

Testimony

before the

House Aging and Older Adult Service Committee

Information Hearing on Area Agencies on Aging

Submitted by:

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and
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Protective Service/Guardianship Committee**

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Good Morning. My name is Alan Smith and I am the Director of the Huntingdon-Bedford-Fulton Area Agency on Aging, a public agency under the joint jurisdiction of the Commissioners of Huntingdon, Bedford and Fulton Counties, a position that I have held for the past 31 years. In 2006-2007 I served as a member of the Joint State Government Commission's workgroup on guardianship as Chaired by Representative Grell. I was a delegate to the 2005 White House Conference on Aging and currently serve as Chair of the Pennsylvania Association of Area Agencies on Aging's active Protective Service/Guardianship Committee.

The Protective Service/Guardianship Committee convenes quarterly as part of the ongoing effort to strengthen and enhance the work of protecting older Pennsylvanians. Two weeks ago we met with representatives of the Pennsylvania Security Commission, Department of Banking, heard a report from the Dauphin County Court's guardianship monitoring program and were honored to have a brief discussion with Secretary of Aging Designate Brian Duke, a highly respected colleague. The provision of protective service and guardianship in Pennsylvania and the Committee has benefitted from the insight and remarkable knowledge and understanding of aging issues of Sharon Schwartz who has been of advocating and promoting responsive and quality programs for older persons for many years. The protective service network has equally benefitted from the consultation, collaboration and commitment of Dr. Ron Costen, a leading advocate in the Commonwealth for protecting older Pennsylvanians and Director of the Institute on

Protective Service at Temple University. I am also pleased to acknowledge the contributions and dedicated work of Denise Getgen, Chief of the Consumer Protective Division at the Department of Aging as we collectively work to professionally and faithfully fulfill the duties of protecting Pennsylvania's elder citizens.

As noted a critical component of the work of Area Agencies on Aging (AAA's) is carrying out the statutory and regulatory provisions of Pennsylvania's Older Adult Protective Service Act. Passed by the General Assembly in 1987 and amended by Act 169 in 1996 and Act 13 in 1997, the law was enacted and designed to protect Pennsylvania's elder citizens from abuse, neglect, exploitation and abandonment and to set forth a service system to respond to victims of abuse. As prescribed by the Act, individuals who reasonably believe that an individual age 60 and over is the subject of abuse, neglect, exploitation, or abandonment are to report this need to AAA's. The Act is emphatic that calls may be anonymous, that the identity of reporters are strictly confidential and that findings of an investigation is not shared, which is often frustrating to reporters and others who want and expect progress reports. The Report of Needs are categorized as emergency, priority, non-priority, no-need or other AAA. Reports identified as emergency are investigated immediately and require a face-to-face visit within 24-hours which this time frame is in most instances exceeded. Priority reports are to be investigated as soon as possible and an effort made within 24 hours to meet with the older person. A non-priority report is to be investigated within 72 hours and there is a

requirement to make at least one visit. The no-needs are to be internally reviewed for referral or appropriate action by another component of the AAA and those received from another county are referred to the AAA with jurisdiction. The Act directs that there be a system in place for receiving calls after normal business hours, weekends and holidays and in the case of our Agency callers are directed to a number that connects them to the "911" center and, in turn, on-call workers are contacted to take Reports of Need. Also the Department of Aging maintains a statewide toll-free protective service number that automatically connects the caller to the local AAA's on-call system.

In the past program year AAA's received 15,647 Reports of Need and of that number 11,461 or 73% were determined to require an investigation and the Department of Aging reports that of the cases investigated 3,930 were substantiated. A review indicates that this is a 17% increase over the past two years and there is some concern that there is under-reporting. The cases are brutal, disturbing, and sad. The cases of self-neglect are the most prevalent followed by caregiver neglect and financial exploitation. Financial exploitation cases have increased dramatically over the past few years as has the complexity of these cases, as families, neighbors, and fiduciaries have taken money from older persons.

In regard to self neglect it is generally a person who has lost the ability to function within their home or are no longer able to bathe, prepare meals, take medication, pay bills and as these aspects of their life break down they become at-risk. I will always

remember the case of a woman who had set in a recliner for well over a week, without moving, and in this case there was a “friend” who was bringing in food and it is hard to imagine that a person coming in and out of the home could not recognize that something was dramatically wrong or endure the odor. Eventually a call was placed to the Agency and we immediately intervened and through a petition to the Court became her guardian. In relation to financial exploitation, one of the Agency’s cases made *Business Week Magazine* after we successfully recovered over \$220,000 for an 87-year-old resident of an assisted living facility. The Agency began an investigation after an acquaintance called me and reported that the individual managing the woman’s money said that she could no longer afford to live at this facility and she knew that something was wrong since she had a good idea of the person’s assets. The Agency credits our solicitor and the special assistance and collaboration from Dr. Costen on this successful case.

Obviously not all cases have such positive results and some of the frustration of the work is identifying that assets have been taken and there is nothing left to recover. Over the past several years there has been much progress in working with District Attorneys and law enforcement and again I credit this to Dr. Costen and there has been progress in getting banks to report when they suspect that an older person is being taken advantage of by opportunists and perpetrators.

A key tool in responding to and resolving protective service cases has been guardianship and I ask that you consider the recommendation of the Joint State

Government Commission by creating an Office of Guardianship Support and I point out the word “support” rather than establishing an Office of Public Guardianship. Funding is imperative to support public guardians who are making decisions for those who have lost the capacity to determine how they access health and medical care, determine place of residence and use of income and assets. I would also address the troubling report recently released from the GAO that there is a compelling need for guardianship monitoring and oversight.

The Agency’s first guardianship case was in 1985 when the Bedford County District Attorney called and described a family situation of adult children in their 60's and 70's fighting over assets of their parents and he described the situation as potentially violent and that a neutral party was needed to intervene. Over the past 25 years the guardianship work has evolved and in the past program year our Agency served as guardian of 62 individuals and serves a similar number as power-of-attorney. I am pleased to note that the Commissioners of Huntingdon, Bedford and Fulton Counties, three rural conservative counties, have on several occasions expressed that guardianship is the most important service that we are providing since it serves the most frail, vulnerable, and those with the greatest need. There must be a recognition that there has been an overwhelming change in the family structure in our society, growing incidents of dysfunctional and estranged, hateful relationships among parents and adult children/ grandchildren and unfortunately from my experience this trend is continuing.

One of the most prominent issues regarding guardianship is that it is not consistently available in Pennsylvania. A 2005 survey found that 34 out of Pennsylvania's 52 AAA's have some involvement in guardianship and for those not involved they present a series of reasons. Several years ago the General Assembly provided \$600,000 to the Department of Aging for Legal Advocacy and this was, in turn, allocated to AAA's to support guardianship services. These funds are no longer provided and I request that consideration be given to using Lottery funds to renew Legal Advocacy as well as to fund an Office of Guardianship Support. I also point out that with the General Assembly's recent passage of an Adult Protective Service Act, there is much more on the horizon. I also ask that funds continue to be made available through the Department of Aging to support the good work of the Institute of Protective Services at Temple University and that you recognize that adequate funding needs to be allocated to Area Agencies on Aging for this essential work of providing protective services. On behalf of older Pennsylvanians, I thank you for this special opportunity to discuss protective service and guardianship.