

**Testimony before the
Pennsylvania House Aging and Youth Committee**

Elder Abuse and Older Adult Protective Services Informational Hearing

February 15, 2012



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Introduction

Good morning. My name is Diane Menio and I represent the Center for Advocacy for the Rights and Interests of the Elderly (CARIE). Thank you for your interest in elder abuse and for the opportunity to present testimony today.

Founded in 1977, CARIE is a nonprofit organization dedicated to improving the quality of life for frail older adults. CARIE's focus of concern spans the long term care continuum from those who live at home to those who are living in facilities. Older adults with physical or psychological impairments are often a silent group and are not able to advocate for their needs. CARIE works to protect their rights and promote awareness of their special needs and concerns.

I would like to provide a brief description of some of CARIE's programs and services that work to help older victims of crime and abuse as well as how CARIE provides outreach and education measures to prevent problems from occurring.

CARIE Program and Services

CARIE LINE

CARIE's most widely used service is the CARE LINE. The CARE LINE is a free telephone and online based advocacy service providing options counseling and problem resolution regarding issues of concern to older adults. CARIE LINE advocates provide education about services, make referrals to community resources, assist in problem solving and help in accessing complicated programs. Advocates first empower callers to address concerns on their own and if they are unable to navigate the service system on their own, provide direct advocacy. The CARE LINE provides special assistance to victims of crime and elder abuse. Those contacting CARIE LINE or CARIE OnLINE request information on a wide variety of subjects, including quality of life and care issues, housing problems, and health care and insurance concerns. CARIE LINE advocates often provide options counseling and encourage older victims of abuse to take action to change their abusive situation. In some circumstances when a family member is abusing the older adult, the victim is reluctant to take action against their loved one. The support and guidance of a CARIE LINE advocate is often helpful in giving them the impetus to make a change. Requests for help are received from older adults, their families and neighbors, as well as from social workers and other community service professionals who depend upon the CARE LINE for a prompt, caring, and reliable response. CARE LINE Advocates also speak to groups about issues affecting older adults.

Elderly Victims Emergency Security Fund (EVESF)

The CARE LINE also coordinates an Elderly Victims Emergency Security Fund (EVESF) which serves older Philadelphians, age 60 and over, who are on a limited income and are victims of crime and abuse. The EVESF provides assistance to secure their homes and prevent further victimization by replacing or repairing door and window locks, replacing doors and windows or installing security bars on windows. The CARE LINE works very closely with the Philadelphia Police Department and others who come into contact with older adults to ensure the safety of older victims of crime and abuse.

Providing Advocacy for the **Victimized Elderly** (PAVE)

PAVE is an elderly victim assistance program provided through CARIE that assists older Philadelphians 60 years old and over. Funding is provided through the Pennsylvania Commission on Crime and Delinquency (PCCD) through federal Victims of Crime Act Funding (VOCA). Services include providing court accompaniment, helping to arrange transportation to court, assistance with filing for Crime Victims' Compensation, and assistance preparing victim impact statements. Here is an example of a client who was helped by CARIE.

"George" is an 86 year old man who was financially exploited by a young woman who purported to be helping him with bill paying. After the senior's gas, electric and phone service were terminated, he discovered that these bills had not been paid in months and that the young woman had depleted the funds in his checking account. CARIE became involved with George after criminal charges were brought against the young woman. CARIE used its EVESF funds to replace the lock on George's front door, preventing the young woman from continuing to have access to the home. CARIE's Victim Advocate also helped George apply for a property tax rebate and subsidized transportation, and followed up to ensure that his utility services were restored. In addition, he was referred to the area agency on aging for home delivered meals. Eventually, the young woman pled guilty to theft and forgery and financial restitution was ordered.

Serving Older Victims of Domestic Violence and Sexual Assault

CARIE and the SeniorLAW Center worked together with funding through PCCD and VAWA to focus attention on older victims of domestic violence and sexual assault in Philadelphia. While ARRA funds for this project have ended, we continue to help older victims of domestic violence and sexual assault. A local leadership task force was formed to address issues related to domestic violence and sexual assault of seniors. The task force met to develop stronger partnerships, faster cross training and most importantly to find ways to provide effective services and supports for older victims of domestic violence and sexual assault.

Senior Victim Advocates Training

CARIE and the SeniorLaw Center also have a grant from PCCD to provide training and technical assistance to Victim's Services providers in Pennsylvania. As a result of PCCD's interest in serving older victims of crime, ten grants were awarded to local victim's services organizations over the past two years. Our grant has helped to provide support for those organizations beginning to increase their outreach and services to seniors. One way that we support them is through monthly Webinars: a sample of Webinar topics includes:

- Scams, Schemes & Frauds Impacting Older Adults and How to Avoid Being a Victim
- Health Care Fraud and Scams: The Impact on Elders
- Financial Exploitation of the Elderly
- LTC Ombudsman-institutional abuse
- Protection from Abuse Orders in PA

The PowerPoint presentations from the trainings are posted at www.carie.org.

In addition, Four regional elder abuse conferences will be held across the state in May/June:

- Tuesday, May 8 Lancaster Host, Lancaster County
- Thursday, May 17: Tara, A Country Inn, Mercer County
- Tuesday, May 22: Bucks County Community College, Bucks County (in conjunction with the Neff Symposium)
- Friday, June 15: Penn State, Centre County

Abuse Prevention Training

CARIE has developed unique training programs to improve the quality of life for older adults in long term care. Our professional training programs are packaged under the **Competence with Compassion[™]** brand promoting a stronger and better trained workforce with a goal of providing quality care for frail older adults with long term care needs. "An **Abuse Prevention Training Program**" teaches long term care staff abuse prevention techniques. "Creating an Ethical **Culture for Long-Term Care**" is designed to educate and assist long term care practitioners in making ethical decisions. The **Universal Core Curriculum (UCC)** is a 60-hour training program designed for direct care workers. The goal of the training is to equip those new to the field of direct care with the information and person-centered skills that will prepare them for a work experience that is rewarding for consumers, themselves, and their co-workers. It is intended as a first step in an education program that supports and advances the development of the direct care worker by providing basic skills common to all long term care work settings.

Ombudsman services

CARIE provides ombudsman services in Philadelphia. The ombudsman program works to empower consumers to resolve problems and complaints about their care including resident rights issues and complaints about abuse or financial exploitation. The ombudsman often makes complaints concerning abuse and neglect to Older Adult Protective Services and to the regulatory agencies.

SMP (formerly known as Senior Medicare Patrol)

Each year billions of dollars are lost to Medicare and Medicaid fraud. CARIE began the **Pennsylvania SMP program (PA-SMP)** in 1997. The Administration on Aging (AoA), a division of the US Department of Health and Human Services, developed this program to help consumers understand more about health care fraud. In Pennsylvania, we have more than 75 retired Medicare beneficiaries providing peer education about health care fraud and what they can do about it. Fraud occurs when an individual or organization deliberately deceives others in order to gain some sort of unauthorized benefit. Medicare/Medicaid fraud generally involves billing for services that were never rendered or billing for a service at a higher rate than is actually justified. Health care abuse occurs when providers supply services or products that are medically unnecessary or that do not meet professional standards.

For example, Mrs. Jones called CARIE when she read her Medicare Summary Notice and discovered a home health visit that she never received. Mrs. Jones call resulted in an investigation and the recovery of more than \$66,000.

The PA-SMP routinely sends out Scam Wires to alert consumers and program partners about emerging scams. In December, an alert was sent about a diabetic supply phone scam warning about scammers making numerous calls to consumers (some consumers reported receiving several calls a day) to try to get their Medicare number to bill Medicare for supplies that were not needed or wanted. As with all campaigns, consumers were reminded to never give their personal information over the phone. SMP volunteers are available to staff information tables and make presentations in legislative districts throughout the commonwealth.

Caregiver GPS

With funding through the Pennsylvania Department of Aging, CARIE created an online resource for caregivers of older adults, www.CaregiverGPS.org. One of the most difficult challenges for caregivers is addressing their loved one's changing needs for care. The Caregiver GPS helps caregivers think about options and make decisions along with those needing care. Since there is a high rate of elder abuse committed by family members, preventive measures to help support caregivers are critical. The Caregiver GPS can help caregivers work through important decisions and become aware of needed resources. Topics include:

- I am worried about my loved one living on his/her own.
- I want to explore options when living at home no longer seems the best choice for my loved one.
I am considering whether I should live with my loved one in order to provide in-home care.
I believe my loved one needs someone to make decisions for her/him.
- I am concerned about whether I will be able to care for my loved one as he or she approaches the end of life.
- How can I manage being a long distance caregiver?

Guardianship research

CARIE recently received funding from the Pennsylvania Department of Aging to help improve Pennsylvania's guardianship process as it affects the rights of Pennsylvania's most vulnerable older adults. More specifically, CARIE is conducting a statewide study to ascertain current practices among Pennsylvania's Area Agencies on Aging with respect to decisions to petition for guardianship of clients and to provide guardianship services on behalf of clients. CARIE is also examining Pennsylvania county courts to determine the court processes by which guardians of older adults are appointed and monitored. Best practices regarding guardianship of older adults in other states are also being identified. Finally, CARIE will make recommendations for improving the role of Pennsylvania's Area Agencies on Aging within the guardianship process in order to more fully protect the rights, interests and well-being of

vulnerable older adults and identify any best practices that exist nationally that may improve Pennsylvania guardianship practices. A final report is expected to be completed this August.

Policy Recommendations

Elder abuse takes many forms — physical, sexual, neglect, self-neglect, psychological and financial. The issue of elder abuse and neglect cuts across all racial, ethnic, socioeconomic and geographic boundaries. Statistics underscore the severity of the problem. It is estimated that 10% of those over 60 living at home are victims of abuse, neglect, or exploitation and for those with dementia the statistics are even higher at almost 50%. The issue of the unbefriended elderly with dementia and the lack of a national focus on this population prompted CARE to draft a white paper that is being used to help advocate for their needs at a national level.

Elder abuse does not get the attention or funding at the national level that is warranted and is decades behind when compared to child abuse and domestic violence. The Child Abuse Prevention and Treatment Act was enacted 1974 and the Violence Against Women's Act (VAWA) passed in 1994. CARE was among the many advocates who fought for the passage of the Elder Justice Act (EJA). The EJA just passed in 2010 but it has not been funded or implemented. The EJA is supposed to elevate the issue to the national agenda by doing such actions as creating an advisory board of elder abuse experts and establishing a coordinating council comprised of the different federal agencies within government that have a role in elder abuse. A recent positive development at the federal level is the newly formed Office of Financial Protection for Older Americans in the Consumer Financial Protection Bureau. The focus of this new office is to help older consumers address financial exploitation, protect their homes, fight fraud and scams, improve their financial literacy, as well as plan for retirement and long term care needs. While Area Agencies on Aging (AAAs), Older Adults Protective Services (OAPS), police, courts, providers, and advocates are all trying to respond to the problem of elder abuse at a local level, the system in place is simply not equipped to adequately address this problem.

One of the solutions to elder abuse is for older adults and their families to talk about and plan for possible incapacity. For those showing early signs of dementia, this is particularly important, as they will eventually lose all capacity to make decisions including whom they would prefer to act on their behalf. The inability to manage finances is one of the early manifestations of cognitive impairment. Financial abuse is of epidemic proportions. The MetLife Mature Market Institute estimates that the annual financial loss for victims is estimated at \$2.9 billion in 2010, an increase from \$2.6 billion in 2008. This is compounded by the fact that elder abuse is believed to be underreported since many victims suffer from dementia, feel shame, or fear being forced into a nursing facility.

If Pennsylvania policy can help facilitate financial planning and ensure a swifter response to allegations of fraud or abuse, the individual's assets could be preserved to help pay for their long term care needs. OAPS are often working with very limited budgets and by the time they do get involved, assets may be gone and are difficult to recover. Victims who lose

their assets may lose their housing or may need to turn to Medicaid to help pay for their long term care. More needs to be done to stress the importance of financial **planning** through educational campaigns especially targeting physicians who are on the **front** lines of **identifying** declines in health. It is important that legal services be adequately funded to help older adults recover their property and assets when possible.

The American Bar Association Commission on Law and Aging has background information and many useful policy recommendations including good model acts for states to enact, such as the Uniform Power of Attorney Act (UPAA) that would create clear standards for agent conduct. The **Pennsylvania** Joint State Government Commission released a report in March 2010, "Powers of Attorney: Proposed Amendments to ~~the~~ Probate, Estates and **Fiduciaries** Code," that made recommendations as to what provisions of the UPAA are needed in Pennsylvania. Another model act worth reviewing is the Uniform Multi-Person Accounts Act to serve as an **alternative** to the traditional joint bank account. which allows someone to help manage the account and pay bills on behalf of the owner of the account, but upon death, the account is distributed based on their Will.

Guardianship and alternatives to guardianship also needs to be explored in conjunction with elder abuse and OAPS. Guardianship should only be used as an option of last resort. However, guardianship is often the only tool in the toolbox for OAPS when someone is being abused and has Issues with capacity. Since guardianship takes all rights and control away from the consumer, other alternatives such as financial management or bill paying services should be made available. Walking the tightrope of balancing safety versus an individual's autonomy and freedom is a daunting task in abusive situations. If guardianship is indeed the most appropriate option, guardians should be monitored to be sure the older **adult** is not further victimized by less than well meaning guardians. Legal services should also be available to help represent consumers in court and provide assistance during the guardianship process.

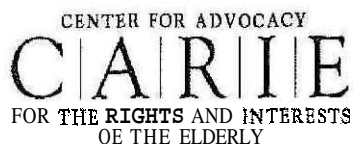
Finally, for individuals in institutional settings, it is important that standards be maintained for adequate staffing and training of staff as these factors frequently contribute to poor care, neglect and abuse if standards are not met.

Conclusion

As Pennsylvania's aging population grows, they are at increased risk of elder abuse. Elder abuse is a human rights and public health issue affecting many. It has been said that a society can be measured by how it treats its elderly. We hope you will continue to explore measures to reduce the incidence of elder abuse and improve **Pennsylvania's** ability to respond to the problem. We are willing to work along with you to help advance a positive agenda to ensure the dignity and safety of older Pennsylvanians. Thank you again for the opportunity to comment and for sponsoring today's hearing.

Meeting the Needs of Persons with Alzheimer's or Other Dementia
When No Informal Support is Available

October 2010



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Meeting the Needs of Persons with Alzheimer's or Other Dementia When No Informal Support is Available

Backaround

The Center for Advocacy for the Rights and Interests of the Elderly (CARIE), coordinates the Dorothy S Washburn Legislative Committee comprised of legal, health and human services professionals as well as older consumers who monitor legislative and regulatory developments at the local, state and national levels in an effort to promote the well being of frail older adults. The Committee is concerned about the issue of those with Alzheimer's disease and other dementia who do not have a caregiver or responsible party to help them. There have been problems with these older adults being prematurely admitted to nursing facilities or being denied in-home services because of concern about liability. The Committee wants to draw attention to this populatton to begin to address their needs. There should be a dialogue about how to best strike a balance between preserving autonomy and allowing consumers to take some risks versus ensuring safety through more protective measures. While there is an abundance of information about Alzheimer's disease and related dementia and support for caregivers, there is little, if any, information for those who do not have a caregiver or responsible party. There is enough anecdotal evidence to assume that not all older adults have family or close friends available to help.

It is clear that there is a growing population of individuals with Alzheimer's disease and other dementias that present numerous challenges to our health and long term care systems. The Alzheimer's Association issued a report that estimates that 5.3 million Americans have Alzheimer's disease and the health and long term care costs are almost triple those of other older Americans. The report estimates annual costs of at least \$33,007 for those with the disease compared to \$10,603 for other older adults. This cost does not include the estimated 12.5 billion hours of unpaid care provided by almost 11 million caregivers who are primarily family members¹ It is Imperative that caregivers be valued and supported in their vital role Unfortunately, there are no statistics readily available about the number of people who have Alzheimer's disease or dementia and who live alone.

"A National Alzheimer's Strategic Plan: The Report of the Alzheimer's Study Group," describes the devastating impact of Alzheimer's disease on individuals, families, and our nation, and offers strategies and solutions to address the problems. The ca-chairs of the Independent Alzheimer's Study Group include Former Speaker Newt Gingrich and Former Senator Bob Kerrey Former Justice

¹ "2010 Alzheimer's Disease Facts and Figures" at

http://www.alz.org/national/documents/report_azfactsfigures2010.pdf

A National Alzheimer's Strategic Plan: The Report of the Alzheimer's Study Group at (http://www.alz.org/documents/national/report_ASG_alzplan.pdf)

Sandra Day O'Connor is among the members of the group. The report highlights that "Over the next 40 years, Alzheimer's disease related costs to Medicare and Medicaid alone are projected to total \$20 trillion in constant dollars, rising to over \$1 trillion per year by 2050." On March 25, 2009, the Senate Special Committee on Aging held a hearing, "The Way Forward: An Update from the Alzheimer's Study Group"³ At the hearing, Former Senator Bob Kerrey emphasized that the disease creates a tremendous dependency on caregivers whose needs must be addressed by policymakers. There was no discussion about those who do not have a caregiver.

The Council of State Governments has issued a brief, 'Cognitive Impairment & Alzheimer's Disease,'⁴ that describes why state legislators should be concerned about Alzheimer's disease and what they can do. The brief also identifies several states that have developed Alzheimer's disease plans to help progress with policy solutions. Some states' Alzheimer's Associations have also created a state plan. However, we could not identify any mention of this segment of the Alzheimer's population in any plan.

CARIE's Dorothy S. Washburn Legislative Committee makes the following recommendations,

Recommendations

1. Implement an epidemiological study to identify the scope of the problem.
2. Implement research to help identify best practices for ways to ensure early diagnosis for those who live alone. Issues related to stigma and cultural differences should be addressed. Quality assessments should be readily available in all communities for consumers who are becoming concerned about symptoms.
3. Design and fund demonstration projects to identify best practices and practical, cost-effective models for service delivery. There should be a balance between consumers' safety and their need for autonomy. Different needs, preferences and values should be considered. Models should be tested among various cultural groups to identify potential variance with approaches. Identify benchmarks and performance measures that foster good outcomes.
4. Research, design and implement clinical tools to help assess the decision-making capacity of individuals and work to maximize autonomy and

³ "The Way Forward. An Update from the Alzheimer's Study Group" at http://aging.senate.gov/hearing_details.cfm?id=310462&Cognitive+Impairment+Alzheimer's+Disease+at
<http://www.healthystates.csg.org/NR/rdonlyres/265E9FFC-18C4-4757-9254-CB6AC771EA46/0/AlzheimersTPfinal.pdf>

ensure individuals are engaged and involved in making decisions to the greatest extent possible.

5. Identify and utilize an ethical framework for assessment, planning and service delivery to ensure autonomy to the best extent possible as well as cultural considerations.
6. Identify best practices for health care professionals, social workers, and paraprofessionals needed to work with this population including competencies and knowledge needed.
7. Create training programs and help implement best practices for public safety officials such as police and fire fighters, emergency management personnel, and postal workers to help them identify those in need as well as where to turn for further assistance. Information should include but not be limited to what to do for someone who is found wandering.
8. Develop strategies to prevent financial exploitation and premature guardianships for those in the early stages of Alzheimer's disease or other dementia. Ensure access to legal services.
9. Create, test, and implement model community educational programs to increase public awareness and decrease stigma.
10. Encourage a comprehensive national strategic plan as well as the inclusion of the needs of this population in state plans.

Please contact Kathy Cubit at CARIE at cubit@carie.org or 267-546-3438 for more information or to provide feedback.

CENTER FOR ADVOCACY
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FOR THE RIGHTS AND INTERESTS
OF THE ELDERLY

**CALL THE CARIE LINE TO HELP SUPPORT YOUR
CONSTITUENT SERVICES**

(215) 545 -5728

1 - (800)- 356 - 3606

Monday through Friday, 9:00 am. 5:00 pm

The CARIE LINE specializes in providing options counseling and information, getting needed services, and resolving problems for older people.

- Service over the phone, free of charge and confidential.
- A real person answers the phone - no automated menus to follow.
- Provides free booklets and brochures on a wide range of topics.
- Assistance also available online at "Get Help" at www.carie.org and at www.CaregiverGPS.org.

Recently, a legislator's office called the CARIE LINE on behalf of a 71 year old woman who needed a new chimney liner to turn on her heat. The CARIE LINE advocate explained available home repair resources and sent information as well. CARIE also helped many staff at Pennsylvania legislators' offices understand Medicare Part D and especially the changes that affect dual eligibles. CARIE walked staff through the prescription drug plan finder and helped them understand how to resolve beneficiary issues.



THE PENNSYLVANIA SMP AT CARIE



Fraud and abuse of the Medicare and Medicaid programs is estimated to be over \$19 **billion** annually.

To combat fraud, CARIE's PA-SMP has retired Medicare beneficiaries who teach other Medicare and Medicaid beneficiaries about health care fraud and what they can do about it.

AN EXAMPLE OF HEALTH CARE FRAUD

Health care fraud does affect the Medicare and Medicaid systems financially, but more important is the serious effect health care fraud can have on the quality of care older adults receive. In the case of Ms. Smith, her doctor prescribed physical therapy



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for her after a stroke. The prescription was for an hour of physical therapy three times a week.

The therapist regularly leaves after only ten minutes, but Medicare is still billed for the full amount. Not having the full amount of physical therapy can lead to a loss of function. Once function is lost, Ms. Smith may never regain it.

CONTACT INFORMATION

Contact project staff at (800) 356-3606 to schedule a presentation or to request participation at a health fair.

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