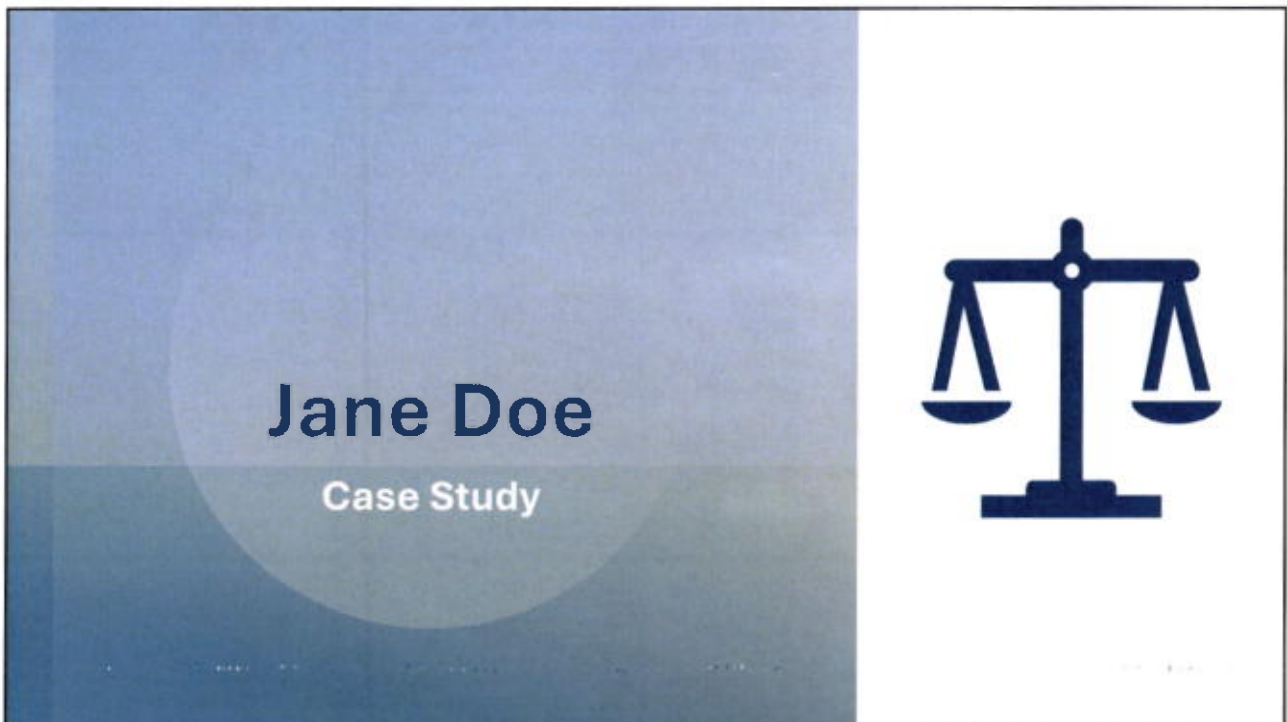
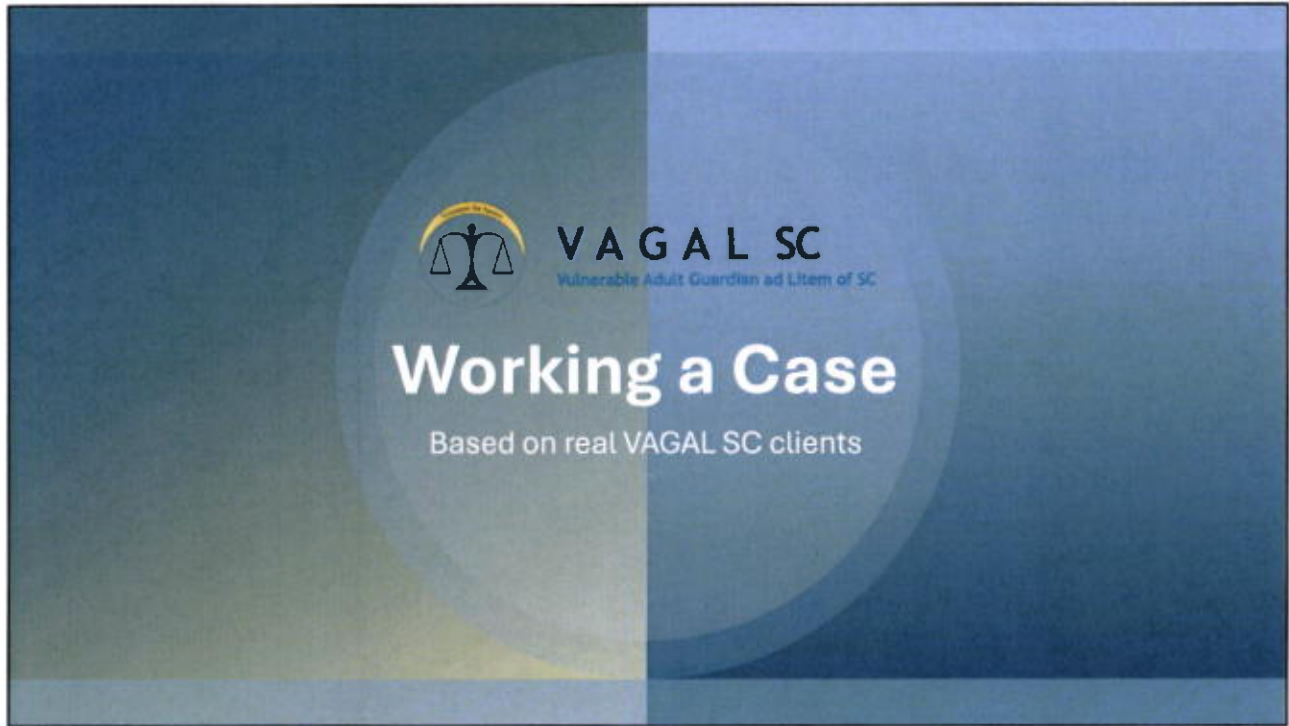
SLED 1-866-200-6066

Abuse, neglect, or exploitation in facilities licensed by DDSN or SCDMH

Ombudsman 1-800-868-9095

Abuse, neglect, or exploitation in a facility

Questions?





Case Assignment

Dear VAGAL SC Volunteer,

The VAGAL SC office received a request for a GAL from Anywhere County for Jane Doe. The Merits Hearing is scheduled for January 1, 2000, at 10 a.m. Are you available to take this case?

Thank you,
VAGAL SC Staff



Case File

- ☐ VAGAL SC will mail a hard case file with the Information Gathering Form
- ☐ Many fields on the first page will be completed
- ☐ Familiarize yourself with the case

On 00/00/000, Law Enforcement responded to 1234 Example Road in Example County. Upon arrival, Law Enforcement found 80-year-old Jane Doe lying on the floor after an apparent fall. It is unknown how long Ms. Doe remained on the floor. Ms. Doe was confused and appeared to have dementia. Ms. Doe is incontinent and needs assistance with her care. She is a known fall risk and has a history of wandering. Her son is her primary caregiver but frequently leaves the home to make trips to the methadone clinic. He leaves Ms. Doe with unsuitable caregivers who have admitted to using methamphetamine in the home. Ms. Doe was transported to the hospital for evaluation. Law Enforcement placed her into Emergency Protective Custody as there was substantial risk to her life or physical safety.

Jane Doe Pleadings



GAL Steps



Step 1: GAL Order of Appointment



STATE OF SOUTH CAROLINA
COUNTY OF EXAMPLE
South Carolina Department
of Social Services
Plaintiff

IN THE INTEREST OF: Jane Doe
(DOB: 01/01/2020)
A vulnerable adult

IN THE FAMILY COURT OF THE
EXAMPLE JUDICIAL CIRCUIT

**ORDER OF APPOINTMENT
OF GUARDIAN AD LITEM
AND ATTORNEYS FOR
THE GUARDIAN AD LITEM &
THE VULNERABLE ADULT**

COMING TRUE COPY
OF ORIGINAL FILED IN COURT
DATE

This matter comes before the court pursuant to a petition for the appointment of a guardian ad litem to represent the best interests of Jane Doe, a vulnerable adult.

I find that _____ has volunteered to serve as a guardian ad litem with the South Carolina Vulnerable Adult Guardian Ad Litem Program and is a proper person to serve as the guardian ad litem in this case.

I therefore find, pursuant to S.C. Code Ann. § 63-35-45(c) the said individual is appointed as guardian ad litem for the vulnerable adult. I further find the said guardian ad litem's responsibilities and duties shall include but are not limited to:

(1) representing the best interest of the vulnerable adult;

(2) conducting an independent, honest, and impartial investigation to determine the facts relevant to the situation of the vulnerable adult. An investigation must include, but is not limited to:

(a) obtaining and reviewing relevant documents. The guardian ad litem shall have access to all records, including medical records of the vulnerable adult in order to evaluate the adult's condition and make a recommendation to the court concerning proper care. Further, pursuant to 45 CFR 104.512(c)(1), this order permits a reviewed entry to disclosure to the guardian ad litem of the vulnerable adult's protected health information in response to a discovery request for the purpose of judicial proceedings;

(b) meeting with and observing the vulnerable adult on at least one occasion;

(c) visiting the home settings or the facility of residence if deemed appropriate;

Step 2: Contact SCDSS



Information reported to GAL by DSS:

- Ms. Doe's husband passed away two years ago
- Ms. Doe has vascular dementia
- Ms. Doe lived in her home with her son, his friends, and other relatives
- The son had access to Ms. Doe's banking information and was consistently sending himself Cash App payments from her account
- The son was not taking Ms. Doe to medical appointments but drove Ms. Doe's car
- The son left Ms. Doe alone for extended periods or left her in the care of his friends who were known to use methamphetamine in the home
- Limited food in the home, large amounts of takeout trash
- Law Enforcement is investigating the son for financial exploitation

Step 3: Interview & Assess

GAL interviewed Ms. Doe at the nursing facility and made the following observations:

- Ms. Doe appeared clean and well taken care of
- Ms. Doe was unable to provide information regarding her situation due to her dementia
- Ms. Doe remained confused



Step 4: Write the GAL Report



On January 00, 0000, GAL conducted an in-person interview with Jane Doe at Example Nursing Home. Ms. Doe appeared well-groomed and dressed appropriately. During this interview, Ms. Doe was not oriented to person, place, or time. Ms. Doe was pleasantly confused and did not appear to be aware of her situation.

On January 00, 0000, GAL reviewed medical records on Jane Doe. Ms. Doe was diagnosed with vascular dementia, and it was recommended that she receive care in a skilled nursing setting. Ms. Doe was also found to have severe protein-calorie malnutrition.

On January 00, 0000, GAL reviewed bank records on Jane Doe. GAL observed more than 250 Cash App transactions between Jane Doe and her son and other relatives within a 12-month period. Some transactions exceeded \$100 each. GAL noticed that Ms. Doe receives approximately \$4,000 per month in income which is quickly spent through ATM withdrawals, Amazon purchases, and Cash App transactions. GAL observed that Ms. Doe's son was listed on the account as payable on death.

On January 00, 0000, GAL conducted a telephone interview with Ms. Doe's SCDSS case manager. GAL was notified that Law Enforcement was investigating Ms. Doe's son for neglect and financial exploitation. GAL was informed that the son was instructed not to spend Ms. Doe's funds, and efforts would be made to secure the account.

On January 00, 0000, GAL conducted an interview with Law Enforcement regarding Ms. Doe's case. The Officer confirmed that Ms. Doe's son was under investigation for financial exploitation of Ms. Doe.

Step 4: Write the GAL Report



Guardian ad Litem Recommendations:

Based on the information obtained through interviews and documentation, GAL recommends that:

1. Jane Doe should be declared a vulnerable adult as defined by S.C. Code Ann. § 43-35-10 (11).
2. SCDSS should retain custody of Jane Doe, and her legal case should remain open.
3. The income of Jane Doe should be redirected to pay for the cost of her placement and care.
4. Jane Doe's bank accounts should be secured from her son and other relatives.
5. SCDSS should petition the Probate Court for a guardian and conservator to be appointed for Jane Doe.
6. This case should be reviewed within three (3) months.

Step 5: Attend Merits Hearing



Hearing Outcome

- All parties agreed with the GAL's recommendations
- The agreement was put on the record before the judge
- The judge approved the agreement
- A Judicial Review Hearing was scheduled for three months later



Step 6: Case Tracking Phase



New case information:

- GAL visited Ms. Doe once a month at the facility
- GAL remained contact with SCDSS for case updates
- GAL learned that Ms. Doe was appointed a guardian and conservator through Probate Court
- GAL confirmed that Ms. Doe's income was being used for her placement and care and was secured from her family
- Law Enforcement continued their investigation against the son
- GAL updated the report with new information in preparation for the upcoming Judicial Review

Update the GAL Report



Update for 00/00/0000 Judicial Review:

On February 00, 0000, GAL visited Jane Doe at the nursing home. Ms. Doe had a pleasant demeanor and was watching television in her room. Ms. Doe informed GAL that she was doing well but was unable to answer other questions. Ms. Doe was very confused during this visit.

On March 00, 0000, GAL was notified that Jane Doe was appointed a guardian and conservator through Probate Court to manage her finances and health. GAL confirmed that Ms. Doe's bank accounts were secured.

On April 00, 0000, GAL was notified that Ms. Doe's income was directed to pay for the cost of her placement and care at Example Nursing Home.

Update the GAL Report



Guardian ad Litem Recommendations:

Based on the information obtained through interviews and documentation, GAL recommends that:

1. Jane Doe should no longer be declared a vulnerable adult as defined by S.C. Code Ann. § 43-35-10 (11).
2. Jane Doe should be released from SCDSS custody, and her legal case should close.
3. Jane Doe's APS treatment case should remain open per SCDSS policy.

Step 7: Attend Judicial Review



Hearing Outcome

- All parties agreed with the GAL's recommendations
- The agreement was put on the record before the judge
- The judge approved the agreement
- Jane Doe was released from SCDSS custody and her legal case closed
- The GAL's appointment was terminated after the GAL received the Final Order



Step 8: Case Closure

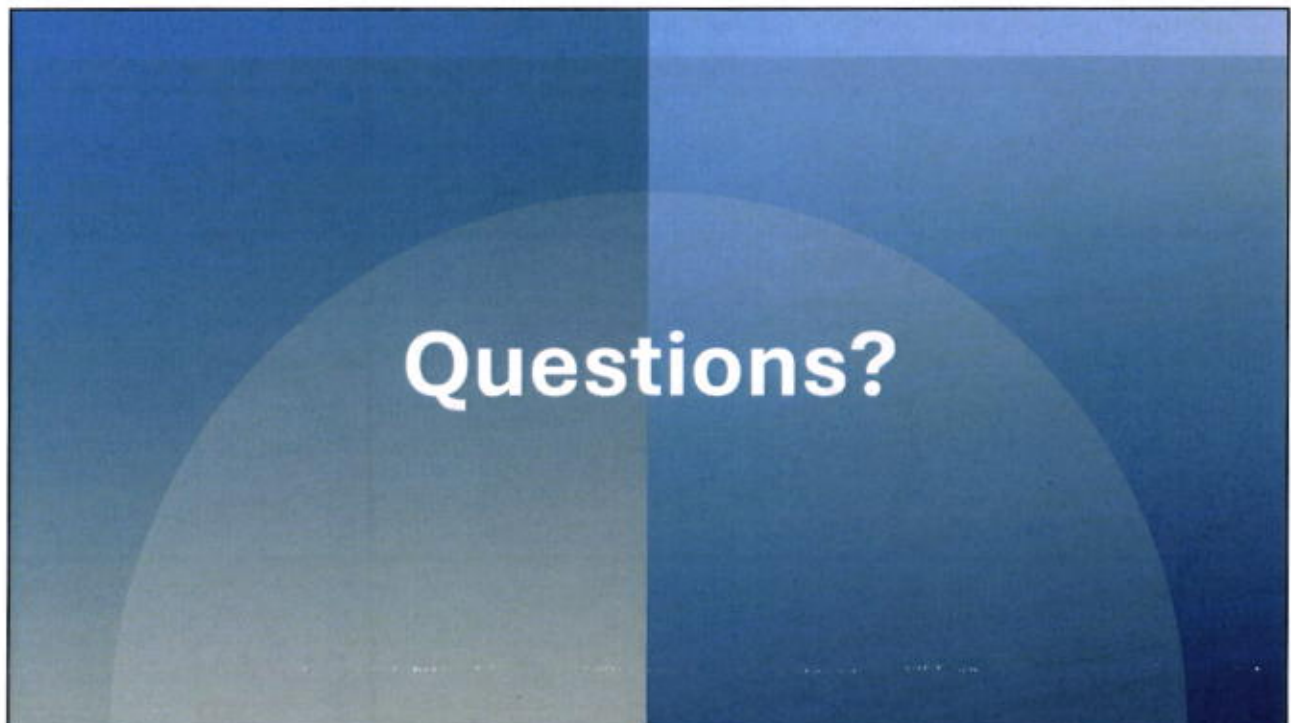
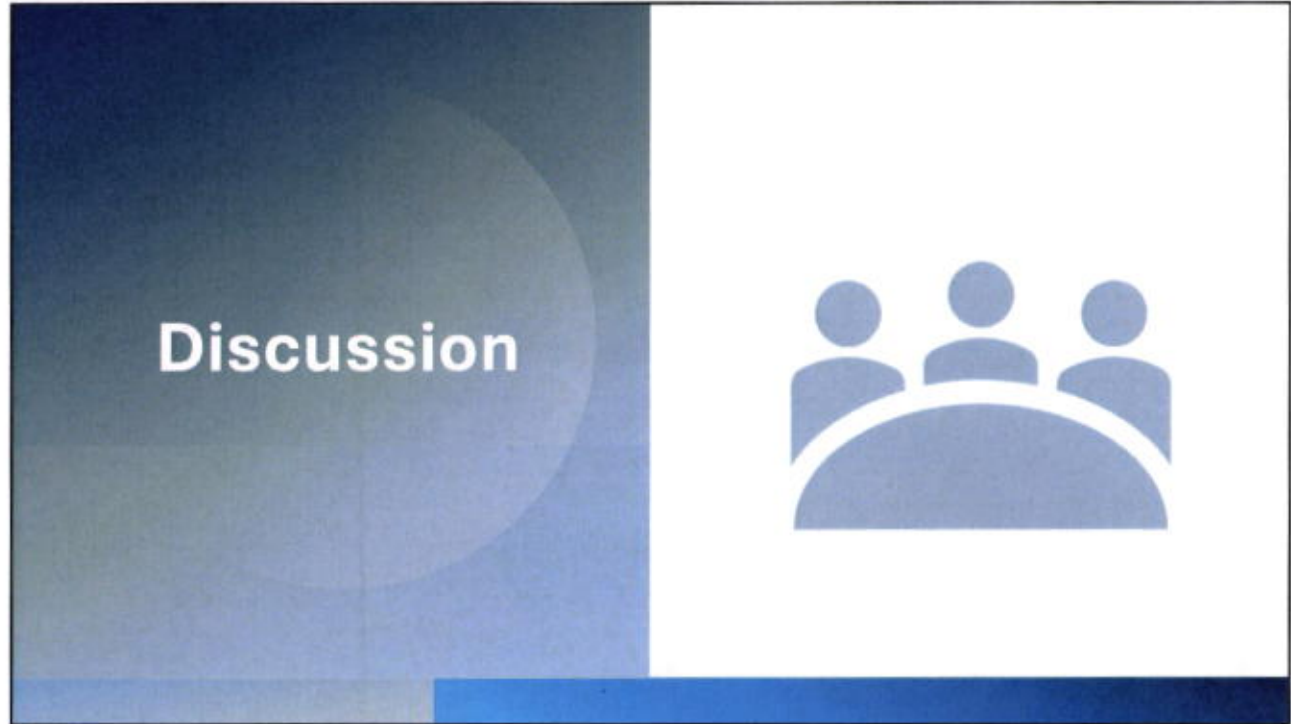


The GAL mailed the completed case file
back to VAGAL SC



“Jack’s” Story

A real vulnerable adult shares his story





V A G A L S C

Vulnerable Adult Guardian ad Litem
of South Carolina

Advocates of Well-Being

Volunteer Handbook



VAGAL SC Volunteer Handbook

Table of Contents

Mission and Vision	Page 3
Introduction	
Terminology	Page 4
Purpose of Manual	Page 5
Responsibilities of GAL Volunteer	
Boundaries	Page 8
Confidentiality	
Conflicts of Interest	
Assumption of Risk & Volunteer Liability Insurance	Page 9
GAL Volunteer & Court Appointed Attorney Relationship	Page 10
Capacity Regarding Vulnerable Adults	
Frequently Asked Questions	Page 11
Attachments	Page 17
A. SC Omnibus Adult Protection Act	Page 18
B. Flow Charts	Page 46
C. Interview Tips	Page 48
D. GAL Report Template	Page 53
E. Fact Sheets	Page 54
F. Medication Guide	Page 70
G. Area Agencies on Aging (AAA) Offices	Page 74
H. Glossary	Page 75

Mission and Vision

Mission

The Mission of the Vulnerable Adult Guardian ad Litem Program of South Carolina (VAGAL SC) is to advocate for the best interests of abused, neglected, and exploited vulnerable adults in cases brought before the South Carolina Family Courts by providing quality volunteer adult guardian ad litem (GAL) representation.

Vision

- Goal 1: Provide every vulnerable adult a powerful voice in court.
- Goal 2: Provide an environment for South Carolina citizens to realize an exceptional GAL volunteer experience.
- Goal 3: Increase public awareness around the issues of abuse, neglect, and exploitation of vulnerable adults, and the adult GAL services provided by VAGAL SC.

Introduction

Thank you for volunteering and completing training. As a GAL volunteer, you will make a difference in the lives of vulnerable adults by speaking for those who are often unheard in the judicial system. Perhaps the first and foremost benefit people get from volunteering is the satisfaction of incorporating service into their lives and making a difference in their community.

Terminology

1. Volunteer: Any person or entity that, on his or her free will, provides services or goods without financial gain.
2. Guardian ad Litem: An individual appointed by the family court pursuant to S.C. Code Ann. § 43-35-45 to advocate for the best interests of a vulnerable adult.
3. Conflict of Interest: Situations in which an individual may receive financial or material gain or business advantage from a decision made on behalf of another. Situations which create a public perception of a conflict of interest should be handled in the same manner as situations in which an actual conflict of interest exists.
4. Good Faith: An honest and sincere intention to fulfill one's obligations; absence of any intention to defraud or seek unfair advantage.
5. Ex Parte: Motions, hearings, or orders granted on the request and for the benefit of one party. These orders are usually temporary (such as restraining orders or temporary custody) pending a formal hearing.
6. Probable Cause Hearing: A hearing to determine whether there are facts and circumstances based upon accurate and reliable information that would justify a reasonable person to believe that a vulnerable adult subject to a report is abused, neglected, or exploited.
7. Merits Hearing: the trial of the case, including introduction of evidence, argument of counsel and decree of court.
8. Judicial Review: regularly scheduled court appearances—most are held at intervals of 30, 60, 90, or 180 days after the merits hearing or prior judicial review, in which the judge evaluates the status of the case.

Purpose of this manual

The purpose of this manual is to guide you as a GAL volunteer as you conduct your duties and develop unbiased recommendations for vulnerable adults. It is designed to:

- Assist you with gathering information
- Enable you to become an effective advocate for the best interests of the vulnerable adult
- Guide you through the court system
- Help you develop informative reports
- Define parameters of confidentiality

Responsibilities of GAL Volunteer

- A GAL volunteer ensures that the vulnerable adult's best interests are represented at every stage of the court case.
- A GAL volunteer will consider the wishes of the vulnerable adult.
- A GAL volunteer agrees to maintain the confidentiality of all information acquired during and after volunteering with VAGAL SC.
- A GAL volunteer will conduct an independent, balanced, and impartial assessment to determine the facts relevant to the situation of the vulnerable adult.
- A GAL volunteer is responsible for meeting with and observing the vulnerable adult on at least one occasion, including a visit to the home setting or facility of residence. A GAL is expected to have contact with the vulnerable adult at least once a month after the initial visit.
- A GAL volunteer reviews records and interviews appropriate parties involved in the case to gather information for the court.

- A GAL volunteer maintains complete records and documentation about the case, including appointments, interviews, and information gathered. These notes are not subject to subpoena.
- A GAL volunteer is responsible for presenting to the court and all parties clear and comprehensive written reports including, but not limited to, a final written report regarding the vulnerable adult's best interest. The final written report may contain conclusions based on the facts contained in the report. The final written report must include the names of those interviewed during the assessment.
- A GAL volunteer attends all family court hearings regarding the vulnerable adult and will present accurate and current information directly to the court.
- A GAL volunteer is not related to any parties involved in a case assigned to him or her or employed in a position and/or agency that might result in a conflict of interest.
- A GAL volunteer performs all duties in a courteous and professional manner.
- A GAL volunteer makes an immediate report of any incident of suspected abuse, neglect, and/or exploitation to VAGAL SC staff as well as the appropriate authorities (Department of Social Services or local law enforcement. The latter if the incident involves suspicion of criminal conduct).
- A GAL volunteer understands they are not to transport any persons named in their appointed case.
- A GAL volunteer understands they are prohibited from taking a vulnerable adult to their home.
- A GAL volunteer understands they are prohibited from giving legal advice, medical advice, and/or therapeutic counseling.
- A GAL volunteer understands they are prohibited from making placement arrangements.
- A GAL volunteer understands they are prohibited from giving or taking money or gifts from anybody involved in the case.

- A GAL volunteer does not provide direct services to any parties that could lead to a conflict of interest or potential liability, or cause anyone involved in the case to become dependent on VAGAL SC for services that should be provided by other agencies or organizations.
- A GAL volunteer turns in all personal notes, forms, reports, activity sheets, and any other documents regarding the case to VAGAL SC staff after dismissal from the court by the Judge or close of the case.

GAL volunteers are NOT:

- Providers of social services
- Therapeutic counselors
- Friends of the family
- Guardians (under the South Carolina Probate Code)
- Financial advisors
- Chauffeurs
- Mediators for family disputes
- Compensated for services

Failure to comply with the VAGAL SC responsibilities outlined within this handbook may result in the termination of volunteer duties.

Boundaries

It is often difficult to maintain a neutral attitude and not to become emotionally involved with the persons in the case. It is easy to get drawn into family disputes. Remember that as advocates for vulnerable adults, you must establish a professional relationship with all parties involved. Such actions may prejudice your recommendations and the outcome of the case. Focus on the issues and facts.

Confidentiality

The facts of the case and information discovered as part of the information gathering are strictly confidential. The privacy of the vulnerable adult is to be respected at all times.

Each GAL volunteer is a representative of VAGAL SC and must sign a confidentiality statement before being assigned a case, observing court, performing a courtesy visit, or working as a student intern.

Conflicts of Interest

You may not accept a case involving anyone you know personally or in which a member of your household has an interest. If you are unsure, discuss the matter with VAGAL SC staff.

If in the course of handling a case, you discover you have an actual or potential conflict of interest, notify VAGAL SC staff immediately.

Assumption of Risk and Volunteer Liability Insurance

As a GAL volunteer, you understand that there may be risks associated with the GAL volunteer work. You acknowledge and assume all risks and accept that participation may result in losses or personal injury. You also acknowledge and assume monetary responsibility for any such losses or personal injury.

As a GAL volunteer you understand that you are not covered under the State Workers Compensation Act, nor does the State provide medical or health insurance for you. You cannot be compensated or reimbursed for medical expenses incurred through the State Workers Compensation Fund.

GAL volunteers of VAGAL SC will be insured under South Carolina's liability insurance, but only while acting in the scope of your official duties (see SC Code of Laws, Section 43-35-280, below).

SC Code of Laws Chapter 35 Adult Protection

SECTION 43-35-280. Civil liability.

After participating in the Vulnerable Adult Guardian ad Litem Program training, an individual who is appointed to serve as a guardian ad litem and who serves without compensation is not liable for any civil damages for any personal injury as a result of any act or omission by the guardian ad litem in the discharge of the duties and responsibilities of a guardian ad litem if the guardian ad litem acts in good faith and is not guilty of gross negligence.

GAL Volunteer and Court-Appointed Attorney Relationship

As a GAL volunteer, you will be appointed an attorney to assist you through the court proceedings. This attorney is a great resource should you need help with your case. This attorney can assist you with obtaining records, communicating with the defendant's attorney so you may interview the defendant, and requesting a continuance if necessary. They also have the ability to subpoena witnesses you may want called to testify in court.

As soon as you are appointed as a GAL, it is important that you identify and establish contact with this attorney.

Capacity Regarding Vulnerable Adults

Capacity is the ability to make decisions on one's own behalf. These decisions include those that affect daily life such as when to eat, when to seek medical care, etc., or may be decisions that have legal consequences. It is important to understand that someone may have capacity but may require help to make or communicate their decisions. The vulnerable adult may not be able to make a specific decision at the time it needs to be made but in general, does have the ability to make decisions. A decision that someone is incompetent can only be made by the Probate Court.

As the GAL it is important to make notes while visiting and interviewing the vulnerable adult about the vulnerable adult's capacity. If you are concerned about the capacity of the vulnerable adult you are serving, contact your regional coordinator to express your concerns, and be sure to consider these concerns when forming your recommendations in your final report.

Frequently Asked Questions

The answers provided below are subject to change. If you have questions or concerns about what you read below or regarding a specific case, call VAGAL SC staff.

The VAGAL SC Director is Brenda Stalzer Marchant. She can be reached at bmarchant@aging.sc.gov or 803-445-5953. The Project Coordinator is Debbie Parker, she can be reached at dparker@aging.sc.gov or 803-734-1959.

What kind of cases does a GAL volunteer handle?

Cases involving vulnerable adults who are in the custody of the Adult Protective Services Division of the SC Department of Social Services (SCDSS) or are recipients of protective services and are brought before the family courts.

How will cases be assigned to GAL volunteers?

The county SCDSS legal office will contact VAGAL SC staff stating the need for a GAL volunteer. VAGAL SC staff locates a GAL volunteer to accept the case and then notifies SCDSS. SCDSS files a petition for appointment of the GAL volunteer and secures an Order of Appointment. SCDSS then sends the Order of Appointment and pleadings to the GAL volunteer and VAGAL SC staff. An attorney will be appointed for the GAL. The GAL volunteer will contact the attorney appointed to them to introduce themselves. The role of the GAL's attorney is to answer any questions of a legal nature the GAL volunteer may have.

SC Code of Laws Chapter 35 Adult Protection

SECTION 43-35-45.

(C) Within ten days following the filing of a petition pursuant to this section the court must appoint a guardian ad litem and an attorney for the vulnerable adult;

and within forty days of the petition being filed the court shall hold a hearing on the merits.

**Note: the “petition” referenced above is the petition for provision of protective services or removal that is filed by SCDSS.*

How will I get access to case files?

SCDSS will provide a copy of the complaint and Order of Appointment to the GAL volunteer. This order is a legal document that allows volunteers to have access to records and gather information. The GAL volunteer may want to make extra copies of the Order of Appointment to have on hand. The GAL volunteer can contact the SCDSS Team Leader for information that may be needed. If the GAL volunteer has any issue accessing records they can contact their attorney for further assistance.

Pursuant to 45 CFR 164.512(e)(1), this order permits a covered entity to disclose to the guardian ad litem the vulnerable adult’s protected health information in response to a discovery request for the purpose of a judicial proceeding.

How do I conduct the information gathering?

The first step is to preview the information provided by SCDSS and understand the facts and issues of the case. It may be necessary to contact the SCDSS case manager to get clarification or further information. At this stage, you may discuss the case with your court-appointed attorney or VAGAL SC staff who can assist you in understanding the issues and plan your information gathering.

Once you have familiarized yourself with the situation, verify the vulnerable adult’s current residence and develop a list of people you want to interview and their relationship to the vulnerable adult.

Develop a list of documents or records you need to review or acquire, including the location of the documents. Documents may include medical, mental health records, financial, APS case notes, police reports, etc. The GAL volunteer will have the Order of Appointment in hand to secure access to records. Contact

VAGAL SC staff or your court-appointed attorney if you have difficulty accessing documents or interviewing parties.

How do I conduct the interviews?

- Conduct the interview with the vulnerable adult in person. It is preferable to conduct all initial interviews in person, if possible. Subsequent interviews may be made by phone or virtually. Use the Suggested Interview Questions document, which can be found in the attachments to this handbook, to develop interview questions. You may wish to use the Information Gathering form to record your notes.
- Use the Key Individual Interview Guide, which can be found in the attachments to this handbook, to help you develop questions for collateral contacts. Interviews with collateral contacts may be made in person, by phone, or virtually.
- If requested, show or give a copy of the Order of Appointment to the person being interviewed.

When conducting interviews, please DO NOT use any recording devices such as a tape/video recorder or your phone during the interview. Recording interviews is a breach of confidentiality.

What goes in the report?

Use the VAGAL SC GAL Report Template for writing the report. Be concise, concrete, and thorough when describing the behavior, appearance, and living conditions affecting the welfare of the vulnerable adult. If you need assistance, contact VAGAL SC staff.

Who gets the report?

The Family Court Judge, VAGAL SC staff, and all parties and their attorneys receive the report prepared by the GAL volunteer at least three days prior to the Merits Hearing.

What happens in the courtroom?

Every judge and every case is different. The judge may rely solely on the report prepared by the GAL volunteer and may not ask the GAL volunteer to testify. Or, you may be asked by the judge to clarify your report or to provide new information not included in the written report.

You may or may not be sworn in and called to testify. If sworn in, you may be subject to cross-examination by the other attorneys.

Always answer truthfully and completely when asked questions in court. Focus on the facts of the case.

At a hearing, the judge may or may not make a final decision in the case. If the judge needs more information, he/she may ask the GAL volunteer to make further inquiries and provide updates to the original report. If a hearing is continued, it will be rescheduled for a later date. Be sure you find out the date and time of the future hearing as well as the deadline for turning in your supplemental report to the judge if one is requested. Also, notify VAGAL SC staff if the hearing is continued and the date of the rescheduled hearing.

As a GAL volunteer, you may also call witnesses. If you would like someone called to testify contact your appointed attorney as soon as possible because your attorney may need a subpoena.

What if I can't attend a meeting or hearing?

It is always best if a GAL volunteer assigned to the case attends all of the meetings, conferences, and hearings. However, if you are unable to attend, notify your court-appointed attorney and VAGAL SC staff immediately. If possible, another GAL volunteer or VAGAL SC staff member will serve as a substitute. You will need to provide all of the necessary information to this GAL volunteer or VAGAL SC staff member.

How do I close the case?

The GAL volunteer remains on the case until removed as GAL by order of the family court or the case is closed by court order. The case closure could occur at the Merits Hearing or a subsequent proceeding. Upon removal by the court or closure of the case, the GAL volunteer needs to notify VAGAL SC staff and gather all documents pertaining to the case for submission to VAGAL SC.

What is the GAL's role after the Merits Hearing if SCDSS retains custody?

In some instances, SCDSS will retain custody after the Merits hearing and the case will still be considered open. SCDSS often retains custody to ensure that the vulnerable adult is properly placed, the placement is suitable, and the vulnerable adult is free from the risk of maltreatment. In these cases, the GAL is to remain on the case until released by a final court order. The GAL will monitor and/or visit with the vulnerable adult until the next court hearing. The amount of contact will be dependent on the environment in which the vulnerable adult is placed; usually, the GAL should monitor and/or visit the vulnerable adult every 30 days. It is the GAL's role to ensure that the vulnerable adult is in a suitable environment, is free from risk of maltreatment, and all recommendations are being met that were stated in the SCDSS and GAL final report. If the GAL is unsure of how often to monitor and/or visit with the vulnerable adult, consult with VAGAL SC staff to develop a plan of action.

At this subsequent hearing the GAL should submit an updated final report. Please follow the template provided to you by VAGAL SC staff.

Is there a dress code for court appearance?

The GAL volunteer represents VAGAL SC and is expected to dress professionally at court and related meetings. Wear your VAGAL SC volunteer name badge whenever you appear before the judge or carry out GAL volunteer duties.

Where can I turn for help with my assignment?

Individual consultations about a case are provided by your VAGAL SC regional coordinator or your assigned attorney. You may be accompanied on your first case by VAGAL SC staff or be paired with an experienced GAL volunteer.

What if I suspect abuse, neglect, or exploitation?

You are required by law to report any type of abuse, neglect, or exploitation to SCDSS Adult Protective Services. If there is suspicion of criminal conduct, contact law enforcement.

What if don't feel safe entering a home or area for an interview?

You are not expected to go into unsafe areas. If at any time you feel unsafe, do not hesitate to call VAGAL SC staff for help and/or leave.

Let one person know where you are going and how long you expect to be. Call them after your meeting to let them know you are all right.

Review the safety recommendations provided during training.

Will I be reimbursed for travel and other expenses incurred while serving as a GAL?

VAGAL SC provides limited reimbursement for travel associated with your role as a GAL. Other expenses are not covered. Please contact your VAGAL SC regional coordinator for additional information on reimbursement. You may wish to contact your accountant to determine if you can deduct travel and other related expenses on your taxes.

Will I receive additional training?

Please contact your regional coordinator if there are any topics you'd like to learn more about as you advocate for vulnerable adults. VAGAL SC seeks to ensure volunteers are equipped with the necessary knowledge and resources to be effective advocates.

ATTACHMENTS

A. SC Omnibus Adult Protection Act	Page 18
B. Flow Charts	Page 46
C. Interview Tips	Page 48
D. GAL Report Template	Page 53
E. Fact Sheets	Page 54
F. Medication Guide	Page 70
G. Area Agencies on Aging (AAA) Offices	Page 74
H. Glossary	Page 75



SC Omnibus Adult Protection Act

Vulnerable Adult Guardian ad Litem Program of SC
Enabling Legislation: Article 2, Page 10

**South Carolina Code of Laws
Unannotated**

Title 43 - Social Services

CHAPTER 35

Adult Protection

ARTICLE 1

Duties and Procedures of Investigative Entities

SECTION 43-35-5. Short title.

This chapter may be cited as the Omnibus Adult Protection Act.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993.

Editor's Note

The preamble to 1993 Act No. 110, eff three month after June 11, 1993, provides as follows:

"Whereas, the General Assembly finds it necessary:

"(1) to provide a system of adult protection in South Carolina;

"(2) to clarify the roles and responsibilities of agencies involved in the system;

"(3) to provide a mechanism for problem resolution and interagency coordination;

"(4) to address continuing needs of vulnerable adults;

"(5) to uniformly define abuse, neglect, and exploitation for vulnerable adults in all settings;

"(6) to clarify reporting procedures for allegations of abuse, neglect, and exploitation;

"(7) to provide procedures for emergency protective custody;

"(8) to define the role of the court in the adult protection system;

"(9) to provide civil and criminal penalties for abuse, neglect, and exploitation;

"(10) to provide services in the least restrictive setting possible.

"Now, therefore,"

SECTION 43-35-10. Definitions.

As used in this chapter:

(1) "Abuse" means physical abuse or psychological abuse.

(2) "Caregiver" means a person who provides care to a vulnerable adult, with or without compensation, on a temporary or permanent or full or part-time basis and includes, but is not limited to, a relative, household member, day care personnel, adult foster home sponsor, and personnel of a public or private institution or facility.

(3) "Exploitation" means:

(a) causing or requiring a vulnerable adult to engage in activity or labor which is improper, unlawful, or against the reasonable and rational wishes of the vulnerable adult. Exploitation does not include requiring a vulnerable adult to participate in an activity or labor which is a part of a written plan of care or which is prescribed or authorized by a licensed physician attending the patient;

(b) an improper, unlawful, or unauthorized use of the funds, assets, property, power of attorney, guardianship, or conservatorship of a vulnerable adult by a person for the profit or advantage of that person or another person; or

(c) causing a vulnerable adult to purchase goods or services for the profit or advantage of the seller or another person through: (i) undue influence, (ii) harassment, (iii) duress, (iv) force, (v) coercion, or (vi) swindling by overreaching, cheating, or defrauding the vulnerable adult through cunning arts or devices that delude the vulnerable adult and cause him to lose money or other property.

(4) "Facility" means a nursing care facility, community residential care facility, a psychiatric hospital, or any residential program operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs.

(5) "Investigative entity" means the Long Term Care Ombudsman Program, the Adult Protective Services Program in the Department of Social Services, the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division, or the Medicaid Fraud Control Unit of the Office of the Attorney General.

(6) "Neglect" means the failure or omission of a caregiver to provide the care, goods, or services necessary to maintain the health or safety of a vulnerable adult including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services and the failure or omission has caused, or presents a substantial risk of causing, physical or mental injury to the vulnerable adult. Noncompliance with regulatory standards alone does not constitute neglect. Neglect includes the inability of a vulnerable adult, in the absence of a caretaker, to provide for his or her own health or safety which produces or could reasonably be expected to produce serious physical or psychological harm or substantial risk of death.

(7) "Occupational licensing board" means a health professional licensing board which is a state agency that licenses and regulates health care providers and includes, but is not limited to, the Board of Long

Term Health Care Administrators, State Board of Nursing for South Carolina, State Board of Medical Examiners, State Board of Social Work Examiners, and the State Board of Dentistry.

(8) "Physical abuse" means intentionally inflicting or allowing to be inflicted physical injury on a vulnerable adult by an act or failure to act. Physical abuse includes, but is not limited to, slapping, hitting, kicking, biting, choking, pinching, burning, actual or attempted sexual battery as defined in Section 16-3-651, use of medication outside the standards of reasonable medical practice for the purpose of controlling behavior, and unreasonable confinement. Physical abuse also includes the use of a restrictive or physically intrusive procedure to control behavior for the purpose of punishment except that a therapeutic procedure prescribed by a licensed physician or other qualified professional or that is part of a written plan of care by a licensed physician or other qualified professional is not considered physical abuse. Physical abuse does not include altercations or acts of assault between vulnerable adults.

(9) "Protective services" means those services whose objective is to protect a vulnerable adult from harm caused by the vulnerable adult or another. These services include, but are not limited to, evaluating the need for protective services, securing and coordinating existing services, arranging for living quarters, obtaining financial benefits to which a vulnerable adult is entitled, and securing medical services, supplies, and legal services.

(10) "Psychological abuse" means deliberately subjecting a vulnerable adult to threats or harassment or other forms of intimidating behavior causing fear, humiliation, degradation, agitation, confusion, or other forms of serious emotional distress.

(11) "Vulnerable adult" means a person eighteen years of age or older who has a physical or mental condition which substantially impairs the person from adequately providing for his or her own care or protection. This includes a person who is impaired in the ability to adequately provide for the person's own care or protection because of the infirmities of aging including, but not limited to, organic brain damage, advanced age, and physical, mental, or emotional dysfunction. A resident of a facility is a vulnerable adult.

(12) "Operated facility" means those facilities directly operated by the Department of Mental Health or the Department of Disabilities and Special Needs.

(13) "Contracted facility" means those public and private facilities contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993; 2004 Act No. 301, Section 1, eff September 8, 2004; 2006 Act No. 301, Section 2, eff May 23, 2006; 2010 Act No. 223, Sections 1 to 3, eff June 7, 2010.

SECTION 43-35-13. Nonmedical remedial treatment by spiritual means is not abuse or neglect of vulnerable adult.

No vulnerable adult may be considered to be abused or neglected for the sole reason that, in lieu of medical treatment, the vulnerable adult is being furnished nonmedical remedial treatment by spiritual means through prayer alone which the vulnerable adult has practiced freely in accordance with his

religion.

HISTORY: 1995 Act No. 87, Section 1, eff June 12, 1995.

SECTION 43-35-15. Vulnerable Adults Investigations Unit; Long Term Care Ombudsman Program; Adult Protective Services Program; responsibilities; referral of reports.

(A) The Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division shall receive and coordinate the referral of all reports of alleged abuse, neglect, or exploitation of vulnerable adults in facilities operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs. The unit shall establish a toll free number, which must be operated twenty-four hours a day, seven days a week, to receive the reports. The unit shall investigate or refer to appropriate law enforcement those reports in which there is reasonable suspicion of criminal conduct. The unit also shall investigate vulnerable adult fatalities as provided for in Article 5, Chapter 35, Title 43. The unit shall refer those reports in which there is no reasonable suspicion of criminal conduct to the appropriate investigative entity for investigation. Upon conclusion of a criminal investigation of abuse, neglect, or exploitation of a vulnerable adult, the unit or other law enforcement shall refer the case to the appropriate prosecutor when further action is necessary. The South Carolina Law Enforcement Division may develop policies, procedures, and memorandum of agreement with other agencies to be used in fulfilling the requirements of this article. However, the South Carolina Law Enforcement Division must not delegate its responsibility to investigate criminal reports of alleged abuse, neglect, and exploitation to the agencies, facilities, or entities that operate or contract for the operation of the facilities. Nothing in this subsection precludes the Department of Mental Health, the Department of Disabilities and Special Needs, or their contractors from performing administrative responsibilities in compliance with applicable state and federal requirements.

(B) Except as otherwise provided in subsection (D), the Long Term Care Ombudsman Program shall investigate or cause to be investigated noncriminal reports of alleged abuse, neglect, and exploitation of vulnerable adults occurring in facilities. The Long Term Care Ombudsman Program may develop policies, procedures, and memoranda of agreement to be used in reporting these incidents and in furthering its investigations. The Long Term Care Ombudsman Program must not delegate its responsibility to investigate noncriminal reports of alleged abuse, neglect, and exploitation to the facilities or to the entities that operate or contract for the operation of the facilities. Nothing in this subsection precludes the Department of Mental Health, the Department of Disabilities and Special Needs, or their contractors from performing administrative responsibilities in compliance with applicable state and federal requirements. The Long Term Care Ombudsman Program shall refer reports of abuse, neglect, and exploitation to the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division if there is reasonable suspicion of criminal conduct.

(C) The Adult Protective Services Program in the Department of Social Services shall investigate or cause to be investigated noncriminal reports of alleged abuse, neglect, and exploitation of vulnerable adults occurring in all settings other than those facilities for which the Long Term Care Ombudsman Program is responsible for the investigation pursuant to this section. The Adult Protective Services Program may promulgate regulations and develop policies, procedures, and memoranda of agreement to be used in reporting these incidents, in furthering its investigations, and in providing protective services. The Adult Protective Services Program shall refer reports of abuse, neglect, and exploitation to the Vulnerable

Adults Investigations Unit of the South Carolina Law Enforcement Division if there is reasonable suspicion of criminal conduct.

(D) Notwithstanding another provision of law, the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division shall refer reports of abuse, neglect, and exploitation involving residents committed to the Department of Mental Health pursuant to Chapter 48, Title 44 in which there is no reasonable suspicion of criminal conduct to the Department of Mental Health Client Advocacy Program for investigation.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993; 2006 Act No. 301, Section 3, eff May 23, 2006; 2010 Act No. 223, Section 4, eff June 7, 2010; 2012 Act No. 189, Section 1, eff June 7, 2012.

SECTION 43-35-20. Additional powers of investigative entities.

In addition to all other powers and duties that an investigative entity is given in this article, the investigative entity may:

- (1) have access to facilities for the purpose of conducting investigations, as otherwise permitted by law;
- (2) request and receive written statements, documents, exhibits, and other items pertinent to an investigation including, but not limited to, hospital records of a vulnerable adult which the hospital is authorized to release upon written request of the investigative entity without obtaining patient authorization;
- (3) issue, through its director, administrative subpoenas for the purpose of gathering information and documents;
- (4) institute proceedings in a court of competent jurisdiction to seek relief necessary to carry out the provisions of this chapter;
- (5) require all persons, including family members of a vulnerable adult and facility staff members, to cooperate with the investigative entity in carrying out its duties under this chapter including, but not limited to, conducting investigations and providing protective services;
- (6) require all officials, agencies, departments, and political subdivisions of the State to assist and cooperate within their jurisdictional power with the court and the investigative entity in furthering the purposes of this chapter;
- (7) conduct studies and compile data regarding abuse, neglect, and exploitation;
- (8) issue reports and recommendations.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993; 2006 Act No. 301, Section 4, eff May 23, 2006.

SECTION 43-35-25. Persons required to report abuse, neglect, or exploitation of adult; reporting methods.

(A) A physician, nurse, dentist, optometrist, medical examiner, coroner, other medical, mental health or allied health professional, Christian Science practitioner, religious healer, school teacher, counselor, psychologist, mental health or intellectual disability specialist, social or public assistance worker, caregiver, staff or volunteer of an adult day care center or of a facility, or law enforcement officer having reason to believe that a vulnerable adult has been or is likely to be abused, neglected, or exploited shall report the incident in accordance with this section. Any other person who has actual knowledge that a vulnerable adult has been abused, neglected, or exploited shall report the incident in accordance with this section.

(B) Except as provided in subsection (A), any other person who has reason to believe that a vulnerable adult has been or may be abused, neglected, or exploited may report the incident.

(C) A person required to report pursuant to this section is personally responsible for making the report; however, a state agency may make a report on behalf of an agency employee if the procedure the agency uses for reporting has been approved in writing by the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division or the investigative entity to which the report is to be made.

(D) A person required to report under this section must report the incident within twenty-four hours or the next working day. A report must be made in writing or orally by telephone or otherwise to:

(1) the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division for incidents occurring in facilities operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs;

(2) the Long Term Care Ombudsman Program for incidents occurring in facilities, except those facilities provided for in item (1); and

(3) the Adult Protective Services Program for incidents occurring in all other settings.

(E) If the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division or an investigative entity receives a report that is not within its investigative jurisdiction, the unit or investigative entity shall forward the report to the appropriate unit or investigative entity not later than the next working day.

(F) No facility may develop policies or procedures that interfere with the reporting requirements of this section.

(G) Provided the mandatory reporting requirements of this section are met, nothing in this section precludes a person also from reporting directly to law enforcement, and in cases of an emergency, serious injury, or suspected sexual assault law enforcement must be contacted immediately.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993; 2006 Act No. 301, Section 5, eff May 23, 2006.

SECTION 43-35-30. Photographing of visible trauma on abused adult.

A person required to report pursuant to this article or a person investigating a report may take or cause to be taken color photographs of the trauma visible on the vulnerable adult who is the subject of a report. A person required to report under this chapter as a member of the staff of a medical facility, public or private institution, school, facility, or agency immediately shall notify the person in charge or the designated agent of the person in charge who shall take or cause to be taken color photographs of visible trauma. The investigative entity or law enforcement, if indicated, may cause to be performed a radiological examination or medical examination of the vulnerable adult without consent. All photographs, x-rays, and results of medical examinations and tests must be provided to law enforcement or to the investigative entity upon request.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993.

SECTION 43-35-35. Reporting deaths where abuse or neglect suspected.

(A) A person required to report or investigate cases under this chapter who has reasonable suspicion to believe that a vulnerable adult died as a result of abuse or neglect shall report the death and suspected cause of death to the coroner or medical examiner. The coroner or medical examiner shall conduct an investigation and may conduct or order an autopsy. The coroner or medical examiner must report the investigative findings to the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division.

(B) All deaths involving a vulnerable adult in a facility operated or contracted for operation by the Department of Mental Health, the Department of Disabilities and Special Needs, or their contractors must be referred to the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division for investigation pursuant to Section 43-35-520.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993; 2006 Act No. 301, Section 6, eff May 23, 2006; 2010 Act No. 223, Section 5, eff June 7, 2010.

SECTION 43-35-40. Responsibilities when a report is received; initiation of investigation; reports to local law enforcement or Vulnerable Adults Investigations Unit.

Upon receiving a report, the Long Term Care Ombudsman or Adult Protective Services promptly shall:

- (1) initiate an investigation; or
- (2) review the report within two working days for the purpose of reporting those cases that indicate reasonable suspicion of criminal conduct to local law enforcement or to the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division (SLED). A report to local law enforcement or SLED must be made within one working day of completing the review.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993; 2006 Act No. 301, Section 6, eff May 23, 2006; 2010 Act No. 223, Section 6, eff June 7, 2010.

SECTION 43-35-45. Warrant from family court to permit investigation of report; order for protective services; appointment of guardian and attorney; evaluation; hearing; review; semiannual reevaluation; payment for services.

(A) In investigating a report if consent cannot be obtained for access to the vulnerable adult or the premises, the investigative entity may seek a warrant from the family court to enter and inspect and photograph the premises and the condition of the vulnerable adult. The court shall issue a warrant upon a showing of probable cause that the vulnerable adult has been abused, neglected, or exploited or is at risk of abuse, neglect, or exploitation.

(B) At any time during or subsequent to an investigation where a vulnerable adult is at substantial risk to be or has been abused, neglected, or exploited and consent to provide services cannot be obtained, the Adult Protective Services Program may petition the family court for an order to provide protective services. In those cases requiring emergency protective services or emergency removal of the vulnerable adult from the place the adult is located or residing, the Adult Protective Services Program may seek ex parte relief. The court may expedite the ex parte proceeding to any extent necessary to protect the vulnerable adult. The family court may order ex parte that the vulnerable adult be taken into emergency protective custody without the consent of the vulnerable adult or the guardian or others exercising temporary or permanent control over the vulnerable adult, if the court determines there is probable cause to believe that by reason of abuse or neglect there exists an imminent danger to the vulnerable adult's life or physical safety. The court also may order emergency services or other relief as necessary to protect the vulnerable adult.

(C) Within ten days following the filing of a petition pursuant to this section, the court shall appoint a guardian ad litem and an attorney for the vulnerable adult and an attorney for a lay guardian ad litem. A party may move to have the guardian ad litem relieved of his or her services if the party demonstrates that the vulnerable adult has the capacity to assist counsel in the protective services case. Within forty days of the filing of a petition, the court shall hold a hearing on the merits.

(D) Before the hearing on the merits the Adult Protective Services Program must conduct a comprehensive evaluation of the vulnerable adult. The evaluation must include, but is not limited to:

- (1) the vulnerable adult's current address and with whom the vulnerable adult is residing;
- (2) a list of all persons or agencies currently providing services to the vulnerable adult and the nature of these services;
- (3) a summary of services, if any, provided to the vulnerable adult by the Adult Protective Services Program;
- (4) if needed, a medical, psychological, social, vocational, or educational evaluation;
- (5) recommendations for protective services which would serve the best interests of the vulnerable adult; however, when these services are to be provided by another state agency, these recommendations must be developed in consultation with the other agency.

A copy of the evaluation must be provided to the court, the guardian ad litem, and the attorney at least five working days before the hearing on the merits. Reasonable expenses incurred for evaluations required by this subsection must be paid by the Adult Protective Services Program which must seek reimbursement for these evaluations, where possible.

(E) At the hearing on the merits, the court may order the Adult Protective Services Program to provide protective services if it finds that:

(1) the vulnerable adult is at substantial risk of being or has been abused, neglected, or exploited and the vulnerable adult is unable to protect herself or himself; and

(2) protective services are necessary to protect the vulnerable adult from the substantial risk of or from abuse, neglect, or exploitation.

(F) Protective services ordered pursuant to this section must be provided in the least restrictive setting available and appropriate for the vulnerable adult and noninstitutional placement must be used whenever possible. Subsequently, if commitment to a treatment facility is required, the Adult Protective Services Program may initiate commitment proceedings.

(G) Any interested person, on behalf of the vulnerable adult, may file a motion for review of the court order issued pursuant to this section.

(H) Following a court order from the merits hearing to provide protective services to a vulnerable adult, the Adult Protective Services Program, at least every six months, must evaluate the vulnerable adult and submit a written report to the court, and any other parties required by the court, regarding the vulnerable adult's need for continued protective services as defined in this chapter.

(I) If the court determines that the vulnerable adult is financially capable of paying for services ordered pursuant to this section, then payment by or from the financial resources of the vulnerable adult may be ordered.

(J) In an action for exploitation or in which payment for protective services is in issue, upon its own motion or a motion of any party, the court may order that the vulnerable adult's financial records be made available on a certain day and time for inspection by the parties.

(K) Expenses incurred by the Adult Protective Services Program on behalf of a vulnerable adult that have not been reimbursed at the time of the vulnerable adult's death become a claim against the estate of the vulnerable adult.

(L) Payments for which a vulnerable adult is responsible or for which the Adult Protective Services Program is to be reimbursed only include payments to third parties and do not include personnel or operating expenses of the Adult Protective Services Program.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993; 2014 Act No. 162 (S.764), Section 2, eff May 16, 2014.

Effect of Amendment

2014 Act No. 162, Section 2, rewrote subsection (C).

SECTION 43-35-50. Abrogation of privilege for certain communications.

The privileged quality of communication between husband and wife or between a professional person and the person's patient or client, except that between attorney and client or priest and penitent, are abrogated and do not constitute grounds for failing to report or for the exclusion of evidence in any civil or criminal proceeding resulting from a report made pursuant to this chapter.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993.

SECTION 43-35-55. Protective custody by law enforcement officer; procedure; notification of protective services program; subsequent proceedings.

(A) A law enforcement officer may take a vulnerable adult in a life-threatening situation into protective custody if:

(1) there is probable cause to believe that by reason of abuse, neglect, or exploitation there exists an imminent danger to the vulnerable adult's life or physical safety;

(2) the vulnerable adult or caregiver does not consent to protective custody; and

(3) there is not time to apply for a court order.

(B) When a law enforcement officer takes protective custody of a vulnerable adult, the officer must transport the vulnerable adult to a place of safety which must not be a facility for the detention of criminal offenders or of persons accused of crimes. The Adult Protective Services Program has custody of the vulnerable adult pending the family court hearing to determine if there is probable cause for protective custody.

(C) A vulnerable adult who is taken into protective custody by a law enforcement officer, may not be considered to have been arrested.

(D) When a law enforcement officer takes protective custody of a vulnerable adult under this section, the law enforcement officer must immediately notify the Adult Protective Services Program and the Department of Social Services in the county where the vulnerable adult was situated at the time of being taken into protective custody. This notification must be made in writing or orally by telephone or otherwise and must include the following information:

(1) the name of the vulnerable adult, if known, or a physical description of the adult, if the name is unknown;

(2) the address of the place from which the vulnerable adult was removed by the officer;

(3) the name and the address, if known, of any person who was exercising temporary or permanent custody of or control over or who was the caregiver of the vulnerable adult at the time the adult was taken into protective custody;

(4) the address of the place to which the vulnerable adult was transported by the officer;

(5) a description of the facts and circumstances resulting in the officer taking the vulnerable adult into protective custody.

(E) The Department of Social Services is responsible for filing a petition for protective custody within one business day of receiving the notification required by subsection (D).

(F) The family court shall hold a hearing to determine whether there is probable cause for the protective custody within seventy-two hours of the Department of Social Services filing the petition, excluding Saturdays, Sundays, and legal holidays.

(G) Upon receiving notification that a vulnerable adult has been taken into protective custody the Adult Protective Services Program shall commence an investigation. After the hearing required by subsection (F), the Adult Protective Services Program may initiate or cause to be initiated a petition for services pursuant to Section 43-35-45.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993; 1994 Act No. 393, Section 1, May 17, 1994.

SECTION 43-35-60. Sharing of report information by investigative entities; public confidentiality.

Unless otherwise prohibited by law, a state agency, an investigative entity, and law enforcement may share information related to an investigation conducted as a result of a report made under this chapter. Information in these investigative records must not be disclosed publicly.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993.

SECTION 43-35-65. Notices to be displayed at facilities.

A facility as defined in Section 43-35-10 shall prominently display notices stating the duties of its personnel under this chapter and contact information, the text of which must be provided by the Long Term Care Ombudsman Program in consultation with the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993; 2006 Act No. 301, Section 7, eff May 23, 2006.

SECTION 43-35-70. Reports to occupational licensing boards.

The investigative entity shall report an alleged incident of abuse, neglect, or exploitation against a health

care professional to the occupational licensing board by whom that person is licensed.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993.

SECTION 43-35-75. Immunity of person making report or participating in investigation in good faith.

(A) A person who, acting in good faith, reports pursuant to this chapter or who participates in an investigation or judicial proceeding resulting from a report is immune from civil and criminal liability which may otherwise result by reason of this action. In a civil or criminal proceeding good faith is a rebuttable presumption.

(B) It is against the public policy of South Carolina to change an employee's status solely because the employee reports or cooperates with an investigation or action taken under this chapter.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993.

SECTION 43-35-80. Action by Attorney General against person or facility for failure to exercise reasonable care; fine.

(A) Notwithstanding any regulatory or administrative penalty that may be assessed and in addition to a private civil cause of action that may be brought against a person or facility based on an action or failure to act that otherwise constitutes abuse, neglect, or exploitation under this chapter, the Attorney General, upon referral from the Long Term Care Ombudsman Program or the Vulnerable Adults Investigations Unit, may bring an action against a person who fails through pattern or practice to exercise reasonable care in hiring, training, or supervising facility personnel or in staffing or operating a facility, and this failure results in the commission of abuse, neglect, exploitation, or any other crime against a vulnerable adult in a facility. A person or facility which verifies good standing of the employee with the appropriate licensure or accrediting entity is rebuttably presumed to have acted reasonably regarding the hiring.

(B) In granting relief under this section, the court may assess a civil fine of not more than thirty thousand dollars or order injunctive relief, or both, and may order other relief as the court considers appropriate.

(C) Nothing in this section may be construed to create a private cause of action against one who fails through pattern or practice to exercise reasonable care as provided for in subsection (A).

(D) For the purposes of this section 'person' means any natural person, corporation, joint venture, partnership, unincorporated association, or other business entity.

(E) To the extent fines collected pursuant to this section exceed the cost of litigation, these fines must be credited to the Adult Protective Services Emergency Fund and may be carried forward from one fiscal year to the next.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993; 2006 Act No. 301, Section 8, eff May 23, 2006.

SECTION 43-35-85. Penalties.

(A) A person required to report under this chapter who knowingly and wilfully fails to report abuse, neglect, or exploitation is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty-five hundred dollars or imprisoned not more than one year.

(B) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully abuses a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(C) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully neglects a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(D) A person who knowingly and wilfully exploits a vulnerable adult is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and may be required by the court to make restitution.

(E) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in great bodily injury is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years.

(F) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in death is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(G) A person who threatens, intimidates, or attempts to intimidate a vulnerable adult subject of a report, a witness, or any other person cooperating with an investigation conducted pursuant to this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than three years.

(H) A person who wilfully and knowingly obstructs or in any way impedes an investigation conducted pursuant to this chapter, upon conviction, is guilty of a misdemeanor and must be fined not more than five thousand dollars or imprisoned for not more than three years.

(I) As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993; 1999 Act No. 56, Section 1, eff June 1, 1999; 2010 Act No. 223, Section 7, eff June 7, 2010.

SECTION 43-35-90. Article not to affect authority of agencies.

This article is not intended to affect in any way the authority of any agency to act under state or federal law.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993.

ARTICLE 2

Vulnerable Adult Guardian ad Litem Program

SECTION 43-35-200. Vulnerable Adult Guardian ad Litem Program.

(A) There is created the Vulnerable Adult Guardian ad Litem Program in the Office on Aging to serve as a statewide system to recruit, train, and supervise volunteers to serve as court-appointed guardians ad litem for vulnerable adults in abuse, neglect, and exploitation proceedings within the family court, pursuant to Section 43-35-45(C).

(B) The Vulnerable Adult Guardian ad Litem Program shall develop policies and procedures to administer the program.

HISTORY: 2014 Act No. 162 (S.764), Section 1, eff May 16, 2014.

SECTION 43-35-210. Definitions.

In addition to the definitions contained in Section 43-35-10, for purposes of this article, "guardian ad litem" means an individual appointed by the family court pursuant to Section 43-35-45 to advocate for the best interests of a vulnerable adult.'

HISTORY: 2014 Act No. 162 (S.764), Section 1, eff May 16, 2014.

SECTION 43-35-220. Duties and responsibilities of guardian ad litem; assessments.

(A) The duties and responsibilities of a guardian ad litem include, but are not limited to:

(1) representing the best interests of the vulnerable adult by advocating for the welfare and rights of a vulnerable adult involved in an abuse, neglect, or exploitation proceeding;

(2) conducting an independent, balanced, and impartial assessment of the facts and the needs of the vulnerable adult relevant to his or her situation;

(3) maintaining accurate, written case records, including case notes, which are a guardian ad litem's work product and not subject to subpoena;

(4) providing the family court, and all parties, with written reports including, but not limited to, a comprehensive final report regarding the best interests of the vulnerable adult. The final report must be consistent with the rules of evidence and the rules of the court, and must include, but is not limited to, evaluation and assessment of the issues brought before the court, the wishes of the vulnerable adult, and recommendations for the case plan and the disposition of the case; and

(5) attending all court hearings to protect and promote the best interests of the vulnerable adult until formally relieved of the responsibility by the family court. The guardian ad litem is authorized through

counsel to introduce, examine, and cross-examine witnesses in any proceeding involving the vulnerable adult, participate in the proceedings to any degree necessary to represent the vulnerable adult adequately, participate on a multidisciplinary evaluation team concerning the vulnerable adult, and make motions necessary to enforce the orders of the court, seek judicial review, or petition the court for relief on behalf of the vulnerable adult.

(B) The assessment conducted by the guardian ad litem pursuant to subsection (A) must include, but is not limited to:

(1) obtaining and reviewing relevant documents including, but not limited to, the vulnerable adult's medical records; records from the place of residence if the vulnerable adult is living in a facility or other institution; records related to assets and debts of the vulnerable adult in cases of alleged exploitation; and records from the Department of Social Services, Department of Mental Health, Department of Disabilities and Special Needs, or other public entities providing services to the vulnerable adult;

(2) meeting with and observing the vulnerable adult on at least one occasion;

(3) visiting the home setting if appropriate;

(4) interviewing family, caregivers, medical providers, law enforcement, and others with knowledge relevant to the case;

(5) exploring available resources within the family and community to meet the needs of the vulnerable adult;

(6) obtaining the criminal history of a party if determined necessary; and

(7) determining the wishes of the vulnerable adult and informing the court of these wishes.

HISTORY: 2014 Act No. 162 (S.764), Section 1, eff May 16, 2014.

SECTION 43-35-230. Appointment of guardian ad litem; continuing legal education.

(A) A guardian ad litem may be either an attorney or a layperson. To be appointed as a guardian ad litem pursuant to Section 43-35-45(C) an individual:

(1) must be twenty-one years of age or older;

(2) shall possess a high school diploma or its equivalent;

(3) shall have completed the minimum hours of continuing education for initial qualification as required by the Vulnerable Adult Guardian ad Litem Program; and

(4) shall have observed two child protective services or adult protective services custody merit hearings before serving as a guardian ad litem. A lay guardian ad litem shall retain a certificate showing that observation of these hearings has been completed. This certificate, which must be on a form approved by

court administration, must state the names and dates of the cases and the judges involved and must be attested to by the presiding judge.

(B) An attorney guardian ad litem annually shall complete a minimum of six hours of family or elder law continuing legal education credits; however, this requirement may be waived by the court.

HISTORY: 2014 Act No. 162 (S.764), Section 1, eff May 16, 2014.

SECTION 43-35-240. Appointment of guardian ad litem for abuse, neglect, or exploitation proceedings; criminal background checks.

(A) An individual may not be appointed as a guardian ad litem for a vulnerable adult in an abuse, neglect, or exploitation proceeding who:

(1) has been convicted of a crime enumerated in Chapter 3, Title 16, Offenses Against the Person; in Chapter 15, Title 16, Offenses Against Morality and Decency; in Article 3, Chapter 53, Title 44, Narcotics and Controlled Substances; in Section 43-35-85, Omnibus Adult Protection Act; in Chapter 25, Title 16, Criminal Domestic Violence; or Section 16-17-490, Contributing to the Delinquency of a Minor; or

(2) is or has ever been on the Department of Social Services Central Registry of Child Abuse and Neglect, the Sex Offender Registry, or listed as "not in good standing" on the Nurse Aide Registry.

(B) A criminal background check must be conducted for each volunteer guardian ad litem as required by the Vulnerable Adult Guardian ad Litem Program.

HISTORY: 2014 Act No. 162 (S.764), Section 1, eff May 16, 2014.

SECTION 43-35-250. Charge of guardian ad litem; petition for removal.

(A) A guardian ad litem is charged in general with representing the vulnerable adult's best interests. After appointment by the family court in a case involving an abused, neglected, or exploited vulnerable adult, the parties to the action and the court shall notify the guardian ad litem of all court hearings and proceedings. The obligation of the guardian ad litem to the court is a continuing obligation and continues until formally relieved by the court.

(B) The Vulnerable Adult Guardian ad Litem Program may intervene in a vulnerable adult abuse, neglect, or exploitation proceeding in order to petition the court to relieve the guardian ad litem from appointment for the following reasons:

(1) incapacity;

(2) conflict of interest;

(3) misconduct;

(4) persistent neglect of duties;

(5) incompetence; or

(6) knowing and wilful violation of the Vulnerable Adult Guardian ad Litem Program policies and procedures that affect the health, safety, or welfare of the vulnerable adult.

(C) The court shall determine what is in the best interest of the vulnerable adult when ruling on a petition for removal of the guardian ad litem.

HISTORY: 2014 Act No. 162 (S.764), Section 1, eff May 16, 2014.

SECTION 43-35-260. Access to information.

The Department of Social Services shall make available to the guardian ad litem all reports made and information collected relating to the vulnerable adult. Appropriate medical and dental care providers shall provide a guardian ad litem access to information upon request of the guardian ad litem and upon proof of appointment as the guardian ad litem for the vulnerable adult. Records must be made available to the guardian ad litem by any agency or any individual providing services to the vulnerable adult and financial records of the vulnerable adult including, but not limited to, state and federal tax records, banking and other financial institution records, and public benefits records.

HISTORY: 2014 Act No. 162 (S.764), Section 1, eff May 16, 2014.

SECTION 43-35-270. Confidentiality of reports and information.

(A) All reports and information collected pursuant to this article maintained by the Vulnerable Adult Guardian ad Litem Program or by a guardian ad litem are confidential. These records must be maintained and destroyed in accordance with program policy.

(B) The Director of the Vulnerable Adult Guardian ad Litem Program, or the director's designee, may disclose to the media information contained in the vulnerable adult protective services records, if disclosure is limited to discussion of the program's activities in handling the case. The program may incorporate into its discussion of the handling of the case any information placed in the public domain by other public officials, a criminal prosecution, the alleged perpetrator or the attorney for the alleged perpetrator, and other public judicial proceedings. For the purposes of this subsection, information is considered placed in the public domain if it has been reported in the news media, is contained in public records of a law enforcement agency, is contained in public records of the court, or has been the subject of testimony in a public judicial proceeding.

HISTORY: 2014 Act No. 162 (S.764), Section 1, eff May 16, 2014.

SECTION 43-35-280. Civil liability.

After participating in the Vulnerable Adult Guardian ad Litem Program training, an individual who is appointed to serve as a guardian ad litem and who serves without compensation is not liable for any civil

damages for any personal injury as a result of any act or omission by the guardian ad litem in the discharge of the duties and responsibilities of a guardian ad litem if the guardian ad litem acts in good faith and is not guilty of gross negligence.

HISTORY: 2014 Act No. 162 (S.764), Section 1, eff May 16, 2014.

SECTION 43-35-290. Funding.

The General Assembly shall provide the funds necessary for the Vulnerable Adult Guardian ad Litem Program to carry out the provisions of this article.

HISTORY: 2014 Act No. 162 (S.764), Section 1, eff May 16, 2014.

ARTICLE 3

Adult Protection Coordinating Council

SECTION 43-35-310. Council created; membership; filling vacancies.

(A) There is created the Adult Protection Coordinating Council under the auspices of the South Carolina Department of Health and Human Services and is comprised of:

(1) one member from the institutional care service provision system who is a consumer or a family member of a consumer of that system and one member from the home and community-based service provision system who is a consumer or a family member of a consumer of that system, both of whom must be appointed by the council for terms of two years; and

(2) these members who shall serve ex officio:

(a) Attorney General or a designee;

(b) Office on Aging, Executive Director, or a designee;

(c) Criminal Justice Academy, Executive Director, or a designee;

(d) South Carolina Department of Health and Environmental Control, Commissioner, or a designee;

(e) State Department of Mental Health, Director, or a designee;

(f) South Carolina Department of Disabilities and Special Needs, Director, or a designee;

(g) Adult Protective Services Program, Director, or a designee;

(h) South Carolina Department of Health and Human Services, Executive Director, or a designee;

(i) Police Chiefs' Association, President, or a designee;

- (j) South Carolina Commission on Prosecution Coordination, Executive Director, or a designee;
 - (k) Protection and Advocacy for People with Disabilities, Inc., Executive Director, or a designee;
 - (l) South Carolina Sheriff's Association, Executive Director, or a designee;
 - (m) South Carolina Law Enforcement Division, Chief, or a designee;
 - (n) Long Term Care Ombudsman or a designee;
 - (o) South Carolina Medical Association, Executive Director, or a designee;
 - (p) South Carolina Health Care Association, Executive Director, or a designee;
 - (q) South Carolina Home Care Association, Executive Director, or a designee;
 - (r) South Carolina Department of Labor, Licensing and Regulation, Director, or a designee;
 - (s) executive director or president of a provider association for home and community-based services selected by the members of the council for terms of two years, or a designee;
 - (t) South Carolina Court Administration, Executive Director, or a designee;
 - (u) executive director or president of a residential care facility organization selected by the members of council for terms of two years, or a designee.
- (B) Vacancies on the council must be filled in the same manner as the initial appointment.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993; 2012 Act No. 239, Section 1, eff June 18, 2012.

SECTION 43-35-320. Responsibilities of council.

The Adult Protection Coordinating Council shall coordinate the planning and implementation efforts of the entities involved in the adult protection system. Members shall facilitate problem resolution and develop action plans to overcome problems identified within the system. The council shall develop methods of addressing the ongoing needs of vulnerable adults, including increasing public awareness of adult abuse, neglect, and exploitation. The council shall remain abreast of new trends in adult protection from national clearinghouses and other appropriate entities. The Adult Protection Coordinating Council has no authority to direct or require implementing action from any member or entity.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993.

SECTION 43-35-330. Duties of council.

(A) Duties of the council are subject to the appropriation of funding and allocation of personnel sufficient to carry out the functions of the council. Staffing for the council must be provided by the South Carolina Department of Health and Human Services.

(B) Duties of the council are to:

(1) provide and promote coordination and communication among groups and associations which may be affected by the council's actions and recommended changes in the system;

(2) identify and promote training on critical issues in adult protection, facilitate arrangements for continuing education seminars and credits, when appropriate, and determine and target problem areas for training based on analysis of the data;

(3) coordinate data collection and conduct analyses including periodic monitoring and evaluation of the incidence and prevalence of adult abuse, neglect, and exploitation;

(4) assist with problem resolution and facilitate interagency coordination of efforts to address unmet needs and gaps in the system;

(5) promote and enhance public awareness;

(6) promote prevention and intervention activities to ensure quality of care for vulnerable adults and their families; and

(7) annually prepare a report of the council's activities and accomplishments for the calendar year and distribute the report to council members, the Chairman of the Medical Affairs Committee of the Senate, the Chairman of the Medical, Military and Municipal Affairs Committee of the House of Representatives, directors or chairs of member agencies or entities who have a designee serving on the council, and other interested parties as well as publishing the report on the department's website.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993; 2012 Act No. 239, Section 2, eff June 18, 2012.

SECTION 43-35-340. Officers; terms of office; quorum.

The chair of the council must be elected by a majority of the council membership for one two-year term. Other officers may be elected as needed in the same manner as the chair. A majority of the membership of the council constitutes a quorum for official business to be conducted.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993.

SECTION 43-35-350. Meetings.

Meetings of the council must be held at least quarterly at the call of the chair or may be called by a petition of two-thirds of the council membership.

HISTORY: 1993 Act No. 110, Section 1, eff three months after June 11, 1993.

ARTICLE 5

Vulnerable Adult Fatalities

SECTION 43-35-500. Definitions.

In addition to the definitions contained in Section 43-35-10, for purposes of this article:

- (1) "Committee" means the Vulnerable Adult Fatalities Review Committee.
- (2) "Meeting" means both in-person meetings and meetings through telephone conferencing.
- (3) "Preventable death" means a death that reasonable medical, social, legal, psychological, or educational intervention may have prevented.
- (4) "Provider of medical care" means a licensed health care practitioner who provides, or a licensed health care facility through which is provided, medical evaluation or treatment, including dental and mental health evaluation or treatment.
- (5) "SLED" means the South Carolina Law Enforcement Division.
- (6) "Unit" means the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division.
- (7) "Working day" means Monday through Friday, excluding official state holidays.

HISTORY: 2006 Act No. 301, Section 9, eff May 23, 2006.

SECTION 43-35-510. Policy of State regarding health and safety of vulnerable adults.

It is the policy of this State that:

- (1) Every vulnerable adult is entitled to live in safety and in health.
- (2) Responding to deaths of vulnerable adults is a state and a community responsibility.
- (3) When a vulnerable adult dies, the response by the State and the community to the death must include an accurate and complete determination of the cause of death, the provision of services to surviving family members, and the development and implementation of measures to prevent future deaths from similar causes and may include court action, including prosecution of persons who may be responsible for the death and family court proceedings to protect other vulnerable adults in the care of the responsible person.

(4) Professionals from disparate disciplines and agencies that have responsibilities for vulnerable adults and expertise that can promote safety and well-being of vulnerable adults should share their expertise and knowledge toward the goals of determining the causes of deaths of vulnerable adults, planning and providing services to nonoffending family members, and preventing future vulnerable adult deaths.

(5) A greater understanding of the incidence and causes of deaths of vulnerable adults is necessary if the State is to prevent future vulnerable adult deaths.

(6) Multidisciplinary and multiagency reviews of vulnerable adult deaths can assist the State in the investigation of vulnerable adult deaths, in the development of a greater understanding of the incidence and causes of vulnerable adult deaths and the methods for preventing such deaths, and in identifying gaps in services to vulnerable adults and families.

(7) Access to information regarding vulnerable adults and their families is necessary to achieve the mandates and purposes of this article.

(8) Competent investigative services must be sensitive to the needs of South Carolina's vulnerable adults and their families and not be unnecessarily intrusive and should be achieved through training, awareness, and technical assistance.

HISTORY: 2006 Act No. 301, Section 9, eff May 23, 2006.

SECTION 43-35-520. Investigations of deaths in facilities operated by the Department of Mental Health or the Department of Disabilities and Special Needs; death by natural causes in a veterans' nursing home.

The Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division, created pursuant to Section 23-3-810, shall, in addition to its investigation responsibilities under that section or Article 1, investigate cases of vulnerable adult fatalities in facilities operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs. Provided, that in a nursing home, as defined in Section 44-7-130, contracted for operation by the Department of Mental Health, the Vulnerable Adults Investigations Unit shall investigate those fatalities for which there is suspicion that the vulnerable adult died as a result of abuse or neglect, the death is suspicious in nature, or the death is referred by a coroner or medical examiner as provided in Section 43-35-35(A). In the event that a coroner rules that the death of an individual in a veterans' nursing home under the authority of the Department of Mental Health results from natural causes, the State Law Enforcement Division is not required to conduct an investigation regarding the individual's death.

HISTORY: 2006 Act No. 301, Section 9, eff May 23, 2006; 2010 Act No. 223, Section 8, eff June 7, 2010; 2012 Act No. 128, Section 2, eff March 13, 2012.

SECTION 43-35-530. Conduct of investigations.

Upon receipt of a report of a vulnerable adult death, as required by Section 17-5-555 or Section 43-35-35, the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division shall:

(1) investigate and gather all information on the vulnerable adult fatality pursuant to Section 43-35-520.

The coroner or medical examiner immediately must request an autopsy if the unit determines that an autopsy is necessary. The autopsy must be performed by a pathologist with forensic training as soon as possible. The forensic pathologist must inform the unit of the findings within forty-eight hours of completion of the autopsy. If the autopsy reveals the cause of death to be pathological or an unavoidable accident, the case must be closed by the unit. If the autopsy reveals physical or sexual trauma, suspicious markings, or other findings that are questionable or yields no conclusion to the cause of death, the unit immediately must begin an investigation;

- (2) request assistance of any other local, county, or state agency to aid in the investigation;
- (3) upon receipt of additional investigative information, reopen a case for another coroner's inquest;
- (4) upon receipt of the notification required by item (1), review agency records for information regarding the deceased vulnerable adult or family. Information available to the department pursuant to Section 43-35-570 and information that is public under Chapter 4, Title 30, the Freedom of Information Act, must be available as needed to the county coroner or medical examiner, the Long Term Care Ombudsman Program, the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division, and the Adult Protective Services Program of the Department of Social Services;
- (5) report the activities and findings related to vulnerable adult deaths to the Vulnerable Adults Fatalities Review Committee; and
- (6) develop a protocol for vulnerable adult death investigations.

HISTORY: 2006 Act No. 301, Section 9, eff May 23, 2006.

SECTION 43-35-540. Access to medical information.

Upon request of the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division and as necessary to carry out the unit's duties, the unit immediately must be provided:

- (1) by a provider of medical care, access to information and records regarding a vulnerable adult whose death is being investigated by the unit or reviewed by the committee;
- (2) access to all information and records maintained by any state, county, or local government agency including, but not limited to, birth certificates, law enforcement investigation data, county coroner or medical examiner investigation data, parole and probation information and records, and information and records of social services and health agencies that provided services to the vulnerable adult or family.

HISTORY: 2006 Act No. 301, Section 9, eff May 23, 2006.

SECTION 43-35-550. Subpoena of medical information.

When necessary in the discharge of the duties of the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division and upon application of the unit, the clerks of court shall issue a subpoena or subpoena duces tecum to any state, county, or local agency, board, or commission or to any

representative of any state, county, or local agency, board, or commission or to a provider of medical care to compel the attendance of witnesses and production of documents, books, papers, correspondence, memoranda, and other relevant records to the discharge of the unit's duties. Failure to obey a subpoena or subpoena duces tecum issued pursuant to this section may be punished as contempt.

HISTORY: 2006 Act No. 301, Section 9, eff May 23, 2006.

SECTION 43-35-560. Vulnerable Adults Fatalities Review Committee; members; terms; meetings; administrative support.

(A) There is created a multidisciplinary Vulnerable Adults Fatalities Review Committee composed of:

- (1) the Director of the South Carolina Department of Social Services;
- (2) the Commissioner of the South Carolina Department of Health and Environmental Control;
- (3) the Executive Director of the South Carolina Criminal Justice Academy;
- (4) the Chief of the South Carolina Law Enforcement Division;
- (5) the Director of the South Carolina Department of Alcohol and Other Drug Abuse Services;
- (6) the Director of the South Carolina Department of Mental Health;
- (7) the Director of the South Carolina Department of Disabilities and Special Needs;
- (8) the Director of the Office on Aging;
- (9) the Executive Director of Protection and Advocacy for People with Disabilities, Inc.;
- (10) two representatives from two county boards of disabilities and special needs established pursuant to Section 44-20-375;
- (11) a county coroner or medical examiner;
- (12) an attorney with experience in prosecuting crimes against vulnerable adults;
- (13) a physician with experience in treating vulnerable adults, appointed from recommendations submitted by the South Carolina Medical Association;
- (14) a solicitor;
- (15) a forensic pathologist; and
- (16) two members of the public at large, one of whom must represent a private nonprofit community residential care facility and one of whom must represent a public for profit community residential care

facility, both of which must provide services to vulnerable adults.

(B) Those members enumerated in items (1) through (10) shall serve ex officio and may appoint a designee, who has administrative or program responsibilities for vulnerable adults, to serve in their place from their particular departments or agencies. The remaining members, including the coroner or medical examiner and solicitor, who shall serve ex officio, must be appointed by the Governor for terms of four years and until their successors are appointed and qualify.

(C) A chairman and vice chairman of the committee must be elected from among the members by a majority vote of the membership for a term of two years.

(D) Meetings of the committee must be held at least quarterly. A majority of the committee constitutes a quorum.

(E) Each ex officio member shall provide sufficient staff and administrative support to carry out the responsibilities of this article.

HISTORY: 2006 Act No. 301, Section 9, eff May 23, 2006.

SECTION 43-35-570. Purpose of Vulnerable Adult Fatalities Review Committee.

(A) The purpose of the Vulnerable Adult Fatalities Review Committee is to decrease the incidence of preventable vulnerable adult deaths by:

- (1) developing an understanding of the causes and incidences of vulnerable adult deaths;
- (2) developing plans for and implementing changes within the agencies represented on the committee which will prevent vulnerable adult deaths; and
- (3) advising the Governor and the General Assembly on statutory, policy, and practice changes that will prevent vulnerable adult deaths.

(B) To achieve its purpose, the committee shall:

- (1) meet with the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division no later than one month after the unit receives notification by the county coroner or medical examiner pursuant to Section 17-5-555 or Section 43-35-35 to review the investigation of the death;
- (2) undertake annual statistical studies of the incidence and causes of vulnerable adult fatalities in this State. The studies shall include an analysis of community and public and private agency involvement with the decedents and their families before and subsequent to the deaths;
- (3) consider training, including cross-agency training, consultation, technical assistance needs, and service gaps;
- (4) educate the public regarding the incidences and causes of vulnerable adult deaths, the public role in

preventing these deaths, and specific steps the public can undertake to prevent vulnerable adult deaths. The committee shall enlist the support of civic, philanthropic, and public service organizations in performing the committee's educational duties;

(5) develop and implement policies and procedures for its own governance and operation;

(6) submit to the Governor and the General Assembly an annual written report and any other reports prepared by the committee including, but not limited to, the committee's findings and recommendations for changes to any statute, regulation, policy, or procedure that the committee determines is needed to decrease the incidence of preventable vulnerable adult deaths. Annual reports must be made available to the public.

HISTORY: 2006 Act No. 301, Section 9, eff May 23, 2006.

SECTION 43-35-580. Meetings discussing individual cases closed; disclosure of information identifying vulnerable adult or family member.

(A) Meetings of the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division and of the Vulnerable Adult Fatalities Review Committee are closed to the public and are not subject to Chapter 4, Title 30, the Freedom of Information Act, when the unit and committee are discussing individual cases of vulnerable adult deaths.

(B) Except as provided in subsection (C), meetings of the committee are open to the public and subject to the Freedom of Information Act when the committee is not discussing individual cases of vulnerable adult deaths.

(C) Information identifying a deceased vulnerable adult or a family member, guardian, or caretaker of a deceased vulnerable adult, or an alleged or suspected perpetrator of abuse or neglect upon a vulnerable adult may not be disclosed during a public meeting and information regarding the involvement of any agency with the deceased vulnerable adult or family may not be disclosed during a public meeting.

(D) Violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned not more than six months, or both.

HISTORY: 2006 Act No. 301, Section 9, eff May 23, 2006.

SECTION 43-35-590. Confidential and public information.

(A) All information and records acquired by the unit and the committee in the exercise of their duties and responsibilities pursuant to this article are confidential, exempt from disclosure under Chapter 4, Title 30, the Freedom of Information Act, and only may be disclosed as necessary to carry out the unit's and committee's purposes and responsibilities.

(B) Statistical compilations of data that do not contain information that would permit the identification of a person to be ascertained are public records.

(C) Reports of the unit and the committee that do not contain information that would permit the identification of a person to be ascertained are public information.

(D) Except as necessary to carry out the unit's and committee's duties and responsibilities, unit personnel and members of the committee and persons attending meetings may not disclose what transpired at a meeting that is not public under Section 43-35-580 and may not disclose information, the disclosure of which is prohibited by this section.

(E) Members of the committee, persons attending a committee meeting, and persons who present information to the committee may not be required to disclose in any civil or criminal proceeding information presented in or opinions formed as a result of the meeting, except that information available from other sources is not immune from introduction into evidence through those sources solely because it was presented during proceedings of the committee or unit or because it is maintained by the committee or unit. Nothing in this subsection may be construed to prevent a person from testifying to information obtained independently of the committee or which is public information.

(F) Information, documents, and records of the unit and of the committee are not subject to subpoena, discovery, or the Freedom of Information Act, except that information, documents, and records otherwise available from other sources are not immune from subpoena, discovery, or the Freedom of Information Act through those sources solely because they were presented during proceedings of the unit or committee or because they are maintained by the unit or the committee.

(G) A person who knowingly violates a provision of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

HISTORY: 2006 Act No. 301, Section 9, eff May 23, 2006.

SECTION 43-35-595. Promulgation of regulations.

The South Carolina Law Enforcement Division may promulgate regulations if necessary to carry out its responsibilities under this article.

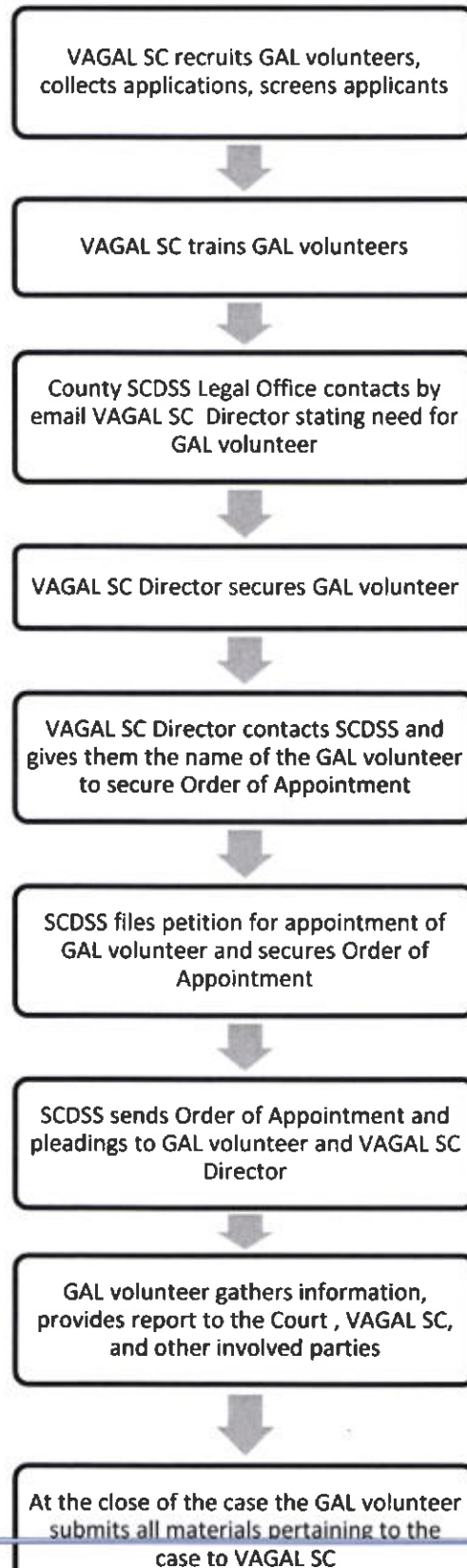
HISTORY: 2006 Act No. 301, Section 9, eff May 23, 2006.

South Carolina Legislative Services Agency * 223 Blatt Building * 1105 Pendleton Street * Columbia,
SC 29201

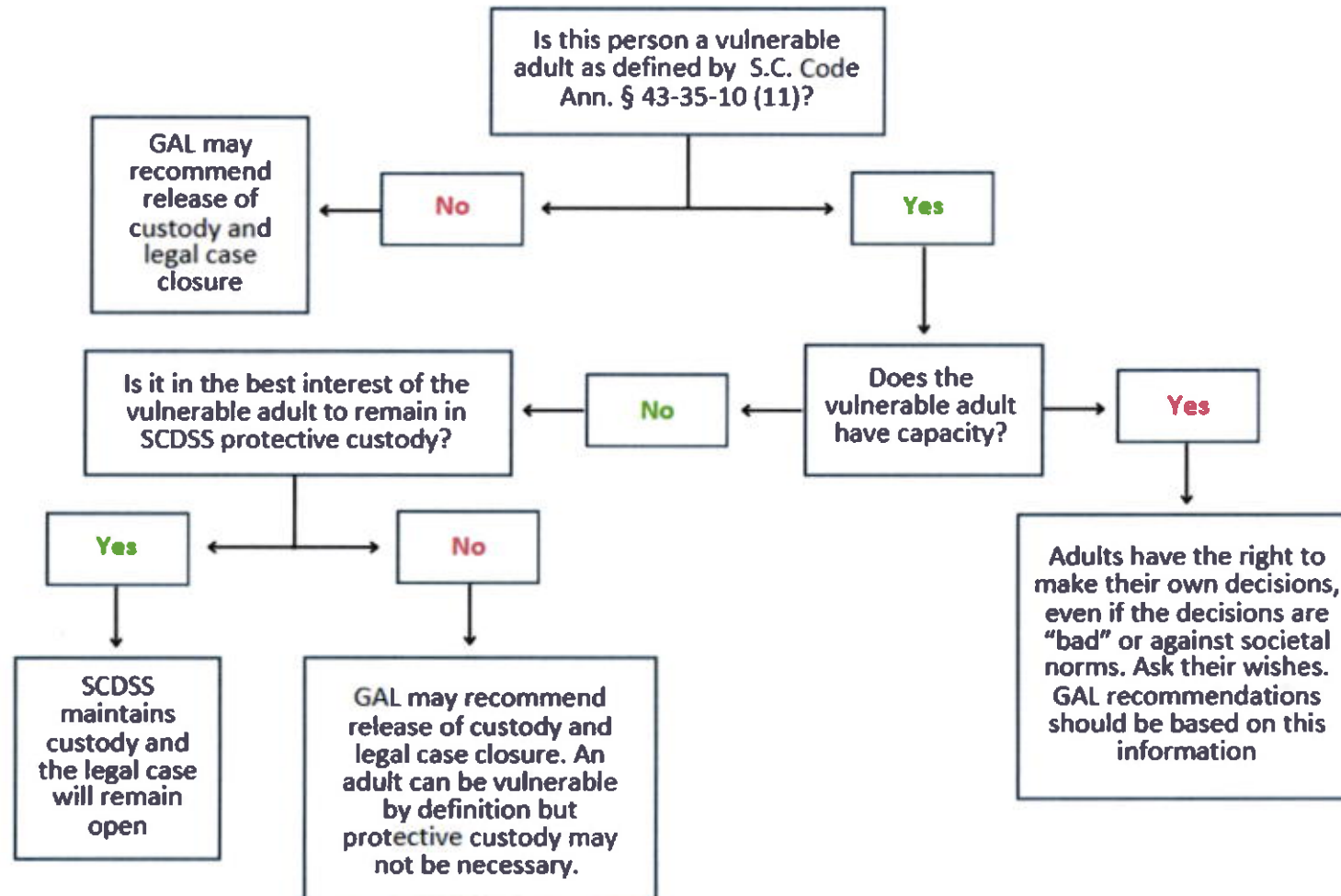
Disclaimer * Policies * Photo Credits * Contact Us

B. Flow Charts

Process Flowchart



VAGAL SC Self Determination Flow Chart



Self-Determination Flow Chart

This flow chart was developed by the Vulnerable Adult Guardian ad Litem Program of SC (VAGAL SC). This resource is provided for GALs to have a basic understanding of self-determination to make appropriate recommendations for the duration of the SC Family Court process.

C. Interview Tips

Safety Tips for Home Interviews

1. If you are interviewing someone in a remote/rural area by yourself, let someone know when and where you are going to be.
2. Always wear your VAGAL SC name badge when conducting interviews or gathering information.
3. Always knock/ring doorbell and wait to be let in to a home.
4. Explain who you are and why you are there. Clearly state that you are there on behalf of the vulnerable adult.
5. If at any time during an interview you feel physically unsafe, leave the interview and inform VAGAL SC staff.
6. If you feel uncomfortable making a visit on your own, please inform the VAGAL SC Director to arrange a time when VAGAL SC staff or another volunteer can accompany you.

Emergency Procedure for Home Interviews

In the event of an emergency during a home visit keep in mind that as a Guardian ad Litem, **you are a mandated reporter**.

1. If there is a medical emergency of any kind, first call 911 and then call VAGAL SC staff to inform them of the situation.
2. Remember that you are acting in the capacity of a volunteer and not a medical professional; do not dispense any medications.
3. If there are any family members or other caregivers in the home, inform them of the situation.
4. Be sure to get the name and location of the hospital where the adult will receive treatment.
5. If the adult is taken to the hospital, call the SCDSS caseworker with this information and keep it in your records

Interview Guide

Interviewing vulnerable adults can be rewarding, but can also be challenging! Below are some tips for your consideration while conducting interviews.

- Review case file for information about any communication difficulties for which the vulnerable adult may need accommodations (hearing impairment, aphasia, etc.).
- Prepare questions ahead of the interview.
- Remember that people with disabilities are people first. Avoid using these words to describe people with disabilities:
 - Limited
 - Abnormal
 - Impaired
 - Afflicted
- An individual with a learning disability might take longer to encode, understand, and store information. Therefore, their recall ability may be incomplete.
- Give your full attention, sit up and slightly forward, take short notes that will help recall what was said.
- Speak directly to the vulnerable adult and maintain eye contact rather than “through” others, such as a social worker or medical staff.
- Pay attention to the vulnerable adult’s body language. Are they jittery or fidgeting, avoiding eye contact, pushing their chair away from you, pacing, etc.?
- Speak slowly, not loudly. If necessary, ask the adult to repeat the questions asked to ensure that the question was understood.
- Interviewers should be flexible in repeating or rewording questions to more effectively gather the information needed. Tailor words and lengths of sentences to the adult’s cognitive level.
- Keep questions short and simple.
- Use concise, basic language when interviewing the adult.
- Don’t assume or anticipate! Meet the adult where they are without judgement or bias.
- To obtain more details from the adult about their situation, ask more open-ended questions than “yes or no” and “one-word answer” questions.
 - Example of a close-ended question: Who is the president of the United States?
 - Example of an open-ended question: What led you to being in this hospital/facility?

Remember that a vulnerable adult's refusal or inability to participate in the interview is important to your assessment and GAL Report. If the adult is too confused to answer any questions, that could provide information about the adult's cognition.

Suggested Interview Questions

Before beginning the interview, explain to the vulnerable adult that you have been appointed by the court to serve as their guardian ad litem. Clarify that your role is to understand the adult's situation, assess their needs, listen to what they want, then make recommendations to the court that are in their best interest. It is often calming to reassure the adult that they are not in trouble (hearing the word "court" can be worrisome) and to explain that many people are concerned for their safety and well-being.

In addition to the questions to ask for the VAGAL SC Information Gathering Form, here are other interview question suggestions:

- What happened that caused you to be in the hospital/facility?
- Do you know/understand the circumstances that lead to SCDSS involvement?
- Do you understand that you are in Adult Protective Services custody?
- Do you know where we are right now (hospital/facility, town, state)?
- Where were you living before you came here?
- Do you own your own home or other properties?
- Tell me about your family and friends. Do they know where you are?
- Do you have a Power of Attorney or Advanced Directives?
- Do you have a primary care physician?
- Do you have any medical conditions?
- Are you taking any medications? If so, what do you take?
- Does anyone help you with paying your bills?

- How do you get groceries at your home?
- Are you able to get all of your medications?
- How old are you, when is your birthday?
- Do you know the current President of the United States?
- Are you a member of a church?
- What does a typical day at home look like for you?
- What do you want and need?
- Why do you think there is concern about your safety when you were at home?
- What assistance do you think you need at home to reduce the concern for your safety?
- Are they taking care of you and would you like to stay here (for adults in long-term placement)?
- Do you like the food?
- Are you full when you eat a meal, or still hungry?
- Have you seen a physician since you've been here?
- Do you need anything right now?

***Avoid making promises to the vulnerable adult, especially if they are adamant about returning home. Reassure the adult that you have heard them and understand what they want and that information will be shared with SCDSS and the court.**

Key Individual Interview Guide

Name of person interviewed:

Date:

Relationship to Adult:

How long have you known the adult?

When was the last time you spoke with him/her?

Did you speak in person, on the phone, or receive an email?

Generally, how often do you speak with this person? (choose one)

Once per day

Once per week

Once per month

Once every few months

When was the last time you saw this person?

Generally, how often do you see this person?

Once per day

Once per week

Once per month

Once every few months

Take a few minutes and tell me more about this person (i.e. temperament, personality, likes, dislikes, reaction to family members, etc)

Who else would you recommend that I speak with about this person?



D. GAL Report Template

Vulnerable Adult Guardian ad Litem Program of South Carolina

Guardian ad Litem Report to the Family Court

Docket Number:

Type of Hearing:

Date:

This report was prepared for the benefit of the Court and is of confidential nature. It may be distributed to parties to the proceedings only. This report is subject to change based on testimony.

In Re:

Guardian ad Litem:

Attorney for Guardian ad Litem:

Attorney for Vulnerable Adult:

DSS Case Manager:

DSS Attorney:

Allegations:

History:

a). **Personal History:**

b). **Procedural History:**

EPC –

PCH –

Merits –

Interviews and Documents Reviewed:

Guardian ad Litem Observations:

Guardian ad Litem Recommendations:

Date

Guardian ad Litem

E. Fact Sheets

Medicaid Level of Care Fact Sheet	Page 55
Medicaid OSS/Nursing Home/CLTC	Page 57
Medicaid Income Trust	Page 58
Medicaid Home Again Fact Sheet	Page 59
Head & Spinal Cord Injury (HASCI) Waiver	Page 60
SC Centers for Independent Living	Page 61
Medicare A,B,C, & D	Page 62
Social Security Retirement (SSA)	Page 63
Social Security Disability Insurance (SSDI)	Page 64
Supplemental Security Income (SSI)	Page 65
Veterans Administration (VA) Benefits	Page 66
Probate Court I – Guardianship	Page 67
Probate Court II – Conservatorship	Page 68
Probate Court Alternatives	Page 69

Fact sheets are provided so that GALs can have a basic understanding of available services. The role of GAL is to have relevant program knowledge in order to make appropriate and applicable recommendations for services. Fact sheets are for internal use only.

Medicaid Level of Care

The Medicaid Level of Care is an assessment tool that identifies medical, psychosocial, functional, environmental, support system, and service needs in qualifying Medicaid beneficiaries. This assessment consists of a written evaluation conducted by a consulted nurse. The completed evaluation will indicate if an individual meets a "Skilled" or "Intermediate" level of care.

What services does the program provide?

The Medicaid Level of Care assessment provides important information about where an individual should be placed to receive appropriate care. Those assessed at a "Skilled" level of care qualified for placement at a nursing facility that offers skilled nursing, therapy, and personal care services. Those assessed at an "Intermediate" level of care may be placed at a nursing facility, assisted living facility, or community long-term care.

Who is eligible for services?

Individuals who are 65+ or who have a disability. Eligibility for Medicaid-sponsored long-term care is determined by the criteria for "Intermediate" and "Skilled" levels of care.

Intermediate Level of Care: Must have at least one of the four numbered Intermediate Services **AND** at least one of the numbered Functional Deficits listed below; **OR** at least two of the numbered Functional Deficits listed below.

Intermediate Services:

1. Daily monitoring of a significant medical condition requiring overall care planning in order to maintain optimum health status. The individual should manifest a documented need which warrants such monitoring.
2. Supervision of moderate/severe memory, either long or short term, manifested by disorientation, bewilderment, and forgetfulness which requires significant intervention in overall care planning.
3. Supervision of moderately impaired cognitive skills manifested by decisions which may reasonably be expected to affect an individual's own safety.
4. Supervision of moderate problem behavior manifested by verbal abusiveness, physical abusiveness, or socially inappropriate/disruptive behavior.

Functional Deficits:

1. Requires extensive assistance (hands-on) with dressing and toileting and eating and physical help in bathing. (All four must be present and, together, they constitute one deficit.)
2. Requires extensive assistance (hands-on) with locomotion.
3. Requires extensive assistance (hands-on) to transfer.
4. Requires frequent (hands on) with bladder or bowel incontinent care; **or** with daily catheter or ostomy care.

Skilled Level of Care: Must need at least one of the numbered Skilled Services (Items 1-11) and have at least one of the numbered Functional Deficits listed below. A person needing item #12 by itself qualifies for skilled level of care.

Skilled Services:

1. Daily monitoring/observation and assessment due to an unstable medical condition which may include overall management and evaluation of a care plan which changes daily or several times a week.
2. Administration of medications which require frequent dosage adjustment, regulation, and monitoring.

3. Administration of parenteral medications and fluids which require frequent dosage adjustment, regulation, and monitoring. (Routine injection(s) scheduled daily or less frequently [such as insulin injection] do not qualify.)
4. Special catheter care (e.g., frequent irrigation, irrigation with special medications, frequent catheterizations for specific problems.)
5. Treatment of extensive decubitus ulcers or other widespread skin disorder. (Important considerations include: Signs of infections, full thickness tissue loss, or requirement of sterile technique)
6. A single goal-directed rehabilitative service (speech, physical, or occupational therapy) by a therapist 5 days per week. Combinations of therapies will satisfy this requirement.
7. Time-limited, goal-directed, educational services provided by professional or technical personnel to teach self-maintenance, such as education for newly-diagnosed or acute episodic conditions (e.g., medications, treatments, procedures).
8. Nasogastric tube or gastrostomy feedings.
9. Nasopharyngeal or tracheostomy aspirations or sterile tracheostomy care.
10. Administration of medical gases (e.g., oxygen) for the initial phase of condition requiring such treatment, monitoring, and evaluation (generally no longer than two week duration).
11. Daily skilled monitoring or observation for conditions that do not ordinarily require skilled care, but because of the combination of conditions, may result in special medical complications. In these situations, the complications and the skilled services required must be documented.
12. This individual is totally dependent in all activities of daily living: incapable of locomotion; unable to transfer; totally incontinent of urinary or bowel function; must be totally bathed and dressed and toileted and need extensive assistance to eat.

Functional Deficits:

1. Requires extensive assistance (hands-on) with dressing and toileting and eating, and physical help in bathing. (All four must be present and, together, they constitute one deficit.)
2. Requires extensive assistance (hands-on) with locomotion.
3. Requires extensive assistance (hands-on) to transfer.
4. Requires frequent (hands on) bladder or bowel incontinence care; or with daily catheter or ostomy care.

How does someone apply for this program?

To apply for South Carolina's Medicaid program (Healthy Connections), please visit <https://apply.scdhhs.gov/>

Some important things to know about this program:

Each individual being evaluated for Medicaid-sponsored long-term care should be highly involved in the assessment process as the information recorded should be obtained through an interview or observation of the person being assessed. In some scenarios, it may be appropriate for the individual to demonstrate certain functional abilities. Other sources of information, including family members and medical records, should be utilized as well.

Where can I go for more information?

This information was gathered from the South Carolina Department of Health and Human Services *South Carolina Assessment & Level of Care Manual for Medicaid-Sponsored Long Term Care Services*. For more information, please visit the Medicaid website at <https://www.scdhhs.gov/>

Medicaid OSS/Nursing Home/Community-Based Services

Medicaid is South Carolina's aid program that allows federal and state governments to share the cost of medical care for needy persons with low income. In addition to regular Medicaid (Healthy Connections), the SC Department of Health and Human Services (DHHS) provides other coverage options for long-term care.

What services does the program provide?

Optional State Supplementation Program (OSS) – Individuals residing in DHEC licensed, Community Residential Care Facilities (CRCF) can receive full Medicaid benefits and state-funded payments to the facility to supplement the resident's income for the cost of care. OSS recipients also receive a monthly Personal Needs Allowance (PNA) that is determined by Medicaid and based on income.

Nursing Home Medicaid or MAO – Institutional - Long-term care program for those aged, blind, or disabled who need skilled/intermediate level of care. In addition to full Medicaid benefits, state-funded payments are paid to the facility to supplement the resident's income for the cost of care. Medicaid Nursing Home recipients receive monthly PNA that is determined by Medicaid and based on income.

Home and Community-Based Services/Community Long-Term Care (CLTC) - Provides full Medicaid benefits and aids to individuals who meet intermediate/skilled levels of care to receive in-home services. This waiver allows the recipient to obtain services from Medicaid-approved providers who assist with ADLs, light housekeeping, meal preparation, and transportation.

Who is eligible for services?

Optional State Supplementation Program:

- Be at least 65 years old or blind or disabled
- Be a U.S. citizen or Lawful Permanent Resident Alien and a resident of South Carolina
- Applicants must meet the Supplemental Security Income (SSI) eligibility requirements
- Applicants must not exceed the current net income limit of \$1,777 per month or asset limit of \$2,000

Nursing Home and Community-Based Services:

- Be a U.S. citizen or Lawful Permanent Resident Alien and a resident of South Carolina
- Require nursing facility level of care either in the home or in a facility
- Applicants must not exceed the current income limit of \$2,901 per month or asset limit of \$2,000

How does someone apply for this program?

To apply for OSS, Nursing Home, or CLTC: <https://www.scdhhs.gov/sites/default/files/FM%203401.pdf>

Some important things to know about this program:

- It can take 3-6 months for application approval
- Spousal allocation is available with these programs

Where can I go for more information?

Medicaid Nursing Home/CLTC: <https://www.scdhhs.gov/eligibility-groups/individuals-nursing-facilities-and-or-receiving-home-and-community-based-waiver>

Medicaid OSS: <https://www.scdhhs.gov/eligibility-groups/optional-state-supplementation-program-oss>

Medicaid Income Trust

The Medicaid Income Trust is an option for clients who are over the Medicaid Nursing Home or Home and Community Based Services income limit (Medicaid Cap) of \$2,901.00, but do not make enough income to privately pay for long term care. The Medicaid Income Trust is a specific trust account in which the client's income is deposited then redirected to a facility to pay for the cost of the client's care. By signing the Income Trust Agreement, the client agrees to appoint a trustee and deposit his/her income into a trust account every month.

What services does the program provide?

The Medicaid Income Trust can provide clients, who would not otherwise qualify for Medicaid Nursing Home benefits, financial security for the cost of care in long-term facilities. If eligible, clients who establish a Medicaid Income Trust can be covered for care, medication, and medical testing/procedures typically covered by Medicaid.

Who is eligible for services?

Clients who meet Medicaid Level of Care Criteria and are over the Medicaid Cap may be eligible for the Medicaid Income Trust. The following requirements must be in place.

- An Income Trust document must be properly completed and signed by the applicant/beneficiary or their legal representative.
- The South Carolina Department of Health and Human Services (SC DHHS) must review the completed trust document to ensure it meets legal criteria.
- The applicant/beneficiary must appoint a trustee to handle the trust. The applicant/beneficiary cannot serve as their own trustee.
- The applicant/beneficiary must designate a separate account to be used with the Income Trust.
 - A separate bank account must be identified, and income placed in the account.
 - An existing account may be designated or a new one established
 - The account may only be in the name of the applicant/beneficiary and their trustee.

How does someone apply for this program?

To qualify for the Medicaid Income Trust Program, a SC DHHS 905 application form must be completed and submitted to SC DHHS.

Some important things to know about this program:

- An attorney is not needed to establish a Medicaid Income Trust
- When the Medicaid case is closed, any money that remains in the trust account must be used to repay the SC Medicaid Program up to the amount the Medicaid Program spent for the applicant/beneficiary's medical expenses.
- A Durable Power of Attorney can serve as a trustee for the Income Trust

Where can I go for more information?

Please visit the SC DHHS Income Trust site for more information:

<https://www.scdhhs.gov/sites/default/files/FM%20905.pdf>

SC Medicaid Home Again

The SC Home Again program is to help adults who have resided in a skilled nursing facility or hospital for more than 60 days transition to their home or the community. The program is funded through a grant provided to Department of Health and Human Services by Centers for Medicare & Medicaid Services. SC Home Again was first implemented in 2013 with a goal of home and community-based alternatives for care rather than institutions. The program focuses on the life choices and the rights of the adult and aims to minimize threats to safety and health. All participants receive waiver services.

What services does the program provide?

Participants are eligible for all waiver services including environmental modifications as part of waiver services. Depending on the person's needs, services can include:

- A transitional coordination service, which helps participants transition from long-term care back to the community
- Appropriate community and Medicaid services.
- Personal care assistance
- Personal emergency response system and companion care
- One time assistance with such items as security utility deposits, furnishings, appliances, basic household items, initial groceries

Who is eligible for services?

Individuals must meet the following criteria:

- Currently reside in a skilled nursing facility or hospital
- Have been in the institution for at least 60 consecutive days (not under Medicare Rehabilitation days)
- Be on Medicaid payment for at least one day before transitioning
- Meet either intermediate or skilled nursing facility level of care

How does someone apply for this program?

Apply online through https://phoenix.scdhhs.gov/initial_electronic_referrals/new or call (888) 971-1637

Some important things to know about this program:

The grant targets individuals that are expected to be in a facility or institution for long-term care. Individuals going into a facility for short-term rehab are not appropriate. The following are qualified residences for SC Home Again:

- A home owned or leased by the adult or the adult's family member; the lease/deed must be held by that adult or family member
- An apartment with an individual lease
- A residence, in a community-based residential setting, in which no more than 4 unrelated individuals reside

Where can I go for more information?

<https://msp.scdhhs.gov/homeagain2/site-page/program-overview>

Head & Spinal Chord Injury (HASCI) Waiver

The Social Security Act enables SC Department of Health and Human Services to contract with SC Department of Disabilities and Special Needs (SCDDSN) to operate a Home and Community Based (HCB) Waiver program for a limited number of people with traumatic brain injury (TBI), spinal cord injury (SCI), or similar disability (SD). HASCI waiver participants can receive Medicaid funded services and supports in their homes and other community settings instead of in a hospital, nursing facility or institution.

What services does the program provide?

Services can include:

- | | | | |
|-------------------------|-------------------------|------------------------|--------------------------|
| • Attendant Care | • Home modifications | • Occupational therapy | • Pest control |
| • Respite Care | • Vehicle modifications | • Assistive technology | • Day activity |
| • Physical therapy | • Speech therapy | • Employment services | • Psychological services |
| • Incontinence supplies | • Behavior support | • Personal ER system | |

Who is eligible for services?

DDSN Head and Spinal Cord Injury Division determines eligibility based on TBI, SCI, and DS. Must receive Medicaid or become eligible prior to enrollment, must meet level of care criteria, have urgent circumstances affecting health or functional status, must depend on others to provide or assist with critical needs, ADL's, or daily supervision to avoid institutionalization, require services not available from existing providers or current resources are inadequate to meet basic needs, have sufficient independence and/or adequate supports to live safely in a private residence or other community setting with the type and amount of services available from HASCI Waiver. An individual must meet Level of Care criteria for a Nursing Facility (NF) or Intermediate Care Facility for Individuals with Intellectual Disability (ICF/IID).

How does someone apply for this program?

Call DDSN Eligibility at 1-800-289-7012 to be screened for referral for the HASCI Waiver.

Some important things to know about this program:

- The program does not provide income support, emergency funds, housing, room and boards general supervision, or 24-hour care. Medical records will be reviewed.
- Initial enrollment is limited to individuals prior to their 65th birthday.
- HASCI Waivers services are terminated when a person is no longer eligible for Medicaid, no longer meets Level of Care, does not receive services for 30 days, is admitted to an acute care hospital for 30 days, is admitted to nursing facility or ICF/IID, refuses to comply with requirements or commits Medicaid fraud.

Where can I go for more information?

Contact DDSN at 1-800-289-7012 for eligibility. Eligibility includes review of medical records. The process is usually completed within 90 days.

SC Centers for Independent Living

Centers for Independent Living are not about “helping” people with disabilities, but are built on the central concept of self-empowerment. They are consumer-controlled, community-based, cross-disability nonprofits that provide an array of independent living services.

What services does the program provide?

Services vary by independent living center but can include:

- Independent Living Specialists who work one on one with individuals to create individual goals for independence and roadmaps for achieving them.
- Training programs such as communication skills, employment, budgeting, organization, housing search, adapting your home, and goal setting.
- Information and referral assistance for those who want to live independently.
- Peers supporters
- Assistance with searching for affordable housing, filling out rental applications, learning how to keep your home clean and safe, and learning budgeting skills to manage your monthly bills.

Who is eligible for services?

Individuals with disabilities, who live in covered counties, are eligible for services.

How does someone apply for this program?

Contact the Center for Independent Living Center that covers the appropriate county.

Some important things to know about this program:

Program is that it is not needs based, individuals from any income level are eligible to apply.

Where can I go for more information?

SC Able: www.able-sc.org

800-681-6805 (Serves: Calhoun, Chester, Clarendon, Fairfield, Kershaw, Lee, Lexington, Newberry, Orangeburg, Richland, Saluda, Sumter and York Counties)

800-681-7715 (Serves: Abbeville, Anderson, Cherokee, Greenville, Greenwood, Laurens, Oconee, Pickens and Spartanburg Counties)

Walton Options for Independent Living – North Augusta Office: www.waltonoptions.org

803-279-9611 (Serves: Aiken, Barnwell, Edgefield and McCormick Counties)

843-538-1600 (Serves: Allendale, Bamberg, Beaufort, Colleton, Hampton and Jasper Counties)

Access Ability

www.ability.sc.org

866-874-7730 (Serves: Berkeley, Charleston, Dorchester, Orangeburg and Williamsburg Counties)

Lancaster, Chesterfield, Darlington, Florence, Georgetown, Marlboro, Dillon, Marion, and Horry counties are not served.

Medicare A, B, C, & D

Medicare is a federal health insurance program that is a primary source of coverage for adults 65 and over as well as certain individuals with disabilities. Medicare has four parts, A, B, C & D, which provide coverage for hospital care, outpatient services, and prescription drugs. Individuals must be U.S. citizens or have been continuous legal permanent residents for five years to qualify. Based on work history, a person may be eligible without a premium.

What services does the program provide?

Part A: (hospital insurance or Original Medicare) pays for inpatient hospital stay or skilled nursing home stay, or parts of home health and hospice.

Part B: (medical insurance or Original Medicare) pays for certain expenses of physician services, outpatient care, medical supplies and preventive services. Under certain circumstances, it will pay for parts of services in a nursing home and home health.

Part C: (a private version called Medicare Advantage) Medicare pays a private plan to manage a beneficiary's health care. Part C is a bundled plan that includes Part A, Part B, and usually Part D. These plans include HMOs, PPOs, private fee for service plans PFFs, special needs plans SNPs, and medical savings accounts MSAs

Part D: helps cover the cost of prescription drugs, including many shots and vaccines. Offered either as an optional stand-alone prescription drug plan (PDP) or as part of the benefit package of a Medicare Advantage plan.

Who is eligible for services?

Most people 65 and older qualify based on a work history and/or those who are disabled

Part A: Based on work history of individual or spouse. Applicants must be 65 years or older and have completed work requirements for Social Security benefits (10 years of work history). Other eligible individuals include those who have received Social Security disability benefits or railroad disability benefits for at least 24 months. (For those with end-stage renal disease and Lou Gehrig's disease the 24-month waiting period is waived.)

Part B: Available to anyone who is eligible for Part A. There is a monthly premium and low-income assistance. If someone does not qualify for Part A, they may purchase Part B only.

Part C: These plans are offered by private companies approved by Medicare for additional costs.

Part D: Anyone eligible for Part A and Part B is eligible for this optional service. Most Advantage plans include Part D for prescriptions.

How does someone apply for this program?

Call Social Security: 1-800-772-1213 or visit www.medicare.gov

Some important things to know about this program:

Some people get Medicare automatically and some must sign up. There are certain times of the year when you can enroll or change your coverage. If you sign up for Part B and Part D when first eligible you can avoid penalties. Medicare is not a one program fits all, there are many options.

Where can I go for more information:

www.medicare.gov

www.ssa.gov/benefits/medicare/

Social Security Retirement

Social Security is part of the retirement plan for almost every American worker. It provides replacement income for qualified retirees and their families. Social Security replaces a percentage of a worker's pre-retirement income based on lifetime pre-retirement earnings. The portion of pre-retirement wages that is replaced is based on the highest 35 years of earnings and varies depending on how much is earned and when benefits begin.

What services does the program provide?

The program can provide replacement income for:

- Retirees
- Spouses of retirees, including ex-spouses who were previously married for ten or more years
- Children of the retiree can also qualify for benefits if they are:
 - Unmarried
 - Under age 18
 - 18-19 years old and a full time student (up to grade 12),
 - 18 or older and disabled from a disability that started before the age of 22

Who is eligible for services?

To receive benefits an individual must be at least 62 years of age and worked for at least ten years. Other family members, including ex-spouses, may also be able to receive benefits based on an individual's contributions. The benefit amount will increase if an individual waits until full retirement age to apply for Social Security benefits, and will continue to increase for each year waited, up to age 70. Full retirement age depends on birth year.

How does someone apply for this program?

You can apply online at <https://secure.ssa.gov/iClaim/rib>, or go to your nearest Social Security office.

Some important things to know about this program:

In 2025, the average Social Security Retirement beneficiary in South Carolina will receive \$1,976 a month.

Where can I go for more information?

For more information, visit the Social Security website at <https://www.ssa.gov/benefits/retirement/>

Social Security Disability Insurance

Social Security Disability (SSDI or SSD) is a federal program that will pay qualifying recipients a monthly financial benefit if the disability occurs before full retirement age and work is not possible due to the disability. While SSDI payments are modest, this benefit allows most people to meet their basic needs. Benefits are paid from the Old-Age, Survivors, and Disability Insurance (OASDI) Trust Fund, which is funded by the Federal Contributions Act (FICA) through payroll taxes.

What services does the program provide?

Since disability is unpredictable and can occur to anyone at any age, SSDI provides a critical source of financial support to those who qualify. SSDI payments are calculated based on an individual's life earnings and are adjusted yearly based on cost of living increases. SSDI payments range between \$1,300 and \$1,600 per month on average. The maximum social security disability insurance benefits payment in 2025 is \$4,018 a month.

Who is eligible for services?

There are 2 major qualifying determinates for SSI eligibility:

- Work history, work credits, yearly wages, and age at time of disability will determine if SSDI requirements are met.
- Individuals must meet the Social Security Administration (SSA) criteria for a disability: "the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment(s) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months."
- Additional medical information will be requested to determine severity of disability/how it impacts work abilities.
- Detailed eligibility criteria will be outlined for work and medical by SSA when SSDI application is reviewed.
- Non-Citizens may receive SSDI benefits if they have a social security number authorizing them to work in the U.S. that was issued on or after January 1, 2004. SSDI is also available for non-immigrant visa holders (B-1, D-1, or D-2) who can prove that they are in the U.S. legally for each month they receive benefits. They must also satisfy all other eligibility requirements for the SSDI program.

How does someone apply for this program?

Apply online at <https://www.ssa.gov/applyfordisability/>, by phone at 1-800-772-1213 (TTY at 1-800-325-0778), or in person at the closest SSA Office.

Some important things to know about this program:

- Once full retirement age (65 or older depending on birth year) is reached, SSDI benefits will end and Social Security Retirement benefits will begin.
- SSDI recipients are automatically eligible for Medicare benefits 24 months after SSDI payments are established. Certain medical diagnosis and conditions may qualify for immediate Medicare coverage. Medicare premiums are deducted monthly from gross SSDI payments.

Where can I go for more information?

- General information: www.socialsecurity.gov
- List of impairments: www.ssa.gov/disability/professionals/bluebook/AdultListings.htm
SSA Disability Information: <https://www.ssa.gov/benefits/disability/>

Supplemental Security Income

Supplemental Security Income (SSI) is a federal program in the United States that provides additional income for older and disabled people with little to no income. SSI is different from standard Social Security retirement benefits. SSI benefits amounts are based on need.

What services does SSI provide?

- Supplemental Security Income (SSI) provides additional income to elderly or disabled citizens that have little to no income to provide their basic needs.
- For the year 2025, SSI will pay a maximum of \$967 per month to eligible individuals or \$1,450 to couples.
- In addition to federal SSI, many states also provide supplementary income to those in need.

Who is eligible for services?

- SSI candidates must be 65 or older, blind, or disabled*
- SSI candidates must have limited income, limited resources, and be a U.S. citizen
- SSI is available to individuals with assets of \$2,000 or less, or couples with \$3,000 or less.
- To check eligibility, go to <https://www.ssa.gov>

*In special cases, children under 18 may be considered disabled and earn SSI eligibility. For a child to qualify, the disability must result in severe functional limitations that can be expected to cause death, or, the disability has lasted, or is expected to last, longer than 12 months.

How does someone apply for this program?

An individual may apply for Supplemental Security Income (SSI) online but only if certain requirements are met. Individuals may also apply in person at the Social Security office or schedule a telephone interview with a Social Security representative.

Some important things to know about this program:

- Other income MAY affect benefits – report any change in income
- Where someone lives or who they live with MAY affect benefits – report all changes
- No work credits are required for SSI

Where can I go for more information?

www.ssa.gov/benefits/ssi

<https://www.ssa.gov>

Social Security Administration - (866) 964-7594

Veterans Administration (VA) Benefits

Many of our vulnerable adults have served this country for years but have never reached out for support. This resource is designed to connect Veterans with information, resources, and solutions to issues affecting their lives.

What services does the program provide?

VA benefits include several different programs based on years of service, type of service, and other qualifying information. The following VA benefits are most the most common resources utilized by our adults:

- **Pension:** Pension is a benefit paid to wartime Veterans who have limited or no income, and who are 65 years of age or older, or, if under 65 years of age, are permanently and totally disabled.
- **Aid and Attendance:** Special pension that is part of the Veterans Disability and Death Pension programs. Veterans who are more seriously disabled may qualify for Aid and Attendance or Housebound Benefits. Benefits are paid in addition to basic pension rate to qualifying wartime veterans and their surviving spouses who require assistance with ADL's. This can cover individuals who are blind, residents in nursing homes, assisted living facilities, or who receive personal in-home care.
- **Burial:** Burial benefits available include a gravesite in any of the 149 national cemeteries with available space, opening and closing of the grave, perpetual care, a Government headstone or marker, a burial flag, and a Presidential Memorial Certificate, at no cost to the family. Some Veterans may also be eligible for Burial Allowances.
- **Long Term Care/Community Long Term Care (LTC/CLTC):** This program can provide eligible Veterans nursing home placement or in-home assistance. The Veterans Administration covers most of the total cost to include room and board, nursing, food, laundry services, haircuts, cable and basic personal items such as briefs and toiletries. The Veteran is responsible for the daily copay, as determined by the Veteran Administration (with exceptions).

Who is eligible for services?

Most of these services require Veterans to have served at least 90 days of military service, including one day in a wartime period and the Veteran was discharged from service under conditions other than dishonorable. Those requirements can vary.

How does someone apply for this program?

Burial Benefits: <https://www.va.gov/burials-and-memorials/application/530/introduction>

VA Pension/Aid & Attendance: <https://www.va.gov/pension/application/527EZ/introduction>

VA Disability: <https://www.va.gov/disability/>

For additional information about applying for these benefits, please call 803-785-8400.

Some important things to know about this program:

- Eligibility varies based on each service benefit.
- South Carolina Veterans facilities: E. Roy Stone Jr. Veterans Home (Columbia), Richard M. Campbell Veterans Home (Anderson), Veterans Victory House (Walterboro), and Veteran Village (Florence)

Where can I go for more information?

For more information please contact Veteran Service Organizations at 800-827-1000.

General information: <https://www.va.gov/directory/guide/state.asp?state=SC&dnum=3>

Probate Court I - Guardianship

In South Carolina, the Probate Court determines capacity, or lack thereof, of an adult. Incapacity means the inability to effectively receive, evaluate, and respond to information or make or communicate decisions such that a person, even with appropriate, reasonably available support and assistance, who cannot meet the essential requirements for his physical health, safety, or self-care, necessitating the need for a guardian. See S.C. Code Ann. §62-5-101 at <http://scstatehouse.gov/code/t62c005.php>. A person with poor judgment has the ability to make responsible decisions, but chooses not to do so.

What services does the program provide?

In South Carolina, a guardian is a person, institution, or agency appointed by the Probate Court to handle personal matters for a ward (person who is appointed a guardian). The Probate Court will not appoint a guardian unless it receives clear and convincing evidence, in a court hearing, that an individual is incapacitated and that the person applying to be guardian is the appropriate person to serve as a guardian. The primary responsibilities of a guardian are to decide where the ward will live and make provisions for the ward's care, comfort, and maintenance, including medical and health care decisions. The court-appointed guardian must file a written report with the Probate Court at least once a year.

Who is eligible for services?

- An adult who is unable to make health care decisions or take or direct proper care of himself or herself.
- An adult who does not have a healthcare power of attorney and needs someone to make health care decisions.
- An adult who is dying and does not have a living will or healthcare power of attorney, or whose family cannot agree as to appropriate end of life decisions.
- An adult whose health care providers (nursing homes, hospitals) are not honoring a healthcare power of attorney
- An adult who needs services in the home and is unable to arrange for them on his or her own.
- An adult who is in a facility and needs an advocate to make sure his or her needs are met.

Some important things to know about this program:

- If a family member/friend is not available to serve as a guardian, a third party guardian will be appointed. There is no public guardianship program in South Carolina, therefore third party services are private pay
- SCDSS may file the petition for probate court or a contract attorney may be hired to file the petition.
- SCDSS cannot serve as the vulnerable adult's guardian.

Where can I go for more information?

South Carolina Legislation - <https://www.scstatehouse.gov/code/t62c005.php>

SC Courts - <https://www.sccourts.org/selfhelp/FAQsFromACaregiver.pdf>

APS Program Policy – Probate Court - <https://dss.sc.gov/media/2766/5-aps-probate-policy-final-4-21-21.pdf>

South Carolina Legislation - <https://www.scstatehouse.gov/code/t62c005.php>

SC Courts - <https://www.sccourts.org/selfhelp/FAQsFromACaregiver.pdf>

Probate Court II - Conservatorship

In South Carolina, the Probate Court determines capacity, or lack thereof, of an adult. Incapacity means the inability to effectively receive, evaluate, and respond to information or make or communicate decisions such that a person, even with appropriate, reasonably available support and assistance, cannot manage his property or financial affairs or provide for his support or for the support for his legal dependents, necessitating the need for a protective order. See S.C. Code Ann. §62-5-101 at <http://scstatehouse.gov/code/t62c005.php>. Just because an individual makes bad decisions or has a disability does not necessarily mean that he or she is an incapacitated person. An incapacitated person is unable to make responsible decisions about his or her well-being. A person with poor judgment has the ability to make responsible decisions, but chooses not to do so. Sometimes it may be difficult to understand the reasons for the poor decisions, which is why the Probate Court relies on the opinions of medical examiners.

What services does the program provide?

In South Carolina, a conservator is a person, institution, or agency appointed by a probate court to make financial decisions for an individual deemed by the Court to be incapacitated. The Probate Court will not appoint a conservator unless it receives clear and convincing evidence, in a court hearing, that an individual lacks sufficient capacity to make or communicate significant, responsible decisions concerning the management of his or her property/finances. The adult may still have the capacity to live independently with property/financial management assistance. Among other requirements, a conservator must provide yearly, documented accounting of finances to the court.

Who is eligible for services?

A vulnerable adult who cannot remain protected due to incapacity and there are not sufficient alternatives to conservatorship, a petition for the appointment of a conservator can be filed with a probate court. The vulnerable adult must have substantial assets to warrant an appointment of a conservator.

Some important things to know about this program:

- The vulnerable adult should have considerable assets to necessitate a conservator.
- If a family member or friend is not available or appropriate to serve as conservator, a third party conservator will need to be appointed.
- SC DSS cannot serve as the vulnerable adult's conservator.

Where can I go for more information?

South Carolina Legislation - <https://www.scstatehouse.gov/code/t62c005.php>

SC Courts - <https://www.sccourts.org/selfhelp/FAQsFromACaregiver.pdf>

Resources

APS Program Policy – Probate Court - <https://dss.sc.gov/media/2766/5-aps-probate-policy-final-4-21-21.pdf>

South Carolina Legislation - <https://www.scstatehouse.gov/code/t62c005.php>

SC Courts - <https://www.sccourts.org/selfhelp/FAQsFromACaregiver.pdf>

Probate Court Alternatives

Probate Court action to appoint a guardian and conservator can be a long and expensive process. There are other options available for vulnerable adults who need assistance managing their finances and/or making medical decisions. These alternatives include Fiduciary, Power of Attorney, and Social Security Representative Payee.

Fiduciary: A person or entity appointed and paid to manage income and assets for a person who is unable to manage their own finances. The US Department of Veterans Affairs offers a Fiduciary Program for qualifying veterans.

Power of Attorney (POA): A legal authorization for a designated person to make decision for another person's property, finances, or medical care. The person appointed to make these decisions is an "agent". The person appointing an agent is the "principal". If an interested party other than the principal or agent believe a POA should be revoked, a petition must be filed through probate court.

Durable Power of Attorney

- Principal must have capacity to appoint an agent
- Agent appointed to manage principal's assets and finances
- Durable POA can be customized to reflect agent's authority and responsibilities
- Document must be notarized and signed by the principal, agent, and two witnesses who are not related to the agent or principal
- Must be filed with the Register of Deed in the county of the principal's residence
- "Durable" means the POA remains in effect should the principal become incapacitated
- POA is not recognized by the Social Security Administration
- Revocable at any time by agent or principal

Medical Power of Attorney

- Principal must have the capacity to appoint an agent
- Agent is authorized to make medical/end of life decisions should the principal become incapacitated
- Document must be signed by the principal, agent, and witnessed by two persons not related to agent or principal (does not have to be notarized or filed)
- Revocable at any time by agent or principal

Social Security Authorized Representative Payee:

A Social Security Administration (SSA) program that provides payment management to beneficiaries who are incapable of managing their Social Security benefits. This payee can be a family member, friend, or a long-term care facility.

- Payee must submit application to SSA for approval
- Physician documentation to confirm a beneficiary cannot manager their Social Security may be required
- Appointed payee is subject to yearly review/accounting of beneficiary's Social Security
- Payee application and process can be found on the SSA website

Additional Resources

Fiduciary: <https://www.benefits.va.gov/fiduciary/>

Power of Attorney: <https://www.scstatehouse.gov/code/t62c008.php>

Social Security Representative Payee: <https://www.ssa.gov/payee/faqrep.htm?tl=5%2C7%2C8%2C10>

Non-Profit Social Security Payee Agencies: Halo-SC, Inc.: <https://halo-sc.com/index.html>

Origin SC: <https://originsc.org/>

Medication Guide

January, 2025

Drug Name	Generic Name	Therapeutic Category	Common Use
Accupril	Quinapril		Blood Pressure
Actonel	Risedronate	Osteoporosis Treatment	Bone Loss Treatment
Aldactone	Spironolactone	Aldosterone Antagonist	Blood Pressure
Amaryl	Glimepiride	Antidiabetic Agent	Diabetes
Ambien	Zolpidem	Anxiolytics, sedatives	Sleep Aide (swallow whole)
Amoxil	Amoxicillin	Antibiotic	Bacterial Infection
Antivert	Meclizine	Anti-dizziness	Vertigo/ Dizziness
Aricept	Donepezil	Anti-Alzheimer's	Alzheimer's Dementia (swallow whole)
Ativan	Lorazepam	Anxiolytics, sedatives, hypnotics	Nervousness/ Agitation
Cardizem (Cartia, Dilacor)	Diltiazem	Calcium Channel Blocker	Blood Pressure
Celebrex	Celecoxib	Anti-Inflammatory/Analgesic	Muscle Stiffness/ Joint Pain
Celexa	Citalopram	Anti-Depressant	Depression
Claritin	Loratadine	Non-sedating Antihistamine	Allergies
Combivent (Symbicort, Montelukast, Xolair, Dupixent)	Albuterol/Ipratropium	Respiratory Agent	Chronic Obstructive Pulmonary Disease (COPD), Asthma
Coumadin	Warfarin	Anticoagulant/Antithrombotic	Prevent new blood clots from forming, and keep existing blood clots from getting worse.
Cozaar	Losartan	Angiotensin II Inhibitor	Blood Pressure
Crestor	Rosuvastatin	Statin	Hyperlipidemia
Depakote	Valproate	Anticonvulsant	Seizures and Bi-Polar Disorder
Desyrel	Trazodone	Antidepressant/ Sedative	Depression and Sleep Aid
DiaBeta (Glynase, PresTab)	Glyburide	Antidiabetic Agent	Diabetes
Dilatin (Phenytek)	Phenytoin	Anticonvulsant	Seizure medication

F. Medication Guide

Drug Name	Generic Name	Therapeutic Category	Common Use
Diovan	Valsartan	Potassium Replacement	Blood Pressure
Effexor (XR)	Venlafaxine (XR)	Antidepressant	Depression
Elavil	Amitriptyline	Antidepressant/Neuropathy	Depression, migraines, diabetic nerve pain
Evista	Raloxifene	Anti-estrogen	Hormonal medication
Flomax	Tamsulosin	Anti-Adrenergic Blocker - Peripherally Acting/ BPH (Benign Prostatic Hypertrophy)	Prostate problems
Fosamax	Alendronate	Osteoporosis Treatment	Bone Loss Treatment
Furosemide		Anti-Anginal Agent	Blood Pressure
Geodon	Ziprasidone	Anti-psychotic	Bipolar Disorder, Schizophrenia
Glucophage (Glumetza)	Metformin	Antidiabetic Agent	Diabetes
Glucotrol XL	Glipizide	Oral Antidiabetic Agent	Diabetes
Glucovance	Glyburide/Metformin	Anti-Diabetic Agent	Diabetes
HCTZ/Triamterene (Maxzide, Dyazide)	Triamterene/HCTZ	Diuretic	Relieves fluid buildup in the body; blood pressure
Hyzaar	Losartan/HCTZ	Angiotensin Antagonist -Diuretic / Blood Pressure	Blood Pressure
Klor-Con (Cena-K, Gen-K, K-8, K +10, Kaochlor, K-Dur, K-Lor, K-Lyte/Cl Powder, K-Norm, K-Sol, K-Tab, Slow-K, Ten-K)	Potassium Chloride	Potassium Replacement	Treats low potassium levels
Lanoxin (Digitek, Cardoxin)	Digoxin	Cardiac Glycoside/ CHF	Congestive Heart Failure
Lasix	Furosemide	Loop Diuretic	Relieves fluid buildup in the body
Levodopa		Anti Parkinson's	Parkinson's Disease
Levofloxacin		Quinolone/ Antibiotic	Upper Respiratory Infections, Sinus Infections, and Bronchitis
Lexapro	Escitalopram	Anti-depressant	Depression
Lipitor	Atorvastatin	Lipid-Lowering Agent	Cholesterol medication
Livalo	Pitavastatin	Elevated Cholesterol	Cholesterol medication
Lomotil	Diphenoxylate/Atropine	Anti-Diarrheal	Diarrhea

Drug Name	Generic Name	Therapeutic Category	Common Use
Lopressor	Metoprolol	Beta Blocker/ Blood Pressure	Blood Pressure
Lotensin	Benazepril	ACE inhibitor/ Blood Pressure	Blood Pressure
Mevacor	Lovastatin	Lipid-Lowering Agent	Cholesterol medication
Microzide (HydroDIURIL, Microzide, Hydro-chlor, Hydro-D, Carzide, HCTZ)	Hydrochlorothiazide	Thiazide Diuretic	Relieves fluid buildup in the body, Blood Pressure
Mobic	Meloxicam	Anti-Inflammatory - Analgesic	Inflammation in the body
Namenda	Mementine	Anti-Alzheimer's	Memory loss medication
Neurontin	Gabapentin	Anticonvulsant	Nerve pain
Nexium	Esomeprazole	Gastrointestinal Agents	GERD
Nitrogard (Nitrosta, Nitroquick)	Nitroglycerin	Vasodilator	Quick Response for at-risk elevated blood pressure
Norvasc	Amlodipine	Calcium Channel Blocker	Blood Pressure
Paxil	Paroxetine	Antidepressant	Depression
Percocet (Endocet, Tylox)	Acetaminophen/ Oxycodone	Analgesic/Narcotic	Pain medication
Plavix	Clopidogrel	Anti-Platelet Agent	Blood Thinner/ controls clotting
Pravachol	Pravastatin	Lipid-Lowering Agent	Cholesterol medication
Prevacid	Lansoprazole	Gastrointestinal Agents	Reflux/ stomach discomfort
Prilosec	Omeprazole	Gastrointestinal Agents	Reflux/ stomach discomfort
Prinivil	Lisinopril	ACE Inhibitor	Blood Pressure
Protonix	Pantoprazole	Gastrointestinal Agents	Reflux / stomach discomfort
ProAir	Albuterol	Respiratory Agent	Bronchitis, Upper Respiratory Infections, and Allergies
Reglan	Metoclopramide	Gastrointestinal Agents	Stomach issues
Remeron	Mirtazapine	Antidepressant	Depression/ Appetite Stimulant
Risperdal	Risperidone	Antipsychotic	Bipolar Disorder and Schizophrenia
Rivastigmine	Exelon	Dementia	Memory loss medication
Septra (Cotrima, Bactrim, Cofatrim Forte, Sulfatrim)	Trimethoprim/ Sulfamethoxazole	Sulfonamide; Antibiotic Combination	Urinary Tract Infections
Seroquel	Quetiapine	Antipsychotic	Bipolar Disorder and Schizophrenia
Singulair	Montelukast	Anti- Inflammatory	Asthma

Drug Name	Generic Name	Therapeutic Category	Common Use
Sterapred (Codrol, Deltasone, Liquid Pred, Pred-Pak)	Prednisone	Glucocorticoid/ Steroid	Upper Respiratory treatments and inflammation
Synthroid (Levothroid, Levoxyl)	Levothyroxine	Synthetic Thyroid Agent	Thyroid Medication
Tenormin	Atenolol	Beta Blocker/ Blood Pressure	Blood Pressure
Toprol XL (Lopressor)	Metoprolol	Beta Blocker/ Blood Pressure	Blood Pressure
Tylenol #3	Acetaminophen/Codeine	Analgesic	Pain medication
Ultram	Tramadol	Analgesic	Pain medication
Vasotec	Enalapril	ACE Inhibitor/ Blood Pressure	Blood Pressure
Vicodin (Co-Gesic, Dolacet, Dolagesic, Duocet, Hycomed, Hyco-Pap, Hydrocet, Lortab, Oncet)	Acetaminophen/ Hydrocodone	Analgesic	Pain medication
Voltaren	Diclofenac	Anti-Inflammatory/Analgesic	Inflammation in joints
Vytorin	Vytorin	Lipid-Lowering AGent	Cholesterol medication
Xalatan	Latanoprost	Glaucoma Treatment	Glaucoma Treatment
Xanax (<i>Niravam</i>)	Alprazolam	Anxiolytics, sedatives, hypnotics	Anxiety and sleep aid
Zithromax	Azithromycin	Macrolide	Respiratory Infections
Zocor	Simvastatin	Lipid-Lowering Agent	Cholesterol medication
Zoloft	Sertraline	Antidepressant	Depression
Zyloprim	Allopurinol	Anti-gout	Inflammation in the arms, legs, feet of the body
Zyprexa	Olanzapine	Anti-psychotic	Bipolar Disorder, Depression, Schizophrenia

REGIONAL OFFICES - LONG TERM CARE OMBUDSMAN PROGRAM

<p>REGION I - APPALACHIA AAA</p> <p>Appalachian Council of Governments 30 Century Circle Greenville, SC 29607 Phone 864-242-9733 Fax 864-326-1251</p> <p>Serves: Anderson, Cherokee, Greenville, Oconee, Pickens, & Spartanburg Counties</p> <p>Ombudsmen: Jessica Whittier jwhittier@acog.org Kim Bridges kbridges@acog.org Melissa Drakeford madrakeford@acog.org Ben Whittaker bwhittaker@acog.org Anne Marie Coogler acoogler@acog.org Melissa Hanna mhanna@acog.org</p> <p>Intake Coordinator: Paige Northrup pnorthrup@acog.org Volunteer Coordinator: Amanda Puritty apuritty@acog.org</p>	<p>REGION V - LOWER SAVANNAH AAA</p> <p>Lower Savannah Council of Governments P O Box 850, Aiken, SC 29802 Phone 803-649-7981 Fax 803-335-1013</p> <p>Serves: Aiken, Allendale, Barnwell, Calhoun, & Orangeburg Counties</p> <p>Ombudsmen: Aunna Berns aberns@lscog.org Charlotte McNeely cmcneely@lscog.org (VC)</p>	<p>REGION IX - TRIDENT AAA</p> <p>Trident Area Agency on Aging 5905 Core Rd. Suite 419 N Charleston, SC 29408 Phone 1-800-864-6448/843-554-2280 Fax 843-300-3200</p> <p>Serves: Berkeley, Charleston, & Dorchester Counties</p> <p>Ombudsmen: Janet DuBois jdubois@tridentaaa.org Leslie Jefferson ljefferson@tridentaaa.org Josette Lee-Peterson jlee-peterson@tridentaaa.org Cawana Tisdale ctisdale@tridentaaa.org</p> <p>Volunteer Coordinator: Tre Reid treid@tridentaaa.org</p>
<p>REGION II - UPPER SAVANNAH AAA</p> <p>Upper Savannah Council of Governments 430 Hallett Road, Greenwood, SC 29648 Phone: 1-800-622-7728/864-941-4070</p> <p>Serves: Abbeville, Edgefield, Greenwood, Laurens, McCormick, & Saluda Counties</p> <p>Ombudsmen: Erica Livingston elivingston@ucog.org Ashley Cappe acappe@ucog.org (VC)</p> <p>REGION III - CATANBA AAA</p> <p>Catawba Area Agency on Aging PO Box 4618 Rock Hill, SC 29732 Phone: 1-800-662-4330/803-329-9870 Secure Fax 803-329-9720</p> <p>Serves: Chester, Lancaster, York, & Union Counties</p> <p>Ombudsmen: Melissa Morrison mmorrison@catanbaaaa.org Tiffany Garner tgarner@catanbaaaa.org (VC)</p>	<p>REGION VI - SANTEE LYNCHES AAA</p> <p>Santee Lynches Council of Governments 38 East Calhoun Street, Sumter, SC 29150 Phone: 1-800-946-1042/803-774-1983 Fax: 803-774-1030</p> <p>Serves: Currituck, Kershaw, Lee, & Sumter Counties</p> <p>Ombudsmen: Sheila Brooks sbrooks@lscog.org Coordinator: Amanda Hester ahester@lscog.org</p> <p>REGION VII - PEE DEE AAA</p> <p>Vantage Point 1268 S Fourth St PO Box 999, Hartsville, SC 29551 Phone 843-383-8632 ext 108 Fax 843-383-8754</p> <p>Serves: Chesterfield, Derlington, Dillon, Florence, Marion, & Marlboro Counties</p> <p>Ombudsmen: Tangele Washington tawashington@carolina.com Charmica Kelly ckelly@carolinasouthcarolina.com (VC)</p>	<p>REGION X - LOWCOUNTRY AAA</p> <p>Lowcountry Council of Governments PO Box 98, Yemassee, SC 29585-0098 Phone 843-473-3955/877-846-8149 Fax 843-726-5165</p> <p>Serves: Beaufort, Colleton, Hampton, & Jasper Counties</p> <p>Ombudsmen: Keshiah Busby kbusby@lowcountrycog.org Jennifer Jackson jjackson@lowcountrycog.org (VC) Intake Coordinator: Kristy Douglas kdouglas@lowcountrycog.org</p> <p>STATE LTC OMBUDSMAN PROGRAM</p> <p>South Carolina Department on Aging 1301 Carver Street, Suite 350, Columbia, SC 29201 Phone 1-800-868-0095/803-734-9900 Fax 803-734-9988</p> <p>State Long Term Care Ombudsman: Dale Watson dwatson@dnsc.org</p> <p>Administrative & Database Coordinator: Desmond Harrison dharrison@dnsc.org</p> <p>DOSH DMH Ombudsman Investigator: Tammy Kaler tkaler@dnsc.org</p> <p>Program Analyst: Sarah Dunning sdunning@dnsc.org</p> <p>(VC) Volunteer Coordinator: Serving dual role as LTCO & VC</p>
<p>REGION IV - CENTRAL MIDLANDS AAA</p> <p>Central Midlands Council of Governments 220 Stonedridge Drive, Suite 350 Columbia, SC 29210 Phone 1-800-391-1185/803-378-5386 Fax 803-253-7542</p> <p>Serves: Fairfield, Lexington, Newberry, & Richland Counties</p> <p>Ombudsmen: LaToya Bugge-Williams lbugge@centralmidlands.org Jessica Kelly jkelly@centralmidlands.org Sandra Eskew seskew@centralmidlands.org</p> <p>Intake Coordinator: Aleigha Chee-You achee@centralmidlands.org Volunteer Coordinator: Freona Addison faddison@centralmidlands.org</p>	<p>REGION VIII - WACCAMAW AAA</p> <p>Waccamaw Regional Council of Governments 1230 Highmarket St. Georgetown, SC 29440 Phone 843-546-8502 Fax 843-439-6250</p> <p>Serves: Georgetown, Horry, & Williamsburg Counties</p> <p>Ombudsmen: Tessa Stachhouse Hudson tstachhouse@waccamaw.org Beulah Vernon Torbet btorbet@waccamaw.org (VC) Intake Coordinator: Janice Davis jdavis@waccamaw.org (part-time)</p>	<p>REGION XI - LONG COUNTRY AAA</p> <p>Long Country Council of Governments PO Box 100, Kershaw, SC 29556 Phone 843-383-8632 ext 108 Fax 843-383-8754</p> <p>Serves: Chesterfield, Derlington, Dillon, Florence, Marion, & Marlboro Counties</p> <p>Ombudsmen: Tangele Washington tawashington@carolina.com Charmica Kelly ckelly@carolinasouthcarolina.com (VC)</p>

LTCO advocate for residents in long term care facilities to include nursing homes, assisted living facilities and facilities owned/operated by DMH or DOSN.

H. Glossary of Legal Terms

A

ADR: alternative dispute resolution, e.g. mediation or arbitration.

Adjudication: giving a judgment or decree; also the judgment given.

Adversary system: the system of justice in the U. S. in which each of the opposing, or adversary parties has full opportunity to present and establish its side of a controversy in court.

Adverse witness: commonly used to describe a witness whose testimony is unfavorable to the party who called him, and as a result, this witness may be impeached.

Affidavit: a written or printed declaration or statement of facts, made voluntarily, and confirmed by oath or affirmation of the party making it.

Affirmative defense: a response to a plaintiff's claim which attacks the plaintiff's legal right to bring an action. Must be raised in the Answer.

Allegation: the assertion, declaration, or statement of a party to an action, made in a pleading, setting out what the party expects to prove.

Amicus curiae: Latin for "friend of the court"; one who gives the court, with the court's permission, information or an opinion upon some matter of law.

Answer: a pleading in which the defendant admits to or attempts to dispute the plaintiff's allegations of facts.

Appeal: to request a higher court to review a decision or verdict from a lower court.

Appearance: the formal proceeding by which a defendant submits himself to the jurisdiction of a court.

Appellant: the party appealing a decision or judgment to a higher court, the losing party in the lower court.

Appellate court: a court having jurisdiction of appeal and review; not a trial court.

Appellee: the party against whom an appeal is taken, the winning party in the lower court.

Arbitration: an informal ADR process in which a third-party arbitrator issues an award deciding issues in a controversy; compare mediation.

Arbitrator: a neutral person either chosen by the parties to a dispute or appointed by a court, to hear the parties claims and render a decision.

Assault: unlawful threatening to do harm to another.

Attorney of record: attorney whose name appears in the permanent records or files of a case.

B

Bailiff: a court attendant whose duties are to keep order in the courtroom and to escort the jury.

Battered woman syndrome: a term used to categorize the consequences of physical, sexual, or psychological abuse suffered by a woman at the hands of a spouse/partner.

Battery: the actual infliction of any unlawful, unauthorized violence on the person of another, irrespective of its degree.

Bench warrant: orders issued by the court itself or "from the bench" for the arrest of a person.

Bias: an unfair act or policy stemming from prejudice. Bias against certain traits, such as race, religion, sex, and handicaps, is prohibited in certain areas, such as employment and public services. In deciding legal disputes, a judge is duty bound to render an unbiased opinion, based upon a fair and impartial application of the law to the facts of the case.

C

Caption: the heading or introductory clause on papers filed with the court which shows

the names of the parties, name of the court, number of the case, type of pleading, etc.

Cause: suit, litigation or action—civil or criminal.

Chambers: the judge's private office or rooms.

Change of venue: the removal of a trial from one court or district to another.

Civil case: the legal means by which the rights and remedies of private individuals are enforced and protected.

Clerk of court: An officer of the court, who supervises the clerical functions of court, keeps records, issues process and enters judgments and orders.

Closing argument: opportunity for lawyers to persuade the jury to decide for their clients based on the evidence presented to them.

Code: the published laws of a jurisdiction systematically arranged into chapters, sections, table of contents and index, e.g., U.S. Code and South Carolina Code; also a collection of similarly arranged rules, e.g., a code of ethics for attorneys, mediators or arbitrators that lists rules by which those professionals must conduct themselves.

Codefendant: more than one person charged in the same complaint, same litigation or charged with the same crime.

Common law: law that derives its authority from the judgments and decrees of courts rather than from statutory authority.

Competency: legal capacity.

Complaint: the first pleading on the part of the plaintiff which sets out the cause of action and the jurisdiction of the court, also the formal charges of the commission of a crime.

Confession: a voluntary statement made by a person charged with the commission of a

crime or misdemeanor wherein she acknowledges herself to be guilty of the offense charged, and disclosed the circumstances of the act or the share and participation which she had in it.

Contempt of court: any act calculated to embarrass, hinder, or obstruct a court in the administration of justice, or calculated to lessen its authority or dignity.

Continuance: the postponement to a subsequent time of an action pending in court.

Corroborating evidence: additional evidence which tends to strengthen or confirm the evidence already given.

Costs: an allowance for expenses in prosecuting or defending a suit (usually does not include attorney fees).

Court: place where justice is determined; also used interchangeable with judge.

Court annexed ADR: alternative dispute resolution that is directly related to a circuit or family court.

Court reporter: stenographer who takes down everything that is said in court and later prepares transcripts as needed.

Cross-examination: the questioning of a witness in a trial or deposition by the opposing party, usually by leading questions.

D

Decree: a decision or order of the court.

Default: in an action of law, the failure to plead within the time allowed or appear when required; also, the failure to perform a duty or obligation.

Defendant: the person defending or denying; the party against whom relief or recovery is sought in an action or suit or the accused in a criminal case.

Deposition: the testimony of a witness given under oath and taken down in writing

before a trial or hearing; depositions provide an opportunity for cross-examination.

Direct evidence: proof of facts that address an issue directly with no supporting evidence necessary.

Discovery: court supervised investigation of each other's case so that a party may learn facts known by other parties or witnesses.

Discrimination: prejudicial treatment of a group, or an individual member of such a group, considered protected by law, based on, for example, race, religion, sex, age or handicap.

Dismissal without prejudice: a court order dismissing an action, which permits the complainant to sue again on the same cause of action.

Dismissal with prejudice: a dismissal preventing the plaintiff from filing a future lawsuit on the same claim.

Docket: list of cases at the beginning of the term of court.

Domicile: place where a person has his true, fixed, permanent home.

SCDSS: Department of Social Services.

Due process: a difficult to define, but fundamental, principal of justice which requires that every person have the protection of a fair trial.

Duty: an obligation that one has by law or contract; legal or moral obligation.

E

Enjoin: to require a person, by order of the court, to perform or to stop performing, some act.

Exhibit: a paper, document or other article produced and exhibited to a court during a trial or hearing.

Ex parte: done for, on behalf of or on the application of, one side or party only.

Ex parte communication: the normally prohibited communication between counsel and

the court when opposing counsel is absent.

Expert testimony: opinion given on scientific, technical or professional matters by a person who is particularly qualified because of his special training, skill, or familiarity with the subject.

Expunge: to erase or destroy, e.g. criminal records, in certain cases, can be expunged.

Extenuating circumstances: facts that partially excuse behavior enough to reduce the damages in a civil case or penalty in a criminal case.

Extradition: the handing over by one nation or state of an individual accused or convicted of an offense to another nation or state that has jurisdiction to try the crime.

F

Felony: an offense punishable by death or imprisonment in a state institution.

Fiduciary: of, relating to or involving a legal relationship of confidence or trust.

G

Guardian: An individual appointed by the family court pursuant to S.C. Code Ann. § 43-35-45 to advocate for the best interests of a vulnerable adult.

H

Harmless error: an error committed during a trial that, although wrong, does not affect the final outcome of the case.

Hearing: a proceeding before, outside of or in place of a trial in which the judge listens to arguments from both sides and makes a ruling.

Hearsay: evidence that is inadmissible because it is outside the personal knowledge of the witness.

Hostile witness: a witness who is hostile or prejudiced against the party who called him to testify; he may be questioned as if he were called by the opposing party.

Hypothetical question: an imaginary situation, incorporating facts previously admitted

into evidence, upon which an expert witness is permitted to give an opinion as to a condition resulting from the situation.

I

Impeach: attack the reliability and believability of a witness or evidence.

Inadmissible: evidence that cannot be received under the established rules of evidence.

In camera: in the judge's chambers; in private.

Incompetent: person lacking the capacity, legal qualification or fitness to manage personal affairs or to perform a duty.

Injunction: a mandatory or prohibitive writ issued by a court.

Interrogatories: written questions submitted by one party and served on an opposing party, who must answer in writing under oath.

Intervention: a proceeding in a suit or action by which a third person is permitted by the court to join one of the original parties in the lawsuit or its defense.

Irrelevant: evidence not relating or applicable to the matter at issue; not supporting the issue.

J

Judgment: the ruling the court/judge makes in a hearing or case.

Jurisdiction: the power of a court or tribunal to hear a case

Jurisprudence: the philosophy of law, or the science of the principles of law and legal relations

K

Kidnapping: forcible abduction of a person.

Knowingly: intentionally, with awareness.

L

Landmark decision: a decision of the Supreme Court that significantly changes existing

law.

Leading question: a question that suggests an answer to the witness.

Liability: criminal or civil responsibility.

M

Material evidence: relevant evidence which goes to the substantial issues in dispute.

Mediation: an informal process in which a third party mediator facilitates settlement discussions between parties; compare arbitration.

Misrepresentation: a manifestation by words or other conduct by one person to another that, under the circumstances, amounts to an assertion not in accordance with the facts.

Mistrial: an erroneous or invalid trial that cannot be corrected.

Mitigate: to lessen in severity, to reduce.

Motion: request that the court make rulings on various aspects of the case, sometimes on preliminary matters before the trial begins, sometimes after the trial is over.

N

Negligence: failure to exercise reasonable care under the circumstances; failure to comply with a legal duty; failure to do an act which a reasonable careful person would do, or the doing of an act which a reasonable careful person would not do under the same or similar circumstances.

Next friend: one other than a guardian ad litem who pursues or defends a lawsuit for the benefit of a minor.

Neutral: a mediator or arbitrator; an unbiased, impartial person or position.

O

Objection: a protest against some statement or procedure in trial, especially a ruling on the admissibility of evidence.

Opening statement: an opportunity, after a jury is chosen but before evidence is

presented, for both parties to state what they think the evidence will prove.

Opinion: a belief or inference rather than an actual representation of facts.

Orders: court's determination or ruling on motions.

P

Parties: the persons who are actively concerned in the prosecution or defense of a legal proceeding.

Perjury: voluntary failure to tell the truth under oath.

Plaintiff: a person who brings an action; the party who complains or sues in a personal action and is so named on the record.

Pleading: the process of allegation by which each party alternately presents his demands or defenses against the demands or defenses of the other party.

Preliminary injunction: an injunction granted before a hearing that is meant to keep things the way they are until a hearing can be held on the matter; an order from a court barring a person or persons from doing certain things described in the order.

R

Recess: a short break in the court proceedings.

Record: written account of the court proceeding.

Remedy: the means by which a right is enforced or the violation of a right is prevented, redressed, or compensated.

Respondent: the party against whom an appeal is taken; more generally, the party against whom a motion is filed.

Restitution: an equitable remedy in which a person is restored to the same position as before the injury occurred.

ROR: release on own recognizance.

S

Sanction: a penalty imposed by a court for one's failure to comply with a court rule or

order.

S.C. Code Ann.--- The *South Carolina Code Annotated*, a multi-volume collection of South Carolina statutes, with court decisions and relevant resources and explanations following each statute.

Service of process: the formal delivery of writ, summons, or other legal process.

Slander: the speaking of base and defamatory words tending to prejudice another in his reputation, community standing, office, trade, business or means of livelihood.

Spontaneous exclamation: a statement made immediately after an exciting occasion by a participant that asserts the circumstances of the occasion as observed by the participant.

Standing: a party's right to make a legal claim.

Statute: the written law expressed by the legislature.

Statute of limitations: time limitations within which a lawsuit may be brought.

Stipulation: an agreement by attorneys on opposite sides of a case on any matter pertaining to the proceedings.

Summary judgment: ruling of the court before, during or after discovery, that there is no genuine issue as to material facts so that the case is resolved on legal principals alone without a trial; can also come after the plaintiff finishes presenting his case.

Summons: order notifying a person that a lawsuit has been brought in court and that he is the defendant.

T

Temporary restraining order (TRO): a restraining order that contemplates there will be a further hearing on the matter before the order becomes final or permanent.

Testimony: evidence given orally by a competent witness under oath.

Transcript: the official record of proceedings of a trial or hearing.

Trial in absentia: a trial in which the accused is not present.

Tribunal: a court or other judicial body.

U

Undue influence: anything that destroys free will and causes a person to do something he would not do if left to himself.

V

v.: abbreviation for versus, usually used in giving the name of a case, for example

Plaintiff v. Defendant.

Vacate: to annul, to set aside, to cancel or to rescind.

Venue: the particular county, city or geographical area in which a court with jurisdiction may hear and determine a case.

Verdict: the formal and unanimous decision or finding made by a jury.

W

Waiver: intentional and voluntary surrender of a legal right.

Warrant of arrest: an order issued by a magistrate, judge or other competent authority, to a sheriff, or other officer, requiring him to arrest a person to answer a specified charge.

Willful: intentional as distinguished from careless or by mistake.

Witness: one who testifies to what he has seen, heard or otherwise observed.

X

X.: mark used in place of a signature.