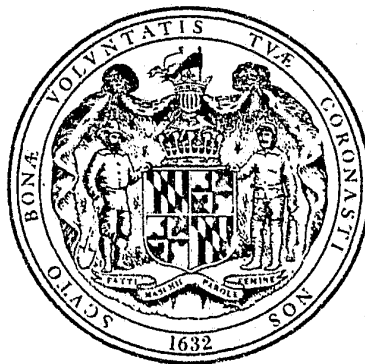


PRELIMINARY REPORT
OF THE
GOVERNOR'S TASK FORCE
ON
ELDERLY ABUSE AND NEGLECT



JUNE, 1986

Patricia M. Alt, PhD., Chairperson
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TASK FORCE ON ELDERLY ABUSE AND NEGLECT

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June 12, 1986

NCJRS

NOV 3 1986

ACQUISITIONS

The Honorable Harry Hughes
Governor
State of Maryland
State Circle
Annapolis, Maryland 21401

Dear Governor Hughes:

The preliminary report of the Task Force on Elderly Abuse and Neglect is hereby transmitted to you. The Task Force, organized in September, 1985 on the recommendation of the General Assembly (House Joint Resolution No. 48) has met in biweekly sessions, heard testimony, and compiled extensive information on major issues, current laws, and administrative problems associated with the abuse and neglect of elderly adults, both in Maryland and nationwide.

The proportion of Americans over 65 is growing steadily, to 11.9% of the total population by 1984. In Maryland, too, the most rapidly increasing age group is over 65; with particularly strong growth occurring in the population over 85. As the likelihood of serious mental or physical infirmity or dependence increases with advancing age, there is reason to suspect that the incidence of abuse and neglect of the elderly will rise as their share of the population rises. Additionally, the growing problem of Alzheimer's Disease and related disorders provides a good example of the stresses placed on family caregivers which lead to abuse unless preventive and supportive programs are available.

Maryland seeks to ensure the most appropriate level of care for all its citizens. However, our emphasis on providing access to nursing homes for those who need heavy care can lead to greater stress on institutional staff. Similarly, with people returning more quickly from hospitals to the community, greater attention must be paid to providing alternative care resources to ease the strain on their families.

This report represents our findings and recommendations thus far. We plan to hold a series of public hearings on the major issues we've identified during the next few months. The final report from this Task Force, due July 31, 1986, will incorporate findings from these hearings, as well as our recommendations for any needed administrative or legislative action.

Sincerely,



Patricia M. Alt, Ph.D.
Chair

U.S. Department of Justice
National Institute of Justice

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GOVERNOR'S TASK FORCE ON ELDERLY ABUSE AND NEGLECT
PRELIMINARY REPORT

INTRODUCTION

THE GOVERNOR'S TASK FORCE ON ELDERLY ABUSE AND NEGLECT WAS APPOINTED IN SEPTEMBER, 1985, TO STUDY THE ISSUES OF ELDERLY ABUSE AND NEGLECT IDENTIFIED BY HOUSE JOINT RESOLUTION 48 OF THE 1985 GENERAL ASSEMBLY. IT IS CHARGED TO MAKE RECOMMENDATIONS FOR THE IMPLEMENTATION OF MORE EFFECTIVE AND COMPREHENSIVE RESPONSES TO SUCH ABUSE AND NEGLECT IN MARYLAND. THE TASK FORCE MEMBERS INCLUDE REPRESENTATIVES FROM THE LEGISLATURE, STATE AGENCIES CONCERNED WITH THE ELDERLY, THE STATE JUDICIARY, A STATE'S ATTORNEY'S OFFICE, A LAW ENFORCEMENT AGENCY, AND CONCERNED PRIVATE CITIZENS.

DURING THE FALL OF 1985, THE TASK FORCE HELD BIWEEKLY WORK SESSIONS TO REVIEW ALL EXISTING MARYLAND LAWS AND PROCEDURES INVOLVED IN REPORTING, PREVENTING AND RESPONDING TO ELDERLY ABUSE AND NEGLECT. IT EXAMINED DISTINCTIONS AND SIMILARITIES BETWEEN ABUSE AND NEGLECT OF THE ELDERLY, OTHER ADULTS AND CHILDREN; REVIEWED INFORMATION FROM NATIONAL STUDIES AND FROM OTHER STATES; AND CAREFULLY ANALYZED THE CURRENT SITUATION IN MARYLAND.

THE TASK FORCE HEARD TESTIMONY FROM ITS STAFF AND FROM REPRESENTATIVES OF ADULT PROTECTIVE SERVICES, THE OMBUDSMAN PROGRAM IN THE OFFICE ON AGING, AND THE LICENSING AND CERTIFICATION UNIT OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE CONCERNING THE STATUTORY AND REGULATORY BASIS FOR REGULATING

ELDERLY ABUSE AND NEGLECT, AND THE STRENGTHS AND WEAKNESSES OF THE CURRENT SYSTEM. MEMBERS OF THE JUDICIARY, THE STATE'S ATTORNEYS, AND THE STATE POLICE PRESENTED INFORMATION ON HOW THE CURRENT SYSTEM WORKS FROM THEIR PERSPECTIVE. LEGISLATORS AND CONCERNED CITIZENS PRESENTED THE CURRENT PERSPECTIVE OF THE PUBLIC ABOUT THIS PROBLEM, AND SUGGESTED POSSIBLE WAYS TO IMPROVE PUBLIC AWARENESS OF AND ACCESSIBILITY TO AVAILABLE SERVICES.

IT WAS DECIDED TO PRODUCE A PRELIMINARY REPORT IDENTIFYING SOME MAJOR ISSUES THE COMMITTEE HAS IDENTIFIED AND THEN TO HOLD PUBLIC HEARINGS ON THE REPORT IN THE SPRING, INCORPORATING FINDINGS FROM THEM INTO THE FINAL REPORT DUE JULY 31, 1986. THE AREA OF ELDERLY ABUSE AND NEGLECT HAS ONLY RECENTLY BEEN WIDELY RECOGNIZED AS A SIGNIFICANT PROBLEM. IDENTIFYING ISSUES, PUBLIC CONCERNS, AND POTENTIAL RESPONSES ARE THE MAJOR GOALS OF THE TASK FORCE.

BACKGROUND MATERIAL ON ABUSE AND NEGLECT

NATIONALLY, AWARENESS OF THE ABUSE AND NEGLECT OF THE ELDERLY HAS GROWN DRAMATICALLY IN THE PAST FEW YEARS. FORTY-ONE STATES HAVE NOW ADOPTED LAWS FOR MANDATORY REPORTING OF ELDERLY ABUSE, UP FROM 16 PRIOR TO 1980. FEDERAL LEGISLATION TO ESTABLISH A NATIONAL CENTER OF INFORMATION AND RESEARCH INTO THE PROBLEM AND TO GRANT FEDERAL ASSISTANCE TO STATES WHICH ADOPT MANDATORY REPORTING LAWS AND PROGRAMS TO AID VICTIMS HAS BEEN PROPOSED ANNUALLY BY REPRESENTATIVES PEPPER AND CAKAR, WITHOUT SUCCESS THUS FAR. THE HOUSE SUBCOMMITTEE ON HEALTH AND LONG-TERM

CARE PRODUCED A STUDY IN 1985 ESTIMATING THAT NEARLY 4 PERCENT OF ALL ELDERLY AMERICANS ARE ABUSED, NEGLECTED, OR EXPLOITED. PROGRAMS SUCH AS THE CENTER ON AGING OF THE UNIVERSITY OF MARYLAND HAVE BEEN STUDYING THE PROBLEM FOR YEARS.

THE PROPORTION OF AMERICANS OVER 65 IS GROWING STEADILY, TO 11.9% OF THE TOTAL POPULATION BY 1984. IN MARYLAND, TOO, THE MOST RAPIDLY INCREASING AGE GROUP IS OVER 65; WITH PARTICULARLY STRONG GROWTH OCCURRING IN THE POPULATION OVER 85. AS THE LIKELIHOOD OF SERIOUS MENTAL OR PHYSICAL INFIRMITY OR DEPENDENCE INCREASES WITH ADVANCING AGE, THERE IS REASON TO SUSPECT THAT THE INCIDENCE OF ABUSE AND NEGLECT OF THE ELDERLY WILL RISE AS THEIR SHARE OF THE POPULATION RISES. RECENTLY, ATTENTION HAS BEEN FOCUSED ON THE GROWING PROBLEM OF ALZHEIMER'S DISEASE AND RELATED DISORDERS. THESE ILLNESSES PROVIDE A GOOD EXAMPLE OF THE STRESSES PLACED ON CAREGIVERS WHICH MIGHT LEAD TO ABUSE UNLESS PREVENTIVE AND SUPPORTIVE PROGRAMS ARE AVAILABLE.

THE TASK FORCE'S TARGET POPULATION

AS THIS TASK FORCE WAS CHARGED TO EXAMINE THE ABUSE AND NEGLECT OF THE ELDERLY, WE HAVE PAID PARTICULAR ATTENTION TO THAT GROUP. HOWEVER, WE DID NOT FIND A CLEAR DIFFERENCE IN THE TYPES OF ABUSE INFLICTED ON VULNERABLE ADULTS SOLELY BASED ON AGE. UNLIKE CHILDREN, ADULTS ARE PRESUMED TO BE INDEPENDENT UNLESS PROVEN OTHERWISE, NO MATTER WHAT THEIR AGE. THEIR LEVEL OF MENTAL OR PHYSICAL DEPENDENCE OR INFIRMITY DETERMINES THEIR VULNERABILITY TO ABUSE. THE CHANCES OF SUCH DEPENDENCE OR

INFIRMITY DO INCREASE WITH AGE, BUT WE NEED TO BE CAREFUL NOT TO ASSUME THAT THE ELDERLY ARE BY DEFINITION VULNERABLE.

MARYLAND'S CURRENT SITUATION

MARYLAND HAS BEGUN TO IMPROVE ITS SYSTEMS FOR DEALING WITH ELDERLY ABUSE AND NEGLECT. IN JULY OF 1985, THE STATE LEGISLATURE ENACTED ADULT PROTECTIVE SERVICES LAW PROVISIONS REQUIRING HEALTH PRACTITIONERS, POLICY OFFICERS AND HUMAN SERVICE WORKERS TO REPORT CASES OF THE ABUSE, NEGLECT, SELF-NEGLECT, OR EXPLOITATION OF VULNERABLE ADULTS TO THE LOCAL DEPARTMENT OF SOCIAL SERVICES. ANOTHER PROVISION OF THE ACT REQUIRES REPORTING BY THE LOCAL DEPARTMENT OF SOCIAL SERVICES TO LAW ENFORCEMENT AGENCIES AND THE STATE'S ATTORNEY'S OFFICE OF SITUATIONS BELIEVED CRIMINAL IN NATURE FOR THEIR INVESTIGATION. IT ALSO SPECIFIES THE INVOLVEMENT OF THE AREA AGENCIES ON AGING IN CASES WHERE THE VICTIM IS OVER 65. THUS, THE STATE LAW BEGINS TO ESTABLISH A FRAMEWORK FOR COORDINATED APPROACH IN THE COMMUNITY, BUT DOES NOT COMPLETELY FLESH IT OUT.

FOR ADULTS IN NURSING HOMES OR RELATED INSTITUTIONS, THE SITUATION IS MORE COMPLEX. COMPLAINTS ABOUT ABUSE OF PATIENTS IN THESE FACILITIES MUST BE REFERRED TO A LAW ENFORCEMENT AGENCY, THE LICENSING AND CERTIFICATION DIVISION OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, OR THE OMBUDSMAN PROGRAM OF THE OFFICE ON AGING. RESPONSIBILITY FOR INVESTIGATIONS IS DELEGATED TO THE POLICE "WITH THE ASSISTANCE OF" DHMH. WITHIN 10 WORKING DAYS OF THE COMPLETION OF THE INVESTIGATION, THE POLICE MUST SUBMIT

WRITTEN FINDINGS TO THE STATE'S ATTORNEY, THE OA'S LOCAL OMBUDSMAN, AND THE FACILITY'S ADMINISTRATOR (UNLESS HE IS THE ALLEGED ABUSER), AND DHMH. IF THE ABUSE IS EMOTIONAL OR MENTAL, THE POLICE MUST REFER TO DHMH FOR INVESTIGATION. DHMH MUST THEN REPORT ITS FINDINGS WITHIN 10 DAYS OF THE COMPLETION OF ITS INVESTIGATION.

THE SUCCESS OF THESE GOVERNMENT PROGRAMS IN DEALING WITH ABUSE DEPENDS ON THE ABILITY OF ALL INVOLVED AGENCIES TO PERFORM THEIR INDIVIDUAL FUNCTIONS IN COOPERATION WITH THE OTHERS. THE PRESENT STRUCTURE, HOWEVER, GRANTS AUTHORITY TO MULTIPLE AGENCIES TO ACT IN SOME ASPECTS OF THE PROBLEM, BUT PROVIDES NO SYSTEM OF COORDINATION. EACH AGENCY APPROACHES THE PROBLEM FROM A UNIQUE PERSPECTIVE AND CONDUCTS ITS ACTIVITIES INDEPENDENTLY FROM THE OTHERS. THERE HAVE BEEN EXTENSIVE RECENT EFFORTS TO COORDINATE REPORTING AND ROLES AMONG ALL THE AGENCIES INVOLVED, BUT MUCH WORK REMAINS TO BE DONE.

DEFINITIONS IN USE

A MAJOR DIFFICULTY IN EXAMINING OR COORDINATING SERVICES FOR ABUSE AND NEGLECT OF THE ELDERLY IS THE LACK OF COMMON DEFINITIONS. IN CURRENT MARYLAND LAW, THE BASIC DEFINITIONAL SPLIT IS THAT BETWEEN ABUSE OF NURSING HOME RESIDENTS AND ABUSE OR NEGLECT OF ADULTS RESIDING IN THE COMMUNITY. THE RELEVANT LEGAL DEFINITIONS ARE:

1. HEALTH - GENERAL ARTICLE, s19-347 (RELATED INSTITUTIONS)

- "ABUSE" MEANS "THE NONTHERAPEUTIC INFLICTION OF PHYSICAL PAIN OR INJURY, OR ANY PERSISTENT COURSE OF CONDUCT INTENDED TO PRODUCE OR RESULTING IN MENTAL OR EMOTIONAL DISTRESS," BUT IT "DOES NOT INCLUDE THE PERFORMANCE OF AN ACCEPTED MEDICAL PROCEDURE THAT A PHYSICIAN ORDERS."

2. FAMILY LAW ARTICLE, 14-101 (ADULT PROTECTIVE SERVICES)

- "ABUSE" MEANS THE SUSTAINING OF ANY PHYSICAL INJURY BY A VULNERABLE ADULT AS A RESULT OF CRUEL OR INHUMANE TREATMENT OR AS A RESULT OF A MALICIOUS ACT BY ANY PERSON.
- "NEGLECT" MEANS THE WILLFUL DEPRIVATION OF A VULNERABLE ADULT OF ADEQUATE FOOD, CLOTHING, ESSENTIAL MEDICAL TREATMENT OR HABILITATIVE THERAPY, SHELTER, OR SUPERVISION.
- "VULNERABLE ADULTS" ARE DEFINED AS LACKING "THE PHYSICAL OR MENTAL CAPACITY TO PROVIDE FOR THEIR DAILY NEEDS."

IN ADDITION THERE ARE LAWS DEALING SPECIFICALLY WITH ABUSE OF THE MENTALLY RETARDED AND MENTAL PATIENTS. THESE FOCUS ON PHYSICAL INJURY, INHUMANE TREATMENT, AND THE CRIMINAL LAW DEFINITION OF SEXUAL ABUSE. NONE OF THESE LAWS SPECIFICALLY CITES THE AGE OF THE VICTIM AS A KEY FACTOR IN ABUSE CASES.

DISTINCTIONS AND SIMILARITIES

THESE DEFINITIONS OF ABUSE ALL INCLUDE PHYSICAL INJURY AS A PRIMARY ITEM. HOWEVER, THEY DIFFER ON THE FOLLOWING POTENTIAL CAUSES OF INJURY:

1. "CRUEL OR INHUMANE TREATMENT" IS MENTIONED ONLY IN THE ADULT PROTECTIVE SERVICES, MENTAL HEALTH AND MENTAL RETARDATION LAWS.
2. "MALICIOUS ACTS" ARE CITED IN ADULT PROTECTIVE SERVICES AND CHILD ABUSE LAWS.

3. "SEXUAL ABUSE" IS MENTIONED IN MENTAL HEALTH, MENTAL RETARDATION, AND CHILD ABUSE LAWS.
4. "NONTHERAPEUTIC INFLICTION OF PHYSICAL PAIN OR INJURY" AND "PERSISTENT COURSE OF CONDUCT INTENDED TO PRODUCE MENTAL OR EMOTIONAL DISTRESS" AND ARE ONLY FOUND IN RELATED INSTITUTIONS LAW (NURSING HOMES AND DOMICILIARY CARE).
5. "NEGLECT" AS A DEFINED ENTITY IS FOUND IN THE ADULT PROTECTIVE SERVICES LAW AND IN NEGLECTED CHILDREN LAW WHICH IS SEPARATE FROM THAT COVERING CHILD ABUSE.
6. AGE IS NOT A DEFINING FACTOR IN ANY OF THE MARYLAND LAWS RELATING TO ADULT ABUSE AND NEGLECT.

IN ALL THESE LAWS, IT IS ILLEGAL TO CAUSE THE PHYSICAL INJURY OF AN INDIVIDUAL WHO IS VULNERABLE BECAUSE OF INFIRMITY, DEPENDENCE OR INSTITUTIONALIZATION. IN THE CASE OF NURSING HOME AND DOMICILIARY CARE FACILITIES, IT IS NECESSARY TO DETERMINE THAT ANY PAIN BE NONTHERAPEUTIC TO BE CONSIDERED ABUSE AS MANY OF THE PATIENTS ARE UNDER MEDICAL TREATMENT. IN CASES OF EMOTIONAL OR MENTAL DISTRESS IN A NURSING HOME, THE INTENTIONALITY OF THE INJURY IS A CENTRAL FACTOR. SIMILARLY, IN COMMUNITY SETTINGS, INJURY MUST RESULT FROM CRUEL OR INHUMANE TREATMENT, MALICE, OR WILLFUL DEPRIVATION OF CARE.

A MAJOR POINT OF DIFFERENCE IS THAT MENTAL OR EMOTIONAL DISTRESS IS CITED AS A POSSIBLE FORM OF ABUSE FOR NURSING HOME AND DOMICILIARY CARE PATIENTS. THIS SEEMS TO INDICATE A LEGAL RECOGNITION THAT ADULTS ARE MORE MENTALLY OR EMOTIONALLY VULNERABLE IN THESE SETTINGS THAN IN THE COMMUNITY, BUT IT IS NOT CLEARLY STATED IN THE LAW.

THE TREATMENT OF NEGLECT OR SELF-NEGLECT IS THE OTHER PRIMARY DIFFERENCE IN THESE LAWS. THE TERM IS ONLY USED FOR

COMMUNITY RESIDENTS, AND FOCUSES ON THE WILLFUL DEPRIVATION OF ADULTS OF SUCH NECESSARY ITEMS AS FOOD, SHELTER, AND MEDICAL TREATMENT. AGAIN, ALTHOUGH THE LAW DOES NOT SPELL OUT ITS REASONING, THE IMPLICATION IS THAT THE INSTITUTIONAL RESIDENT IS ALREADY PROTECTED FROM BASIC NEGLECT BY LICENSING REQUIREMENTS PLACED ON THE INSTITUTIONS AND THEIR STAFFS.

CRITICAL ISSUES FOR MARYLAND

A. PUBLIC AWARENESS

THE TASK FORCE FOUND THAT THERE ARE SEVERAL INTERRELATED PROBLEMS WITH PUBLIC AWARENESS OF ELDERLY ABUSE AND NEGLECT. FIRST OF ALL, MANY PEOPLE ARE UNAWARE THAT THERE IS ANY PROBLEM AT ALL. UNLIKE ABUSED CHILDREN WHO ARE OFTEN IDENTIFIED AS SUCH BY TEACHERS AND OTHERS IN REGULAR CONTACT WITH THEM, ABUSED ADULTS TEND TO BE ISOLATED AND ALMOST INVISIBLE. THE PUBLIC NEEDS TO BE EDUCATED TO THE FACT OF ELDERLY ABUSE AND NEGLECT, AND TO WARNING SIGNS THAT IT MIGHT BE OCCURRING.

ALONG WITH LETTING PEOPLE KNOW THAT ELDERLY ABUSE EXISTS, THERE IS A NEED TO INFORM THEM OF WHERE AND WHEN IT SHOULD BE REPORTED. INFORMATION CAMPAIGNS TO PUBLICIZE THE RIGHTS OF NURSING HOME PATIENTS ARE A START, BUT PUBLICITY ALSO NEEDS TO BE GENERATED ABOUT THE AVAILABILITY OF HELP IN THE COMMUNITY. HEARINGS OF GROUPS SUCH AS THIS TASK FORCE PROVIDE ONE FORUM FOR EDUCATING THE PUBLIC. OTHER AVENUES TO BE EXPLORED INCLUDE PUBLIC SERVICE ANNOUNCEMENTS, INFORMATIONAL FLIERS, AND EDUCATIONAL CAMPAIGNS IN THE SCHOOLS.

B. PREVENTION

THERE ARE AT LEAST TWO MAIN AREAS WHERE PREVENTION CAN BE EFFECTIVE IN DEALING WITH ELDERLY ABUSE AND NEGLECT. THESE ARE IN THE PROVISION OF MORE SERVICES FOR FRAIL ELDERS AND THEIR FAMILIES, AND IN THE IMPROVEMENT OF TRAINING FOR THE STAFFS OF NURSING HOMES AND RELATED INSTITUTIONS AND FOR THOSE WHO PROVIDE CARE FOR VULNERABLE ADULTS IN THE COMMUNITY.

AMONG THE SERVICES WHICH HAVE BEEN SHOWN TO RELIEVE THE PRESSURES WHICH LEAD TO ABUSE ARE SUCH PROGRAMS AS EDUCATIONAL PROGRAMS FOR FAMILIES IN TECHNIQUES FOR DEALING WITH DEPENDENT ADULTS, AND IMPROVING COMMUNITY LONG TERM CARE SERVICES. ADULT DAY CARE, PERSONAL CARE, HOME HEALTH AIDES, AND RESPITE CARE ARE INVALUABLE IN EASING THE STRAIN OF CARING FOR A DEPENDENT RELATIVE. AS THE STATE'S EMPHASIS SHIFTS STILL FURTHER TOWARD STRESSING COMMUNITY CARE AS AN OPTION TO NURSING HOME CARE, THE SAFETY AS WELL AS THE HEALTH OF THE ELDERLY WILL REQUIRE THAT THEIR FAMILIES HAVE VIABLE OPTIONS FOR THEIR CARE.

TRAINING FOR PROVIDERS OF CARE TO VULNERABLE ADULTS WILL BE IN GREATER DEMAND AS THE SYSTEM OF SERVICES EXPANDS. ALREADY, NURSING HOME STAFF ARE REQUIRED TO GO THROUGH TRAINING PROGRAMS, AND THE LEGISLATURE HAS PASSED BILLS THIS YEAR INCORPORATING MORE PSYCHO-GERIATRIC MATERIAL INTO THOSE PROGRAMS. IN ADDITION, THE UNIVERSITY OF MARYLAND AT BALTIMORE HAS BEEN CHARGED BY THE GOVERNOR TO STUDY AND DEVELOP IMPROVED EDUCATION FOR PROFESSIONALS AND COMMUNITY CAREGIVERS IN THE PROBLEMS OF THE

ELDERLY. THIS IS A WELCOME INDICATION OF THE VITAL ROLE SUCH EDUCATION CAN PLAY.

C. IMPROVED INTERVENTION STRATEGIES

THE TASK FORCE IDENTIFIED SEVERAL COMPLEMENTARY APPROACHES TO IMPROVING THE STATE'S ABILITY TO INTERVENE IN ABUSE CASES. ONE CENTRAL APPROACH WAS THAT OF JOINT TRAINING. STAFFS OF THE RELEVANT STATE AND LOCAL AGENCIES NEED TO BE LEARNING EACH OTHERS' PROCEDURES IN ORDER TO IMPROVE THEIR ABILITIES TO IDENTIFY POTENTIAL AND ACTUAL ABUSE CASES AND TO APPROPRIATELY AND PROMPTLY REFER THEM TO EACH OTHER. THIS INCLUDES SUCH REFERRAL PROGRAMS AT GATEWAY I, AS WELL AS DIRECT SERVICE AGENCIES SUCH AS THE POLICE AND THE DEPARTMENTS OF SOCIAL SERVICES.

OTHER AREAS WHERE IMPROVEMENT COULD OCCUR INCLUDE THE ENFORCEMENT OF PATIENTS' RIGHTS AND THE UPGRADING OF STAFFING IN INSTITUTIONS. ABUSE CASES IN INSTITUTIONS GENERALLY OCCUR WHEN STAFF ARE OVERWORKED AND UNDERTRAINED, AND WHEN THEY ARE NOT WELL SUPERVISED. AGAIN, AS IN COMMUNITY ABUSE CASES, OFTEN THE ABUSER IS NOT A CRIMINAL, SIMPLY AN INDIVIDUAL WHO IS STRAINED BEYOND HIS/HER ENDURANCE. THE BILL WHICH PASSED THIS YEAR ADDING PENALTIES FOR EMPLOYEES WHO FAIL TO REPORT ABUSE IN INSTITUTIONS WILL ALSO MET A NEED WHICH THE TASK FORCE PERCEIVED AS IMPORTANT.

D. INTERAGENCY COORDINATION AND SHARING OF INFORMATION

ONE OF THE GREATEST PROBLEMS IN A COMPLICATED SYSTEM SUCH AS OUR IS THE DISSEMINATION OF INFORMATION AMONG ALL THE INVOLVED AGENCIES. A THOROUGH INVESTIGATION NEEDS TO BE DONE OF HOW BEST

TO REPORT AND SHARE INFORMATION QUICKLY AMONG AGENCIES. JOINT TRAINING WILL CERTAINLY GO A LONG WAY TOWARD ESTABLISHING BETTER INFORMATION SHARING. MEMORANDA OF UNDERSTANDING ARE ALSO RECOMMENDED AS A MEANS OF CLARIFYING INTERAGENCY PROCEDURES AT BOTH THE STATE AND LOCAL LEVELS.

E. ADMINISTRATIVE RESPONSES

THE TASK FORCE IDENTIFIED SEVERAL ADMINISTRATIVE IMPROVEMENTS WHICH COULD SIGNIFICANTLY AFFECT THE PROTECTION WE AFFORD TO ABUSED OR NEGLECTED ADULTS. THE TWO MAIN ONES WHICH NEED TO BE CONSIDERED ARE THE IMPROVEMENT OF STATISTICAL INFORMATION ON THE ACTUAL SITUATION IN MARYLAND, AND THE ACCELERATION OF THE HEARING PROCESS FOR PARTICULARLY VULNERABLE INDIVIDUALS. WITH IMPROVED STATISTICS, WE WOULD BE ABLE TO DETERMINE WHETHER STAFFING LEVELS IN LOCAL AGENCIES ARE ADEQUATE FOR THEIR WORKLOAD, AND WHETHER CASES ARE BEING APPROPRIATELY AND PROMPTLY REFERRED. ACCELERATING THE HEARING PROCESS WOULD ENABLE APPROPRIATE REMEDIES TO BE PUT IN PLACE BEFORE THE VICTIM OF ABUSE DETERIORATED STILL FURTHER.

F. LEGAL RESPONSES

THE TASK FORCE'S PRELIMINARY CONCLUSION IS THAT THE MAJOR LEGAL RESPONSE WHICH IS NEEDED AT THIS TIME IS TO PUBLICIZE EXISTING LAWS AND TO MAKE SURE THAT THEY ARE INCORPORATED INTO TRAINING AND MANUALS FOR ALL RELEVANT AGENCIES. THERE ARE LAWS COVERING SUCH AREAS AS ABUSE OF FUNDS AND NEGLECT THAT ARE SIMPLY NOT WELL UNDERSTOOD OR APPLIED. RATHER THAN RUSHING TO CREATE

NEW LAWS, MARYLAND NEEDS TO FIRST FULLY IMPLEMENT THE ONES WHICH ALREADY COVER ELDERLY ABUSE AND NEGLECT.

ANOTHER AREA WHERE LEGAL CHANGE SEEMED NEEDED IS IN THE PRIORITY OF SCHEDULING ELDERLY ABUSE CASES IN COURTS. AS IN THE APPEAL PROCESS CITED ABOVE, THERE IS A NEED TO HEAR THE CASE WHILE THE FRAIL AND POTENTIALLY DETERIORATING VICTIM IS STILL ABLE TO TESTIFY. BY THE NATURE OF THESE CASES, THE VICTIMS ARE VULNERABLE AND DEPENDENT, AND FREQUENTLY CANNOT MAINTAIN THEIR STRENGTH WHILE WAITING FOR LONG PERIODS OF TIME TO HAVE THEIR CASES HEARD.

IN THE PROCESS OF HOLDING HEARINGS AND PREPARING OUR FINAL REPORT, THE TASK FORCE WILL SERIOUSLY CONSIDER ANY CHANGES IN LAW OR NEW LAWS WHICH IT MIGHT DECIDE TO RECOMMEND FOR THE 1987 LEGISLATIVE SESSION. WE ARE IN AGREEMENT THAT IMPROVEMENT CAN BE MADE UNDER EXISTING LAWS. HOWEVER, AT A MINIMUM, THE LEGISLATURE MIGHT WANT TO CONSIDER AN EFFORT TO RECONCILE THE VARIOUS LEGAL DEFINITIONS OF ABUSE AND NEGLECT CURRENTLY IN FORCE.

CONCLUSION

BY ALL ACCOUNTS, ABUSE AND NEGLECT OF THE ELDERLY ARE GROWING PROBLEMS. THIS IS NOT SIMPLY BECAUSE OF DEMOGRAPHIC PRESSURES, ALTHOUGH THEY ARE PART OF THE PROBLEM. ONE CURRENT AND GROWING PRESSURE IS THE FEDERAL AND STATE EMPHASIS ON HEALTH CARE COST CONTAINMENT. PEOPLE ARE BEING MAINTAINED IN THE COMMUNITY WHO WOULD HAVE BEEN IN HOSPITALS OR NURSING HOMES A DECADE AGO. THEY HAVE MUCH GREATER NEEDS, AND PUT A SEVERE

STRAIN ON CAREGIVERS WHICH CAN LEAD TO ABUSE. IN INSTITUTIONAL SETTINGS, THE EMPHASIS ON SERVING PRIMARILY THE HEAVIEST CARE PATIENTS HAS CREATED SIMILAR PRESSURES ON THE STAFF AND INCREASED OPPORTUNITIES FOR ABUSE.

OF COURSE, WITH THE ELDERLY (OR ANY VULNERABLE ADULT) THE PROBLEM IS MORE DIFFICULT TO QUANTIFY THAN IT IS WITH CHILD ABUSE. THE LACK OF AN AUTOMATIC ASSUMPTION OF DEPENDENCE MAKES IT VERY HARD TO PROVE THAT A PERSON HAS BEEN ABUSED. EVEN WITH A MANDATORY REPORTING LAW, SUCH AS MARYLAND HAS BEEN IMPLEMENTING IN ADULT PROTECTIVE SERVICES THIS YEAR, THE AVERAGE CITIZEN IS NOT AWARE THAT THERE IS A PROBLEM OR THAT A NEED TO REPORT IT EXISTS. LOCAL AND STATE AGENCIES HAVE DIFFERING DEFINITIONS OF ABUSE AND NO CLEAR SYSTEM FOR JOINTLY EDUCATING THE PUBLIC OR THEIR OWN STAFFS.

THIS TASK FORCE, THROUGH ITS REPORTS, HEARINGS, AND TESTIMONY, SEEKS TO PUBLICIZE THE PROBLEMS OF ELDERLY ABUSE AND NEGLECT AND TO ENCOURAGE THE IMPLEMENTATION OF LEGAL, ADMINISTRATIVE, SERVICE PROVISION, AND EDUCATIONAL RESPONSES TO IT. THE ELDERLY POPULATION IN MARYLAND IS GROWING, AND THE MOST RAPIDLY GROWING PROPORTION OF IT IS THE OLDEST GROUP. THESE ARE THE INDIVIDUALS WHO ARE MOST LIKELY TO BE ILL, TO HAVE ALZHEIMER'S DISEASE, TO BE DEPENDENT ON FAMILY OR COMMUNITY CAREGIVERS. THEIR VULNERABILITY TO ABUSE AND NEGLECT IS WELL DOCUMENTED. MARYLAND NEEDS TO MOBILIZE ITS RESOURCES NOW TO PREVENT GROWTH IN ABUSE AND NEGLECT PARALLEL TO THE PROJECTED GROWTH IN NUMBERS OF THE OLDEST MEMBERS OF OUR POPULATION.

APPENDICES

1. HOUSE JOINT RESOLUTION 48 (1985)
2. MEMBERSHIP OF THE TASK FORCE
3. HEALTH-GENERAL ARTICLE, s19-347
4. FAMILY LAW ARTICLE, §14-101 through 14-309
5. LISTING AND SHORT SUMMARIES OF RELEVANT ACTS PASSED BY 1986
LEGISLATURE.

HOUSE JOINT RESOLUTION No. 48

51r1428

10

 By: Delegates Pitkin, Thomas, Kramer, Chamberlain, Kach, and
 Morella

Introduced and read first time: February 1, 1985

Assigned to: Environmental Matters

HOUSE JOINT RESOLUTION

1 A House Joint Resolution concerning

2 Elderly Abuse and Neglect

3 FOR the purpose of requesting that the Governor establish a Task
 4 Force on Elderly Abuse and Neglect to examine and report on
 5 the various problems associated with this issue; providing
 6 for the membership, appointment, and staffing of the Task
 7 Force; providing that the Task Force report to the Governor
 8 and the General Assembly by a certain date; providing for
 9 the termination of the Task Force on a certain date; and
 10 generally relating to establishing a Task Force on Elderly
 11 Abuse and Neglect.

12 WHEREAS, The condition of the elderly has become the focus
 13 of increased attention, and the number of elderly people has
 14 increased; and

15 WHEREAS, The structure of our society has placed more
 16 elderly people in situations in which abuse and neglect are more
 17 likely to occur; and

18 WHEREAS, More reliable information is needed concerning the
 19 abuse of elderly people since it appears that most cases of abuse
 20 occur in the home, often by a child who is the primary care
 21 giver; and

22 WHEREAS, It is unknown the actual extent of elderly abuse in
 23 the State since the State has no mandatory reporting laws and
 24 there exists no uniform definition of abuse; and

25 WHEREAS, In states having mandatory reporting laws, reports
 26 of abuse have skyrocketed; and

27 WHEREAS, Studies conducted by the federal government
 28 indicate that between 600,000 to 1 million elderly Americans have
 29 experienced abuse; and

30 WHEREAS, Some other studies indicate that 10 percent of the
 31 elderly population have been abused; and

32 WHEREAS, The State Ombudsman Program of the Office of Aging
 33 received 101 complaints of abuse of elderly people in nursing
 34 homes during the period between October 1, 1983 and September 30,
 35 1984; and

1 WHEREAS, The Adult Protective Services Program of the
2 Department of Human Services received over 800 complaints
3 concerning abuse or neglect of elderly people during 1984; now,
4 therefore, be it

5 RESOLVED BY THE GENERAL ASSEMBLY OF MARYLAND, That the
6 Governor is requested to appoint a Task Force to examine the
7 State's current response to the problems of elderly abuse and
8 neglect; and be it further

9 RESOLVED, That the Task Force examine and report on:

10 (1) The availability of models for the prevention of
11 elderly abuse and neglect and a review of successful programs in
12 other states and the potential for their utilization in Maryland;

13 (2) The coordination and effectiveness of existing
14 community resources for the detection and treatment of elderly
15 abuse, including reimbursement of emergency medical treatment for
16 suspected victims of elderly abuse, and training programs for
17 professionals who work with the elderly;

18 (3) The ability of the State to respond to increasing
19 demands for elderly welfare and protective services necessitated
20 by the increase in elderly abuse and neglect;

21 (4) The effectiveness of Maryland's judicial and
22 legislative efforts to deal with elderly abuse and neglect;

23 (5) The relationship between the agencies responsible
24 for services for the elderly;

25 (6) Whether current staffing levels within the unit
26 that provides protective services for the elderly at the local
27 level are adequate;

28 (7) The manner in which administrative policies
29 affect elderly people who are at risk of abuse or neglect; and

30 (8) The need for mandatory reporting laws concerning
31 incidents of elderly abuse and neglect; and be it further

32 RESOLVED, That this Task Force shall make recommendations
33 for the implementation of more effective and comprehensive
34 responses to the problems of elderly abuse and neglect in
35 Maryland; and be it further

36 RESOLVED, That the Task Force be composed of 10 members
37 appointed as follows:

38 (1) 2 members from the Senate of Maryland, appointed
39 by the President of the Senate;

40 (2) 2 members from the House of Delegates, appointed
41 by the Speaker of the House;

1 (3) A representative, appointed by the Governor, from
2 each of the following agencies:

- 3 (i) The State Department of Human Resources;
4 (ii) The State Department of Health and Mental
5 Hygiene;
6 (iii) The Governor's Office on Aging;
7 (iv) The State judiciary;
8 (v) A State's attorney's office; and
9 (vi) A law enforcement agency; and be it
10 further

11 RESOLVED, That the Governor appoint a chairman and vice
12 chairman from the members of the Task Force; and be it further

13 RESOLVED, That the Governor shall appoint the Task Force by
14 July 1, 1985 and that the Task Force shall present a preliminary
15 report to the Governor and the General Assembly by January 1,
16 1986 and its final report by July 31, 1986 on which date the Task
17 Force shall terminate; and be it further

18 RESOLVED, That the Task Force be staffed by the Department
19 of Legislative Reference; and be it further

20 RESOLVED, That copies of this Resolution be sent to: the
21 Honorable Harry Hughes, Governor of Maryland; the Honorable
22 Melvin A. Steinberg, President of the Senate of Maryland; the
23 Honorable Benjamin L. Cardin, Speaker of the House of Delegates;
24 the Honorable Ruth Massinga, Secretary, Department of Human
25 Resources, 1100 North Eutaw Street, Baltimore, Maryland 21201;
26 the Honorable Charles Buck, Secretary, Department of Health and
27 Mental Hygiene, 201 West Preston Street, Baltimore, Maryland
28 21201; and the Honorable Rosalee Abrams, State Director on Aging,
29 Room 1004, 301 West Preston Street, Baltimore, Maryland 21201.



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**FAMILY LAW ARTICLE
ADULT PROTECTIVE SERVICES - TITLE 14**

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FAMILY LAW ARTICLE

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14-101.

(a) In this title the following words have the meanings indicated.

(b) "Abuse" means the sustaining of any physical injury by a vulnerable adult as a result of cruel or inhumane treatment or as a result of a malicious act by any person.

(c) "Disabled individual" has the meaning stated in § 13-101(d) of the Estates and Trusts Article.

(d) "Director" means the director of the local department in the county where the vulnerable adult lives.

(e) "Emergency" means any condition in which an individual is living that presents a substantial risk of death or immediate and serious physical harm to the individual or others.

(f) "Exploitation" means any action which involves the misuse of a vulnerable adult's funds, property, or person.

(g) "Health practitioner" includes any person who is authorized to practice healing under the Health Occupations Article.

(h) (1) "Human service worker" means any professional employee of any public or private health or social services agency or provider.

(2) "Human service worker" includes:

(i) any social worker; and

(ii) any caseworker.

(i) "Law enforcement agency" means a State, county, or municipal police department, bureau, or agency.

(j) "Local department" means the department of social services that has jurisdiction in the county:

(1) where the vulnerable adult lives; or

(2) where the abuse is alleged to have taken place.

(k) "Local State's Attorney" means the State's Attorney for the county:

(1) where the vulnerable adult lives; or

(2) where the abuse is alleged to have taken place.

(1) (1) "Neglect" means the willful deprivation of a vulnerable adult of adequate food, clothing, essential medical treatment or habilitative therapy, shelter, or supervision.

(2) "Neglect" does not include the providing of nonmedical remedial care and treatment for the healing of injury or disease, with the consent of the vulnerable adult, recognized by State law instead of medical treatment.

(m) "Police officer" means any State or local officer who is authorized to make arrests as part of the officer's official duty.

(n) "Review board" means the disabled person's review board.

(o) "Secretary" means the Secretary of Human Resources.

(p) "Self-neglect" means the inability of a vulnerable adult to provide the vulnerable adult with the services:

(1) that are necessary for the vulnerable adult's physical and mental health; and

(2) the absence of which impairs or threatens the vulnerable adult's well-being.

(q) "Vulnerable adult" means an adult who lacks the physical or mental capacity to provide for the adult's daily needs.

14-102.

(a) It is the policy of the State that adults who lack the physical or mental capacity to care for their basic daily living needs shall have access to and be provided with needed professional services sufficient to protect their health, safety, and welfare.

(b) The General Assembly intends that the provisions for appointment of public officials as guardian of the person be used sparingly and with utmost caution and only if an alternative does not exist.

14-103.

This title does not apply to:

(1) the abuse of a patient in a mental health facility, under Title 10 of the Health - General Article;

(2) the abuse of a patient in a facility for mentally retarded individuals under Title 7 of the Health - General Article;

(3) the abuse of a patient in a nursing home under Title 19 of the Health - General Article; or

(4) the abuse of a patient in a hospital under Title 19 of the Health - General Article.

14-104.

(a) This title does not prevent any appropriation of additional funds by any county, including Baltimore City, for adult protective services.

(b) The services provided under this title are supplementary to any services provided under the Older Americans Act.

14-201.

To implement the policy set out in § 14-102 of this title, the Secretary, with the advice of the Secretary of Health and Mental Hygiene and the State Director of the Office on Aging, shall develop, supervise, and cause each local department to implement a program of protective services for disabled individuals and vulnerable adults.

14-202.

(a) The adult protective services program shall include:

(1) intake and investigative services including, if appropriate, medical, social, and psychiatric evaluation;

(2) planning for the needs of the recipient of services;

(3) home care, day care, chore services, transportation, counseling, emergency arrangements, and other health and social services;

(4) cooperation with the courts, including provision of any necessary recommendations, reports, or petitions;

(5) legal assistance, including counsel to represent any indigent recipient of services in any protective proceeding or any review board hearing conducted under Subtitle 3 or Subtitle 4 of this title; and

(6) notification of and participation by the State Director on Aging or the director of the local office on aging, as appropriate, as a party in any protective proceeding or review board hearing relating to an individual who is 65 years old or older.

(b) For adults 65 years old and over, the services of the protective services program shall be coordinated with the State

or local office on aging as appropriate.

14-203.

(a) The director may contract with any public or private organization to provide protective services.

(b) The director may not contract with any other person to act as guardian of the person of a disabled individual.

14-204.

(a) Subject to the provisions of subsection (b) of this section, the Secretary shall establish a fee schedule based on financial ability to pay under which the individual who receives protective services, or the individual's legally responsible relative shall reimburse the federal, State, or local government for the services provided.

(b) An individual may not be charged a fee for protective services if:

(1) federal law or federal regulations prohibit an income eligibility test for the protective service; or

(2) the recipient is eligible for continuing financial aid under:

(i) the federal program of supplemental security income;

(ii) the federal-State program of aid to families with dependent children; or

(iii) the State program of general public assistance.

14-205.

The adult protective services program shall be funded as provided in the State budget.

14-301.

The provisions of this subtitle do not limit the responsibility of a law enforcement agency to enforce the laws of this State or preclude a law enforcement agency from reporting and investigating alleged criminal conduct.

14-302.

(a) Notwithstanding any law on privileged communications, each health practitioner, police officer, or human service worker who contacts, examines, attends, or treats an alleged vulnerable adult, and who has reason to believe that the alleged vulnerable

adult has been subjected to abuse, neglect, self-neglect, or exploitation shall:

(1) notify the local department; and

(2) if acting as a staff member of a hospital or public health agency, immediately notify and give all the information required by this section to the head of the institution or the designee of the head.

(b) An individual who is required to make a report under subsection (a) of this section shall make the report by telephone, direct communication, or in writing to the local department as soon as possible.

(c) Any individual other than a health practitioner, human service worker, or police officer who has reason to believe that an alleged vulnerable adult has been subjected to abuse, neglect, self-neglect, or exploitation may file with the local department an oral or written report of the suspected abuse, neglect, self-neglect, or exploitation.

(d) Insofar as is reasonably possible, an individual who makes a report under this section shall include in the report the following information:

(1) the name, age, and home address of the alleged vulnerable adult;

(2) the name and home address of the person responsible for the care of the alleged vulnerable adult;

(3) the whereabouts of the alleged vulnerable adult;

(4) the nature of the alleged vulnerable adult's incapacity;

(5) the nature and extent of the abuse, neglect, self-neglect, or exploitation of the alleged vulnerable adult, including evidence or information available to the reporter concerning previous injury possibly resulting from abuse, neglect, self-neglect, or exploitation; and

(6) any other information that would help to determine:

(i) the cause of the suspected abuse, neglect, self-neglect, or exploitation; and

(ii) the identity of any individual responsible for the abuse, neglect, self-neglect, or exploitation.

14-303.

(a) To protect the welfare of the alleged vulnerable adult

the local department shall begin a thorough investigation:

36

(1) within 5 working days after the receipt of the report of suspected abuse, neglect, self-neglect, or exploitation; or

(2) within 24 hours after the receipt of the report of suspected abuse, neglect, self-neglect, or exploitation if the report indicates that an emergency exists.

(b) The investigation shall include:

(1) a determination of whether:

(i) the individual is a vulnerable adult; and

(ii) there has been abuse, neglect, self-neglect, or exploitation; and

(2) if the individual is determined to be a vulnerable adult and to have suffered abuse, neglect, self-neglect, or exploitation:

(i) a determination of the nature, extent, and cause of the abuse, neglect, self-neglect, or exploitation;

(ii) a determination of the identity of the person or persons responsible for the abuse, neglect, self-neglect, or exploitation;

(iii) an evaluation of the home environment; and

(iv) a determination of any other pertinent facts.

(c) (1) On request by the local department, the local State's Attorney or the appropriate law enforcement agency shall assist in the investigation.

(2) As appropriate, the local or State office on aging or local geriatric evaluation service may assist in the investigation.

(3) Any agencies set out in this subsection may jointly agree to cooperative arrangements for investigation.

(d) An investigation under this section shall be completed within:

(1) 30 days; or

(2) 10 days if the report indicates that an emergency exists.

(e) Parties participating in an investigation may share pertinent client information relevant to the investigation.

14-304.

31

(a) If, in the course of an investigation under § 14-303 of this subtitle a representative of the local department believes that an emergency exists, the representative may contact the local law enforcement agency.

(b) A police officer shall:

(1) accompany the representative; and

(2) if the police officer agrees that an emergency exists as described in § 13-709(a) of the Estates and Trusts Article, the officer shall ensure that the individual is transported to an appropriate health care facility under § 13-709(a) of the Estates and Trusts Article.

14-305.

Based on the investigation under this subtitle, the local department shall:

(1) render the appropriate services in the best interests of the vulnerable adult under the program of adult protective services;

(2) as appropriate, involve the local office on aging; and

(3) report to the appropriate local law enforcement agency any incident of abuse, neglect, self-neglect, or exploitation of an alleged vulnerable adult that the local department believes to be criminal in nature.

14-306.

The department shall send a report of the investigation to the local State's Attorney and the appropriate law enforcement agency.

14-307.

(a) If after the investigation under this subtitle the director determines that the individual requires protective services, with the individual's consent the director shall provide the services.

(b) If the individual is unwilling or unable to accept protective services voluntarily, the director may petition the court for:

(1) an emergency order for protective services under

Title 13, Subtitle 7 of the Estates and Trusts Article;

(2) the appointment of a guardian of the person under Title 13, Subtitle 7 of the Estates and Trusts Article; or

(3) the appointment of a guardian of the property under Title 13, Subtitle 2 of the Estates and Trusts Article.

(c) The director shall submit with any petition filed under this section the findings of the investigation under § 14-303 of this subtitle, including:

(1) an evaluation of the medical, psychiatric, and social factors that affect the individual's condition; and

(2) a description of recommended services.

(d) The director shall notify the State Director of the Office on Aging or director of the local office on aging, as appropriate, of each guardianship proceeding that the director institutes under this subtitle that involves an individual who is 65 years old or older.

(e) If as a result of a proceeding that the director institutes under this subtitle the court appoints the director as guardian, the guardianship:

(1) shall transfer automatically to each individual who becomes director, unless the court terminates the guardianship; and

(2) may not be delegated to any other person.

14-308.

(a) Subject to the provisions of subsection (b) of this section, the identity of any person who makes a report under § 14-302 of this subtitle shall be confidential.

(b) The identity of a person who makes a report under § 14-302 of this subtitle may be disclosed if:

(1) the person consents; or

(2) the court orders the disclosure.

14-309).

Any person who in good faith makes or participates in making a report under this subtitle or participates in an investigation or a judicial proceeding resulting from a report under this subtitle is immune from any civil liability that would otherwise result.

HEALTH - GENERAL

19-347.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Abuse" means the nontherapeutic infliction of physical pain or injury, or any persistent course of conduct intended to produce or resulting in mental or emotional distress.

(ii) "Abuse" does not include the performance of an accepted medical procedure that a physician orders.

(3) "Law enforcement agency" means the Maryland State Police or a police agency of a county or municipal corporation.

(b) (1) A person who believes that a resident of a related institution has been abused shall report promptly the alleged abuse to an appropriate law enforcement agency, the Secretary, or the Office on Aging.

(2) A report:

(i) May be oral or written; and

(ii) Shall contain as much information as the reporter is able to provide.

(3) The recipient of the report promptly shall notify:

(i) The other parties referred to in paragraph (1) of this subsection; and

(ii) Unless the administrator is the alleged abuser, the administrator of the related institution.

(c) (1) Unless otherwise provided, the law enforcement agency, with the assistance of the Secretary, shall:

(i) Investigate thoroughly each report of an alleged abuse; and

(ii) Attempt to insure the protection of the alleged victim.

(2) The investigation shall include:

(i) A determination of the nature, extent, and cause of the abuse;

(ii) The identity of the alleged abuser; and

(iii) Any other pertinent fact or matter.

(3) Within 10 working days after the completion of the investigation, the law enforcement agency shall submit a written report of its findings to:

(i) The State's Attorney;

(ii) The Secretary;

(iii) The local ombudsman as designated by the State Director on Aging; and

(iv) Unless the administrator is the alleged abuser, the administrator of the related institution.

(d) The law enforcement agency:

(1) Shall refer to the Secretary for investigation reported instances of abuse involving any persistent course of conduct intended to produce or resulting in mental or emotional distress; and

(2) May refer to the Secretary for investigation reported instances of patient-to-patient abuse.

(e) Within 10 working days after the completion of an investigation under subsection (d) of this section, the Secretary shall submit a written report of its findings to:

(1) The State's Attorney;

(2) The local ombudsman as designated by the State Director on Aging; and

(3) Unless the administrator is the alleged abuser, the administrator of the related institution.

(f) (1) A person who acts in good faith is not civilly liable for:

(i) Making a report under this section;

(ii) Participating in an investigation arising out of a report under this section;

(iii) Participating in a judicial proceeding arising out of a report under this section; or

(iv) Participating in transferring, suspending, or terminating the employment of any individual who is believed to have abused or aided in abusing a resident under this section.

(2) This subsection does not grant any immunity for an abuser who makes a report or participates in the investigation or proceeding.

(g) (1) The Department shall provide each related institution with signs that set forth the reporting requirements under this section.

(2) The related institution shall post the signs conspicuously in the employee and public areas of the related institution.

HJ 80
(JR 43)

ALZHEIMER'S DISEASE - COORDINATING COUNCIL
Requesting the Governor to establish a coordinating council to advise the Interagency Committee on Services to the Aging on the review, coordination, formulation and implementation of programs relating to Alzheimer's disease and related disorders and other diseases and conditions afflicting the aged and elderly; requiring specified reports; and requesting a study of the designation of Alzheimer's disease as a psychiatric disorder.

HB 175
(Chapt. 634)

RELATED INSTITUTIONS AND SHELTERED HOUSING FOR ELDERLY - IN-SERVICE EDUCATION FOR DEMENTIA
Requiring the Department of Health and Mental Hygiene and the Office on Aging to require specified related institutions and providers of sheltered housing for elderly to have in-service education programs on dementia and the management of dementia patients with regard to their physical, intellectual and behavioral manifestations; and generally relating to in-service education programs on dementia for those long-term care facilities and programs for elderly who suffer from Alzheimer's disease and related disorders.

HB 176
(Chapt. 635)

DEPARTMENT OF HEALTH AND MENTAL HYGIENE - UNIT ON DEMENTIA - GERIATRIC ASSISTANTS
Requiring the Department of Health and Mental Hygiene to include an instructional unit on dementia in the training for geriatric assistants in long-term care facilities; establishing an advisory committee to assist the Department in approving standards for the instructional unit on dementia; and providing for the appointment, composition, and final report of the advisory committee by December 1, 1986.

HB 1576
(Chapt. 579)

NURSING HOME ADMINISTRATORS - DISCIPLINARY ACTIONS
Extending the type of disciplinary actions that the Board of Examiners of Nursing Home Administrators may take to include denying a license or limited license to individuals; and extending the class of individuals that disciplinary actions may be taken against to include an applicant for a license and a holder of a limited license.

SB 241
(Chapt. 309)

NURSING CARE - INSTITUTIONS FOR ELDERLY INDIVIDUALS - BONDING OF EMPLOYEES
Requiring related institutions that care for elderly individuals to provide a bond in the amount required by the Department of Human Resources, a specified letter of credit or self insurance of a specified amount to cover any bookkeeper or administrator who has control over or access to the funds of a resident of a facility.
EFFECTIVE OCTOBER 1, 1986