GOVERNOR'S ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS (GACEC)
GENERAL MEMBERSHIP MEETING
7:00P.M., June 20, 2017
George V. Massey Station, Second Floor Conference Room
516 West Loockerman Street, Dover, DE

MINUTES

MEMBERS PRESENT Robert Overmiller, Nancy Cordrey, Cathy Cowin, Ann Fisher, Lisa Gonzon, Emmanuel Jenkins, Karen McGloughlin, Chris McIntyre, Bill O'Neill, Jennifer Pulcinella, Terri Hancharick, Brian Hartman, Mary Ann Mieczkowski.

OTHERS PRESENT: Guests: Carolyn Lazar/ DOE, Sandra Miller/ DVR, Freda Collins/ CDW, Cindy Brown/ DOE, Dale Matusevich/ DOE, Maria Locuniak/ DOE, April Cintron/ due process panel applicant.
Staff present: Wendy Strauss/ Executive Director, Kathie Cherry/ Office Manager and Sybil Brown/ Administrative Coordinator.

MEMBERS ABSENT: Dafne Carnright, Al Cavalier, Bernie Greenfield, Thomas Keeton, Sonya Lawrence, Beth Mineo, Shawn Rohe, Brenné Shepperson.

Vice Chair Terri Hancharick called the meeting to order at 7:05p.m. She asked for any additions or deletions to the agenda. Being there were no revisions, **a motion** was made to accept the agenda as written and the **motion was approved.**
A **motion** was made to approve the May minutes. The **motion was approved.**
A **motion** was made to accept the May financial report. The **motion was approved.**

Public Comments

There were no public comments.

Terri announced guest speakers Mary Ann Mieczkowski and Maria Locuniak from the Department of Education (DOE).

CHAIR/DIRECTORS REPORT

Wendy reported that GACEC has been notified that due to the current budget situation, our budget (line items only) will be cut by nearly 50 percent. Wendy stressed that since our budget analyst has changed several times this year and the controller general contact also changed within the last month. She indicated that contact was made to discuss the potential effect of the drastic cuts and she will keep council abreast of the outcomes. Brian asked if Wendy could give him a sense of the dollar amount being cut, she replied that it was about $11,000.00. Wendy spoke about visiting each of the cabinet secretary's to introduce the chair and discuss ongoing projects as well as potential collaboration. Wendy offered an update on the Disability History Project. The group is developing a play that will hopefully be acted in by individuals with disabilities. The goal is an October 2018 release date. Wendy recognized Brian Hartman for his many years of service to both GACEC and the disability community at large. She shared some memories and thanked Brian on behalf of Council and all Delawareans. A plaque tribute was presented and cake was shared with Council. Brian thanked Council for the recognition and shared that he really enjoyed his time with Council.

Wendy asked DOE to begin the scheduled presentation. A copy of that presentation is attached for your reference.

DOE REPORT

Mary Anne Mieczkowski delivered the DOE report which is outlined below:

Due Process Panel Training

Exceptional Children Resources has a responsibility under IDEA to ensure their hearing panel members are properly trained. A full day of training took place on June 2, 2017 by Jim Gerl, Esq. In addition, two half day mandatory trainings on June 5th and June 19th were held on Effective Hearing Practices. Next week, the panel members have an opportunity to attend training at Lehigh University by Perry Zirkel, Esq.

Significant Disproportionality

In December 2016, the Office of Special Education Programs (OSEP) finalized new regulations on significant disproportionality. These regulations enforce the use of IDEA funds for mandatory Comprehensive Coordinated Early Intervening Services (CCEIS), which local education agencies (LEAs) provide upon identification of significant disproportionality, and

distinguish use of funds for CCEIS from the use of IDEA funds for voluntary Coordinated Early Intervening Services. The final stakeholder group within Delaware met on May 11, 2017 to provide final input to DDOE. We will be analyzing the input and making final decisions this summer to begin the communication and TA that LEAs will need in order to be in compliance with this regulation.

LEA Determinations

LEA Determinations (LEA report cards for compliance and results) were sent to district superintendents and charter heads of school on Tuesday, May 31, 2017.

COMMITTEE REPORTS

INFANT AND EARLY CHILDHOOD

Jennifer reported that the group discussed the Division Early Childhood (DEC) position statement on personnel standards in Early Childhood Special Education. The committee **made a motion** to send a letter of support to DEC. **The motion was approved**. The committee also discussed having Early Childhood Inclusion Committee (ECIC) formerly EIEIO (expanding inclusive early intervention opportunities) join GACEC as a standing subcommittee. A **motion was made**, Terri asked if there was any discussion. Discussion ensued. Bill O'Neill expressed that he was not sure what the group does, Jennifer gave a short explanation of her understanding, and she then asked Cindy Brown to help explain. Cindy explained that EIEIO began as an initiative to expand inclusion for early childhood students. This initiative was done in partnership with early intervention (birth thru three). The committee has been around for a while, and they are not attached to any specific group and in the recent past their membership has declined. The group hasn't been as action oriented as they would like. The group feels that it will be a real natural fit to be affiliated with GACEC and specifically the Infant and Early Childhood committee. Cindy felt it was a real natural fit and a wonderful opportunity. Mary Ann added that the group should also be included the Access to General Education Curriculum (AGEC). Discussion ensued on what exactly this would look like. Wendy shared that this is an initial vision that came about after talk of establishing and ad hoc committee to address many of the same issues as ECIC is currently working on. Bill shared that he felt like there were a lot of things that needed to be better detailed before a vote was made. Wendy asked Brian for his input given there was already a motion on the floor. Brian said a compromise would be that the council could endorse the concept and authorize staff to do further research and exploration.

Jennifer withdrew her motion. After much more discussion Mary Ann made a suggestion that perhaps much like DOE has the AGEC which is its stakeholder group for indicator 5, ECIC could be GACEC's stakeholder group for indicator 6 and the two could work together to expand inclusion in early childhood. Since additional options were introduced Brian suggested that perhaps this would be better suited as a topic at the retreat so that additional options can be researched and more information provided. **Jennifer made a motion which was approved** to have the issue tabled and added to the annual retreat agenda.

ADULT TRANSITION SERVICES

Cathy shared that the speaker scheduled to present to the committee did not attend so there really was nothing to report.

CHILDREN AND YOUTH

In the absence of both the Chair and Vice Chair, Karen McGloughlin shared that the committee was a small group tonight who heard wonderful presentations from Dale Matusevich of DOE and Sandy Miller from Division of Vocational Rehabilitation (DVR). She shared that the power point would be sent to staff to be shared with council.

POLICY AND LAW

Acting committee chair Brian Hartman shared the meeting this evening had 3 action items. Take action as recommended in the Policy and Law legal memo on item number 4. The **motion** from the committee **was approved**. A **motion** from the committee to submit applicant April Cintron to the Department of Education for the position of lay person panelist **was approved**. The committee **reviewed and opposes** the proposal to establish a special education strategic plan advisory council. The committee recommends that the GACEC offer to form a special education strategic plan committee to facilitate the plan OR add that responsibility to an existing committee. The **motion was approved**. Wendy asked Brian to clarify if this would be a standing committee or an ad hoc committee. Brian shared that he would see it as an ad hoc committee since this issue may be short lived. Mitch shared that the Federal DOE is not requiring this group, it is something that has been initiated in Delaware. Mary Ann asked where

this plan came from? Wendy shared that it was presented by Bill Doolittle and Michele Marinucci. Brian shared that the committee felt that this was conflictive of this council, GACEC is the federally designated advisory panel for special education and this would create a competing council with seven committees to basically review and monitor this plan. The composition of this group is less comprehensive than that of GACEC. This was just one of the reasons that the committee has grave concerns about establishing a competing council. Wendy asked for clarification on Brian's previous motion. Brian clarified that the motion was essentially to voice opposition to the proposal and offer his options as alternatives, not necessarily letting that group make a choice of the two but those are two models that can be considered. Ann Fisher asked to speak. She shared the original intent for the ECIC joining GACEC was since there were so many issues right now in early childhood, the group would work closely with the Infant and Early Childhood committee to make sure the work is a continuous process. Brian explained to Ann that this was a separate issue that was already addressed. Beth Mineo asked for clarification since she felt council did not have the authority to tell this group that they couldn't do this. She questioned to whom the proposal was directed. Mary Ann shared that the group presented the plan and this idea to the Interagency Resource Management Committee (IRMC) as originally directed by Representative Smith in epilogue language. The group is made up of all of the Cabinet Secretary's (or their designees). The vote at that meeting was to have the plan go out for 30 day public comment but she is not sure where it will go from there. More discussion around the issue ensued and Beth shared that the epilogue language that was the impetus for the strategic plan was just that, that a plan would be created and NOT that this would be an ongoing committee. A **motion** to take action on the discussed items from committee was **approved**

Commentary on the regulations discussed in committee or approved by the Board was as follows:

3. H.B. No. 162 (Financial Exploitation)

This legislation was introduced on May 9, 2017. As of May 30, it awaited action by the House Judiciary Committee.

As background, legislation (H.B. No. 417) was enacted in 2014 which amended the Adult Protective Services law. That bill authorized covered financial institutions to freeze transactions if they suspected financial exploitation, report to the State, and provide copies of records to the State and law enforcement agencies without a subpoena. Financial institutions implementing the law were accorded immunity. See codification at 31 Del.C. §3910. Although the original H.B. No. 417 covered "broker dealers", "investment advisors", and "federal covered advisors", the bill was amended prior to enactment to delete coverage of these entities. In 2015, H.B. No. 17 was enacted which added these entities into the statutory scheme resulting in the current, broad definition of "financial institution" subject to the financial exploitation law [31 Del.C. §3902(12)].

H.B. No 162 ostensibly supplements the effects of the prior bills codified in 31 Del.C. Ch. 39. It adopts the same definition of protected consumers - elderly persons and vulnerable adults (lines 6-7). It adopts the same definition of "financial exploitation" (lines 8-20). However, it amends Delaware "securities law" (Title 6) by establishing similar financial exploitation protections covering broker-dealers and investment advisors in the statutory securities laws. Similar to the adult protective services model, H.B. No. 162 authorizes covered financial entities to delay suspicious transactions, notify State agencies, share records with State and law enforcement agencies, and benefit from immunity when implementing the law.

The committee has the following observations.

Since both the APS law and the securities law will cover some of the same entities, the standards must be consistent to avoid confusion and enhance compliance. Unfortunately, there are multiple instances of adoption of inconsistent standards. The following is a non-exhaustive set of examples.

First, lines 27-29 require "prompt" notification of APS and the Investment Protection Director (a deputy attorney general pursuant to 6 Del.C. §73-102). In contrast, the APS law does not require "prompt" notice to APS. Notice occurs upon completion of the institution's investigation or 5 business days after identification of a suspicious transaction. See 31 Del.C. §3910(c).

Second, lines 57-61 authorize a freeze for 15 business subject to the Attorney General requesting an extension to 25 business days after initiation of the freeze. In contrast, the APS law allows the institution to continue to freeze a transaction for 10 business days after filing a report and another 30 business days at the request of the State. See 31 Del.C. §3110 (c).

Third, lines 51-53 give the financial institution 7 business days after completion of its investigation to share its results with APS. In contrast, the APS law requires reporting upon completion of its investigation, not within 7 business days of completion of the investigation. See 31 Del.C. §3110(c).

Fourth, lines 68-71 authorize the financial institution to share records with APS and law enforcement. This may omit the Attorney General's Office. In contrast, the APS law explicitly authorizes the sharing of records with "the prosecuting attorney's office" as distinct from "law enforcement". See 31 Del.C. §3110(c).

The Council may wish to consider endorsement of the concept of the legislation subject to the sponsors' review of the above inconsistencies. A courtesy copy of comments could be shared with the Attorney General.

4. S.B. No. 49 (Homeless Bill of Rights)

This legislation was introduced on March 28, 2017. As of May 30, it awaited action by the Senate Judicial & Community Affairs Committee. It is earmarked with a 2/3 vote requirement. The attached fiscal note is modest, aggregating $26,000 in FY17, $3,000 in FY18, and $3,000 in FY19.

Predecessor legislation was introduced in 2014 (H.B. No. 378); 2015 (S.B. No. 134); and 2016 (SS No. 1 for S.B. No. 134. S.B. No. 49 closely resembles the 2016 legislation with a few modifications. Some of the modifications were ostensibly prompted by Council commentary on the 2016 bill.

As background, legislation creating a bill of rights for homeless individuals has been passed in a few states (e.g. Rhode Island; Connecticut; Illinois) and municipalities. In 2013, the Delaware Homeless Planning Council issued a report which included a recommendation to promote adoption of a homeless bill of rights in Delaware. The report (p. 8) discusses the prevalence of persons with disabilities among the homeless population.

S.B. No. 49 is intended to prevent discrimination based on homelessness in a variety of contexts, including public places, applying for housing, seeking temporary shelter, and voting. Local governments would be barred from enacting ordinances or regulations inconsistent with listed rights (lines 59-60). An aggrieved person could file a complaint and seek remedies through the State Human Relations Commission. The Attorney General would also have the authority to seek enforcement through a civil action (lines 245-259). S.B. No. 49 is more restrained than the 2016 legislation in several respects, including omission of protections in employment; a limitation on the duty of providers to update facilities or provide new accommodations (lines 34-36); and a disclaimer that the provisions would limit nondiscriminatory enforcement of anti-loitering laws (lines 51-53).

The committee has the following observations.

First, there is a typographical error on line 100. The parentheses should be deleted. Compare the 2016 bill (S.S. No. 1 for S.B. No. 134) at line 97.

Second, the references to "§7803(a)" in lines 69, 72 and 96 should be simply to "§7803" to conform to lines 167 and 170 and clarify the availability of enforcement of §7803(b).

Third, in line 208, "are" should be substituted for "is".

Fourth, lines 59-60 could be interpreted as limiting only prospectively enacted laws,

ordinances, and regulations. Concomitantly, existing non-conforming laws, ordinances, and regulations would be "grandfathered". The sponsors could consider amending lines 59-60 as follows: "No political subdivision of this State may enact or enforce any law, ordinance, or regulation contrary to subsection (a) of this section."

Fifth, the 90-day statute of limitation (lines 140-141) to file a complaint with the State Human Relations Commission is relatively short. Contrast one (1) year statute of limitation for Fair Housing complaints filed with the Human Relations Commission [6 Del.C. §4610(a)].

The Council may wish to consider an endorsement of the legislation subject to amendments consistent with the above observations.

5. H.B. No. 5 (Equal Protection)

This legislation was introduced on May 16, 2017 as a revised version of H.B. No. 2. As of May 30, it awaited action by the House Administration Committee.

As background, the 14th Amendment to the U.S. Constitution provides that no state may "deny any person within its jurisdiction the equal protection of the laws." The federal "equal protection" clause has been invoked by the courts to invalidate discrimination against persons with disabilities. See, e.g., City of Cleburne v. Cleburne Living Center, 473 U.S. 432 (1985) [Supreme Court invalidated requirement of special use permit for group home housing individuals with intellectual disabilities as based on irrational prejudice and inconsistent with Equal Protection]. Many states include variations of the "equal protection" mandate in their respective state constitutions. For example, the New York State Constitution (§11) reflects the following standard: "No person shall be denied the equal protection of the laws of this state or any subdivision thereof."

In 2016, former Senator Peterson discovered that the Delaware Constitution omits an equal protection clause. In response, she introduced legislation (S.B. No. 190) as the first leg of a Constitutional amendment to add an equal protection clause. S.B. No. 190 proposed to add the following provision to the Delaware Constitution:

> §21. Equal protection
>
> Section 21. Equal protection under the law shall not be denied or abridged because of race, sex, age, religion, creed, color, familial status, disability, sexual orientation, gender identity, or national origin.

For background on the 2016 bill, see the attached articles. The legislation was introduced late in the session and was ultimately laid on the table.

H.B. No. 5 proposes the adoption of a shorter version than the 2016 bill:

§21. Equal protection

Section 21. No person shall be denied equal rights under the law.

This version is ostensibly more analogous to the federal Equal Protection clause which does not explicitly list protected classes. It is conceptually analogous to statutes which foster fundamental fairness in application of laws. For example, the Delaware Bill of Rights for persons with intellectual disabilities (16 Del.C. Ch. 55) reflects the following "equal protection" sentiment without using that term:

§5501 Basic rights.

Persons diagnosed with intellectual disabilities or other specific developmental disabilities have the same basic rights as other citizens.

Consistent with the synopsis, the Delaware judiciary would be expected to establish jurisprudence concerning the interpretation of the clause. There appears to be considerable bipartisan support for H.B. No. 2 which lists 22 House and 10 Senate sponsors/co-sponsors. However, a 2/3 vote in successive General Assemblies would be required to amend the Delaware Constitution.

Given the potential benefit of the Constitutional amendment to protect the rights of individuals with disabilities, the Council may wish to consider endorsement.

6. H.B. No. 160 (End of Life Options)

This legislation was introduced on May 2, 2017. As of May 30, 2017, it awaited action by the House Health & Human Development Committee. A previous version of the legislation (H.B. No. 150) was introduced in 2015.

The bill would authorize a competent individual with a terminal illness to obtain and self-administer a drug to end life. There are many safeguards, including waiting periods, review by both an attending and consulting physician, assessment by a psychiatrist or psychologist if either physician questions the patient's capacity/judgment, and attestation of 2 independent witnesses that the patient's written consent is voluntary and free of coercion.

There are currently six (6) states which have adopted similar legislation. Most of the laws adopt a variation of the model reflected in the Oregon law which was passed more than twenty (20) years ago. Legislation is pending in other states

Arguments in support of assisted suicide legislation are compiled at www.deathwithdignity.org. Proponents posit that implementation in other states has been without major problems, it offers a humane option for patients in intractable pain, safeguards deter abuse, and polls demonstrate widespread support for the concept. There may be some recent support for the latter proposition.

Arguments against assisted suicide are compiled at www.notdeadhyet.org and https://dredf.org/public-policy/assisted-suicide/ . Opponents posit that diagnoses of terminal illness can be wrong, the safeguards are hollow with no enforcement or investigation authority, vulnerable patients in poor health are subject to undue influence from caregivers or heirs, financial and emotional pressures may prompt individuals to choose death, and such legislation is a first step towards involuntary euthanasia of the elderly and persons with disabilities.

The committee has the following specific observations on H.B. No. 160.

1. Since a patient wishing to take advantage of the bill may have to pay for the services of an attending physician, a consulting physician, a counseling psychiatrist/psychologist, and the cost of both ancillary and "end of life" drugs, the legislation may only provide an option to the affluent.

2. The term "counseling" in lines 17-19 is a misnomer. Counseling implies that the mental health practitioner is providing guidance and advice. In contrast, the mental health practitioner is only conducting an assessment of function, not "counseling" the individual (lines 17-19 and 102-106).

3. The Delaware residency standard (lines 146-150) is not difficult to meet and may invite non-residents to seek qualification. The sponsors could consider more robust standards to deter "suicide tourism See analogous provision in Delaware's cancer treatment program regulations, 16 DE Reg. 4203.4.1.3.

4. Although the most compelling rationale for this type of legislation is to obviate protracted pain and suffering, actual or predicted pain and suffering are not required to take advantage of the law. In contrast, comparable Canadian law requires an "irremedial" condition that causes "enduring and intolerable suffering". Id. Assisted suicide legislation might garner more support if it only covered this narrower group.

5. There is no statutory definition of "disease" (line 41). The medical literature has various definitions of the term. Depending on which definition is chosen, it may or may not cover conditions such as traumatic brain injury. The following definition would be encompassing:

> Disease is an abnormal process affecting the structure or function of a part, organ or system of the body. It is typically manifested by signs and symptoms, but the etiology

> may or may not be known. Disease is a response to a specific infective agent (a microorganism or a poison), to environmental factors (e.g. malnutrition, injury, industrial hazards), to congenital or hereditary defects, or to a combination of all these factors.

6. The safeguards in lines 56-57 against witnesses lacking impartiality are limited to persons who may be entitled to a portion of the patient's estate by "will" or "operation of law" (e.g. intestate entitlement). The safeguards could be enhanced by including beneficiaries of trusts, annuities, and life insurance. Cf. 16 Del.C. §2503(b) (barring trust beneficiary from witnessing advance health care directive).

7. The "witness" section (line 60) bars the "attending physician" from serving as a witness. The California law (§443.3) logically also bars the consulting physician and the mental health specialist (psychiatrist/psychologist) from serving as a witness.

8. The "witness" section (lines 50-60) would allow a minor to serve as a witness. Contrast the advance health care directive law [16 Del.C. §2503(b)] which requires the witnesses to be adults.

9. Delaware law requires a State Ombudsman to be a witness to an advance health care directive of a resident of a long-term care facility. See 16 Del.C. 2511(b). Other state assisted suicide initiatives contain similar safeguards. See Oregon law, 127.810 §2.02; pending Hawaii legislation, SB 1129/2017, §3; and pending Nevada legislation, S.B. No. 261, §12. This requirement has been omitted from H.B. No. 160. The Ombudsman could be required as a third witness for residents of long-term care facilities.

10. The legislation does not include any special provisions for pregnant patients seeking assisted suicide. The Delaware advance health care directive law (16 Del.C. §2503) contains the following provision:

> (j) A life-sustaining procedure may not be withheld or withdrawn from a patient known to be pregnant, so long as it is probable that the fetus will develop to be viable outside the uterus with the continued application of a life-sustaining procedure.

11. The California law (§443.5) includes the safeguard of the attending physician interviewing the patient "outside the presence of any other persons, except for an interpreter". This deters implicit coercion and pressure from third parties. H.B. No. 160 omits this safeguard.

12. There is some "tension" between lines 86 and 91. The former contemplates a 72-hour period prior to directly dispensing end-of-life drugs while the latter has no 72-hour period if dispensed by a pharmacist.

13. Lines 95-96 recite as follows:

> (b) The attending physician may sign the qualified patient's death certificate. The death certificate must list the underlying terminal illness as the cause of death.

Literally, this provision allows other physicians to sign the death certificate. Since the second sentence uses passive voice, it is somewhat unclear if the other physicians would be required to list the underlying terminal illness as the cause of death.

14. H.B. No. 162 contains no definition of "impaired judgment" (line 106). Pending Maine legislation (LD 347, §2908) includes the following definition:

> E. "Impaired judgment" means the inability of a person to sufficiently understand or appreciate the relevant facts necessary to make an informed decision.

15. Lines 131-143, using passive voice, describes documentation to be filed in the patient's medical record produced by the patient, the attending physician, the psychologist/psychiatrist, and the consulting physician. It's not clear who is responsible for ensuring that all of the required documentation is actually filed in the record.

16. In line 143, it would be more inclusive to specify that the identity of both the end-of-life drug(s) and ancillary drugs (line 87) should be included in the medical record. For clarity, a reference to the ancillary drugs could also be included in the "request for medication" form (line 269).

17. Lines 170-180 could be interpreted to mean that a pre-existing life insurance policy which bars benefits for suicide would not be affected by H.B. No. 160. Lines 181-183 would apply to existing life insurance policies but query whether Delaware can affect out-of-state life insurance policies which typically recite that the laws of a specific state apply. Moreover, there may be financial consequences to assisted suicide as described in lines 256-258. The bill does not contemplate disclosure of such potentially significant negative consequences to the patient. This undermines "informed judgment". The bill (lines 66-71) exclusively limits "informed judgment" to medical considerations which is manifestly "under inclusive".

18. The bill does not require the patient to ingest the end-of-life drug in Delaware. The only guidance is encouragement to not take the drug in a public place (line 77). If a person travels to another state to ingest the end-of-life drug, query whether the laws of that state would apply to the death and its consequences.

19. The bill does not contain a definition of "public place" which could result in a patient dying in public view. The California law (§443.1) contains the following definition:

(n) “Public place” means any street, alley, park, public building, any place of business or assembly open to or frequented by the public, and any other place that is open to the public view, or to which the public has access.

Parenthetically, the Washington law (RCW 70.245.210) includes a financial disincentive for patients who take an end-of-life drug in a public place:

Any government entity that incurs costs resulting from a person terminating his or her life under this chapter in a public place has a claim against the estate of the person to recover such costs and reasonable attorneys’ fees related to enforcing the claim.

20. The “request for medication” form (lines 259-282) does not include an authorization for the attending physician to contact any pharmacist to implement the request. Such an authorization is contained in the California law (§443.11) and the Washington law (§RCW70.245.220.

21. The pending Maine bill (LD 347, §12) includes a disclaimer that its provisions may not be construed to conflict with certain provisions of federal law. The sponsors may wish to assess whether a similar disclaimer should be included in H.B. No. 160.

22. Comparable legislation in other states include a criminal penalty for exerting undue influence or interference with rescission of an end-of-life authorization. See Oregon, 127.890, §4.02; Washington, RCW 70.245.200; and pending Hawaii bill, HI SB 1129/2017, §20. Such a protection is conspicuously absent from H.B. No. 160.

23. The California law (§443.2) includes a safeguard to explicitly disallow a surrogate requesting a prescription for an end-of-life drug:

(c) A request for a prescription for an aid-in-dying drug under this part shall be made solely and directly by the individual diagnosed with the terminal illness and shall not be made on behalf of the patient, including, but not limited to, through a power of attorney, an advance health care directive, a conservator, health care agent, surrogate, or any other legally recognized health care decision maker.

A similar provision could be added to H.B. No. 160 to clarify that guardians and other surrogates may not invoke the law and substitute decision-making on behalf of a patient with a terminal illness.

24. The California law (§443.5) requires the attending physician to counsel the patient on the importance of “maintaining the aid-in-dying drug in a safe and secure location until the time that the qualifying individual will ingest it”. This is an important consideration since it lessens the prospect for another person inadvertently taking the drug and dying. A comparable safeguard could be added to H.B. No. 160.

25. The California law (§443.11) addresses “native language” and “interpreter” issues since language could easily affect “informed judgment”. This feature is absent from H.B. No. 160.

26. The Washington law (RCW 70.245.140) addresses disposal of unused end-of-life drugs: "Any medication dispensed under this chapter that was not self-administered shall be disposed of by lawful means". H.B. No. 160 does not address disposal of unused drugs.

The Council may wish to consider sharing its perspective on the legislation with policymakers while including the above observations.

PERSONNEL COMMITTEE

The committee had nothing to report.

AD HOC COMMITTEES

There were no ad hoc committee reports or outside committee updates.

Terri announced visitors for the evening and advised members that copies of all letters and responses are available for viewing at the back of the room.

A **motion** was made **to adjourn** the meeting. The **motion** was **approved**. The meeting was adjourned at 8:34 p.m.

After adjourning Wendy reminded council that there will be no meeting in July or August and only committees will meet in September at their regular scheduled time.