

**GOVERNOR'S ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS (GACEC)
GENERAL MEMBERSHIP MEETING**

7:00P.M., 15, 2018

**George V. Massey Station, Second Floor Conference Room
516 West Loockerman Street, Dover, DE**

MINUTES

MEMBERS PRESENT: Nancy Cordrey, Cathy Cowin, Bill Doolittle, Karen Eller, Ann Fisher, Terri Hancharick, Tika Hartsock, Danna Levy, Mary Ann Mieczkowski, Bill O'Neill, Robert Overmiller, Jennifer Pulcinella, Brenné Shepperson, Laura Waterland

Staff present: Wendy Strauss, Executive Director; Kathie Cherry, Office Manager and Sybil Brown, Administrative Coordinator.

MEMBERS ABSENT: Dafne Carnright, Carma Carpenter, Lisa Gonzon, Thomas Keeton, Emmanuel Jenkins, Sonya Lawrence, Chris McIntyre, Karen McGloughlin, Carrie Melchisky, Beth Mineo, Howard Shiber, Deanna Tyree.

Guests Present: Dr. Dusty Blakey/Colonial School District (SD), Dr. Jon Cooper/Colonial SD, Kristin Capone/Physical Therapist, Caro Rose/SLP and Parent, Annette Mestern/ OT and Parent, Dawn Alexander/Colonial SD, Stacy Watkins/Division of Developmental Disabilities Services, Cindy Brown/DOE, Jamie Walko/Early Childhood Inclusion Committee (ECIC), Kim Brancato/ECIC, Tracy Neugebauer/DOE, Linda Smith/DOE, Marian Marzulli/public, Kim Rice/Applicant, Roger and Brett Levy/Family members of Danna Levy, Neil and Vanity Ray/public, Sue Campbell/DHSS, Kim Krzanowski/DHSS.

Vice Chair Terri Hancharick called the meeting to order at 7:05p.m.

GENERAL MEMBERSHIP MEETING

Terri asked for and received a **motion** to approve the May agenda. **Motion was approved.** Terri read several corrections to the minutes and then asked for and received a **motion** to approve the April minutes as amended. **Motion was approved.** Terri asked for and received a **motion** to approve the April financial report. **Motion was approved** to accept the financial report as submitted.

It was announced that the public comment would be held until after our guest presentation due to time constraints.

GUEST SPEAKER

Linda Smith and Tracy Neugebauer from the Department of Education presented on School Climate and Equity in IDEA. The PowerPoint is attached for your reference. During the presentation the following questions were asked and answered:

Regarding school climate survey results:

Define Significant. I will have to get back with you on what the exact definition is being applied to this data. I will speak to Dr. Bair (who facilitated the data collection) and get that information.

Regarding Student relations/student engagement data:

Is there any longitudinal data available? Data is available on the PBS website as a sample school report that includes 3 years. For the purpose of this presentation I only wanted to provide a “snapshot”.

Regarding the presentation in its entirety:

Is there any disaggregated data for students with disabilities? While that information is not reported on this survey, Linda stated that several years ago she gave a presentation on that data and there was in fact some significant differences regarding students with disabilities. *Any possibility of having an updated set of data run?* Linda will ask for that data run.

Can you tell if any of this data came specifically from city schools? Red Clay, Brandywine and Christina all participated. The survey is voluntary and about 155 schools participated, with the majority being elementary schools. Linda stated again that Dr. Bair's full presentation is available on the DOE website.

Regarding significant discrepancy and significant disproportionality:

Why is the “N” size different for each category on slide # 28? The “N” size was determined by a stakeholder group in the past. One group is comparing students with disabilities versus those without, while the other breaks that further down by race and ethnicity which leads to smaller data sets and requires the different “N” size.

How many LEAs did not meet the “N” size? 43 of the 49 LEA's did NOT meet the “N” size.

PUBLIC COMMENTS

Dr. Jon Cooper, Director of student services for Colonial School District. Dr. Cooper stated that he has dedicated part of his career working in early childhood education. He went on to dedicate his comments to a specific part of the issue. He believes that moving Part C services under DOE is the best way to fulfill Free Appropriate Public Education (FAPE) services under IDEA. DOE can work at the district level to address transition services issues that have been encountered during the last several years.

Annette Mestern, a pediatric occupational therapist, who has worked in early intervention since 2002. Ms. Mestern spoke briefly about her history from 2006 to 2017. She worked under the Child Development Watch (CDW) umbrella for Bayada Pediatrics. She has a lot of concerns about the lack of family centered care and the lack of family support during the transition from Part C to the district. She is also concerned that the CDW coordinator often did not include the therapist in the development of the Individualized Family Service Plan (IFSP). She stated that a lot of times it was

very difficult to contact the coordinator. The family and Therapist didn't often know about changes in coordinators. Families were often told that no occupational therapist (OT) was available when she herself had been available during that time. CDW would tell families that they could invite whoever they wanted to their meetings, but when families would invite her, CDW would state that they would not pay for her to be at the meetings. She was once told by a service coordinator if she attended it was out of the kindness of her heart. Permission was required to hold a meeting with the family together with the therapist and sometimes that was not approved. Collaboration was very difficult. Bayada provided recertification every three months and evaluation reports but according to school district those reports were not being shared with districts upon transition. Annette shared CDW technical assistance memo 1703c states that family service coordinators are responsible for scheduling a timely transition conference for each family at least 90 days prior to the child's 3rd birthday. She works for the district today and even now she sees outdated reports. Families were often not prepared for transition. If a child turns three during the summer, the parent may not know if the child is starting school in the fall and contacting the service coordinator was difficult. Speaking as a parent using CDW service she stated that she felt that the family services coordinator was not very helpful to her, in fact, she found resources from visiting with one of her families that would have been valuable to her as a parent had it been shared by her family service coordinator. Miss Mestern would like to see Part C services coordinated by DOE.

Marian Marzulli, works in early intervention under CDW. She previously worked for the school district in early intervention. She finds her experience under CDW to be vastly different. She agreed with all of the comments Anette shared. Typically when she gets an evaluation, it can be as much as a year old. She doesn't get any information about evaluations or other providers on the team. There is no system to communicate with other therapists. Families are told that all therapists are going to work together to reinforce skills, but she often has no idea who the other therapists are and has to track them down herself to try to collaborate. Special permission is required to co-treat or work with another student. Quite often she has students with physical disabilities and there are other issues she is not made aware of. She feels like it is confusing for families because we are saying we are all here as a team but clearly we are all working individually. There is no supervision by a coordinator. They are often not permitted to make goals. Instead the service coordinators are developing goals with families without the input of therapists. Often when goals are updated the therapists are not consulted about where the child is or is not making any progress. It seems how the family receives services depends on who the service coordinator is. She gave an example of a child with autism. Some coordinators are not comfortable working with this group and the child may go a year or more before receiving services and as we all know early intervention is key. She encourages investigation into moving Part C services to DOE to provide better coordination of services.

Cara Rose, a parent as well as an SLP spoke and shared that she had a very bad experience with CDW. She shared her story whereby it took her six months to get her daughter tested. She phoned back and her daughter was given the same test again instead of a different test. Miss Rose's comments were very heartfelt and passionate and became difficult to understand on the recording.

Kristin Capone, a pediatric Physical therapist who has worked for 20 years for the district and for the last five years part time for a provider that provides services under CDW. She finds that there are so many service providers that it is confusing for parents who receive paperwork from so many

different agencies. Therapists are not required to coordinate or collaborate. They really have to do their own research to find out who the other service providers are. When it is time to transition from Part C to Part B, documentation is being completed but the districts are not receiving the most up to date information. Therapists are not asked or encouraged by service coordinators to help develop or have input in development of the IFSP. As a part B provider, not receiving proper documentation makes it difficult to develop a plan for that student. She would encourage the Council to investigate the possibility of moving Part C under DOE to provide better coordination of services for students and families.

Neil Ray, a parent spoke from personal experience as well as professionally as a licensed clinical social worker. He shared that his daughter is receiving early intervention services. She began services in November of 2015. Once the services began there seemed to be no coordination between CDW and early childhood education (ECE) providers. The family was without ECE services until September because of provider availability. Their OT went out on maternity leave in February. No other therapist has been assigned and they have not heard from their family services coordinator. She is now only receiving physical therapy (PT). There has been infrequent communication between the family and family service coordinator. There has been a lack of sharing of resources and referrals like the Parents as Teachers program that would be valuable to the family. The family received an initial “packet” of information that has not proven helpful. Given the rapid brain development of children during the early years it is imperative that all staff and service providers who work with infants and toddlers with special needs be held to rigorous standards. It is unacceptable that DHSS leaders and the staff they oversee at CDW do not hold early childhood education or special education degrees and or certification. The expertise in this area lies within DOE and therefore these services should be housed within DOE. Mr. Ray’s wife, Vanity is also a human services professional but did not speak during the Public Comment Period.

Dr. Dusty Blakey, Superintendent of Colonial School District shared that if we can identify needs and we see needs then it is incumbent on us to fix them. If our goal is to have all students in the State have equal access to education we need to address that. Part of the statute for Part C talks about identifying and evaluating the needs of all children including minority, inter-city and children in foster care. Many times those families do not have access to the information shared here. If DOE received a Determination Letter of ‘needs assistance’ for the past two years as Part C has, there would be consequences. There are other states out there that are doing things differently and meeting the needs of students. It is incumbent on us to work smarter and not harder to ensure the education of all students.

Bill O’Neill questioned whether or not these concerns have been brought to the attention of DHSS. Dawn Alexander replied yes. He also asked if DOE is aware that these individuals want them to pick up another job. Dusty Blakey replied yes. Terri thanked everyone for their comments.

DIRECTOR’S REPORT/ CHAIR REPORT

Wendy shared that the musical, Boundless is well on its way. She has received a sample of the original music and it is fabulous. We have been working for four years on the Advance Scholarship legislation and it has passed the House education committee and the full House as well as the

Senate Education Committee. Hopefully in the next couple of weeks it will advance. Wendy shared that at the Kids Caucus she learned that Dr. Diane Treadwell from Texas is developing with Nemours the Swank Autism Center whose goals are to improve access to diagnoses and treatment and utilize evidence based practices and support research. Also, they will work to increase advocacy and participate in the education of professionals. They are working with the Center for Disabilities Studies (CDS) and the Interagency Committee on Autism (ICA). Wendy received an update on the speech/language pathology (SLP) program at the University of Delaware. We will be making a visit on May 31 if anyone wants to join. They are graduating the first cohort of students. 29 students are waiting to start the program in August. 10 of the 26 graduating students have already taken and passed the national exam and three of them have interviewed and accepted positions in the districts. Ann asked if the program is accredited yet. Wendy did not ask her contact that question but will follow up when they meet in May. Karen asked if they anticipate additional students going to work in the districts. Wendy said they would follow up with Jackie at the meeting. Terri shared that Christiana Care is starting a Cerebral Palsy clinic for adults. In September Dr. Miller from AI DuPont (retired) is coming on board. She will have additional information on the program after a meeting on Thursday.

COMMITTEE REPORTS

ADULT TRANSITION SERVICES

Committee member Terri Hancharick presented in the absence of both the Chair and Vice Chair of the committee. Terri shared that Stacy Watkins from DDDS presented on the Lifespan Waiver. Terri felt that information was informative and thanked Stacy for attending and presenting.

CHILDREN AND YOUTH

Committee Chair Bill Doolittle reported that the group met to review their annual goals. They also discussed proposed legislation that was discussed in Policy and Law. The committee would like to follow up with DOE regarding earlier requested data. Staff will follow up. The committee supports the Infant and Early Childhood recommendation regarding the discussion on the possible move of Part C services.

INFANT AND EARLY CHILDHOOD

Ann reported that the group met with Cindy Brown to discuss inclusion in early childhood and providing services in the least restrictive environment as well as providing a full continuum of alternative placements. The committee would like Council to look at recommendations from the Early Childhood Task Force and see how to move this work forward. They will contact Kim Krzanowski to discuss what this will look like and how it can be supported. The committee also recommends Council send a letter to Governor Carney recommending the creation of a unified seamless delivery of services from birth to age 21 by moving Part C from DHSS to DOE. Wendy

added that she received three additional letters with similar comments and the same suggestions. Finally Bill inquired whether there was a set timeline for this to occur. Ann replied that there was nothing set in stone and they would expect this would be a thoughtful process and there would be no “jumping out of the frying pan into the fire”. Guest Dawn Alexander interjected that the Infant/Early Childhood committee spoke last month that the process would likely take 12-18 months. Bill asked Ann to read the request again and she obliged. When he stated his concern that we should not appear to be dictating that Governor to do something, Ann stated that this would not be the actual wording of the letter. The expectation was that staff would wordsmith the letter. Wendy shared that this could be tweaked based on the outcome of a meeting with representatives from Part C that is scheduled for this Thursday. There may still be a letter but it could be substantially different depending on the results of that meeting. Robert Overmiller interjected that the letter needs to go out to Council for approval prior to sending it out. A **motion** was made to send a letter. The motion passed. Bill Doolittle made a motion to allow staff to send a letter consistent with the intent of the Council with approval by the chair. When Bill O’Neill questioned whether the letter would need to go to the Executive Committee, Wendy shared that this is not how things have been done in the past. Robert stated that he thought it should go through the executive committee because of the amount of discussion on the issue. Bill Doolittle withdrew his motion and a **motion** was made to write the letter and get final approval from the Executive Committee. The **motion** was seconded and **approved**.

POLICY AND LAW

Bill O’Neill shared that the Policy and Law committee makes a **motion** to accept the comments made by Laura Waterland of the Disabilities Law Program as written and as made available by email. The **motion was approved**. Laura briefly shared information from the memo.

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

Proposed DDOE School Resource Officer Training, 21 Del. Register of Regulations 851 [May 1, 2018].

DDOE has proposed regulations to implement House Bill No. 142 (12 Del. Code 4112F (d)(1) regarding training for School Resource Officers (SROs). HB 142’s effective date is 7/1/2018. The legislation is an attempt to improve training of SROs to prepare them for their interactions with students with disabilities. This will hopefully lead to better interactions within the school and help address the trend toward criminalization of student behavior that can often be a manifestation of disability (the school to prison pipeline).

The proposed language regurgitates the language in the statute and does not add to or expound upon the content of any required training. The rationale given is that the statute is “prescriptive.” The regulation requires, in general terms:

1. Annual “awareness level training” of SROs:
 - a. Consistent with what is required of other school personnel of disabilities

- awareness and behaviors;
 - b. [including] best practices for de-escalation techniques;
 - c. [including] information on intervention decisions and techniques;
 - d. [including] such other training as is necessary to protect health and safety of students which shall include “basic awareness training” specific to IEPs, FBAs and Behavior support plans.
2. The SRO is required to participate in annual state police or equivalent SRO training or equivalent training provided by policy agency employing SRO.
 3. The training is to include a cross reference to the duties and responsibilities of SROs highlighted in the respective MOU between district and police agency.
 4. At the beginning of each school year or within 30 days after the “first student day of school,” the SRO will meet with school representative of the assigned building to become familiarized with behaviors related to disabilities that may occur in the school and typical responsive actions.

It is unclear the degree to which the DDOE collaborated with GACEC, as required by statute. GACEC submitted comments to a draft form of the regulations. The response was attached to the legal memo. The legislation contemplates the issuance of regulations, in coordination with GACEC, which among other things covers “other training as is necessary to protect the health and well-being of students with disabilities *as promulgated in implementing regulation.*” §4112F(d)(1)(d). The regulations do not have to be limited to rehashing what the statute requires; however DDOE appears unwilling to deviate from the express statutory language in these draft regulations in order to flesh out training requirements. Furthermore, DDOE is giving complete discretion regarding training requirements and content to the districts and charter schools. This would appear to be an area where there should be uniformity in training. The knowledge base of SROs should not vary from school to school or district to district. All SROs should have the benefit of robust training in how to interact with students with disabilities.

GACEC and others may wish to flesh out some of the other trainings that are necessary to protect health and safety, such as hands on training in appropriate de-escalation techniques and restraints and also require more specificity regarding timelines and content. Council may wish to consider asking for additional details to be added to the regulations, such as:

1. Adding a durational requirement; the disability-specific training should be at least eight hours, perhaps. DDOE’s response to this request in preliminary comments was that it is up to the districts and charter schools to determine how much training to provide. The regulation ties the training to what is required for other personnel for “disability awareness and behaviors” in the school. However, there is no reference to any standard describing what that training (disability awareness and behaviors) actually entails.
2. Fleshing out what “awareness level training” means. The committee believes this is a “term of art” in first responder training; it would be helpful to know what it actually means. Does

“awareness” mean basic familiarity or working knowledge? The DDOE indicates that “awareness level training” is described in the statute. This is circular reasoning, and some sort of qualitative standard or definition of “awareness” should be included in the regulation.

3. Require that SROs be updated not only at the beginning of the year but also when new students with IEPs start school throughout the year or when IEPs change throughout the year and the changes are relevant to behavioral interventions. (9.3) Because §4112F(d)(1)(d) requires basic awareness training specific to IEPs, functional behavior assessments and Behavior Plans, any time a new student arrives or their IEP changes, SROs should be informed so that they can safely and appropriately respond to any new challenges.

Proposed Regulation DHSS Long Term Care Medicaid Application Methods, 21 Del. Register of Regulations 860 [May 1, 2018].

DMMA is proposing to bring Section 20103 of the Del. Admin. Code into compliance with the Affordable Care Act. The proposed rule allows “someone acting responsibly” to apply for long term care Medicaid on behalf of an applicant who is either a minor or incapacitated. Applications can also be filed by the applicant, or by someone in the applicant’s household or family, as defined by code. Additionally, the proposed regulation eliminates the requirement for an in person interview, and, consistent with the Affordable Care Act, requires the acceptance of applications by electronic means, telephone, the mail or in person.

DMMA is obligated to amend current regulations to reflect the simplification of the application process mandated by the ACA. The requirement of an in –person interview, in particular, was unduly burdensome. Frequently, due to circumstances, applicants need other people to file applications for them. The new regulation reflects this reality. The only potential concern is the term “someone acting responsibly.” This term is not defined in the Delaware regulations though it appears other places in the federal regulations. It may make sense to link the term to the surrogacy statute or to otherwise limit it. Otherwise, nursing homes and other facilities that have a conflict of interest with the applicant may feel empowered to file applications on behalf of residents or patients in circumstances where it might be against earlier expressed wishes or their best interest. Occasionally, people opt not to apply for LTC Medicaid because of the estate recovery provisions or for other reasons.

The committee recommends that the Council consider endorsing the regulation with the recommendation that the term “someone acting responsibly” be defined to exclude individuals or entities who have a conflict of interest or at least require that any entity or individual acting as “someone acting responsibly” has an obligation to act in the best interest of the applicant. The text of the regulation also needs to be corrected to add a correct citation for the definition of family. The committee also suggests adding the full CFR citation for the definition of household.

DMMA Proposed Amendment to 1115 Waiver to include Institutions for Mental Disease (IMD). 21 Del. Register of Regulations 917 [May 1, 2018].

Recent changes in CMS managed care regulations limit IMD stays to 15 days in a month. DMMA believes that this restriction will negatively impact treatment options, especially for substance abuse

disorders (“SUD”). CMS has now invited states to receive Section 1115 waiver authority to include IMD settings as Medicaid-covered settings for SUD treatment. DMMA has published this Notice that it intends to apply for such a waiver. The proposed amendment can be found:

http://dhss.delaware.gov/dhss/dmma/files/dshp1115wavier_draft_sud_amendment.pdf.

Inpatient treatment for SUD is an important element in the state’s overall strategy to address the addiction epidemic in Delaware. It will also allow Delaware to continue to leverage federal Medicaid dollars as it addresses this serious public health issue. The Council should consider endorsing this amendment.

DMMA Proposed DSHP Section 1115 Demonstration Waiver Extension Application Request, 21 Del. Register of Regulations 917 [May 1, 2018].

DMMA has issued a notice that it is filing for a five year extension of the Diamond State Health Plan (DSHP). DSHP includes mandatory managed care enrollment for all categorically eligible individuals, the Medicaid expansion population, DSHP+ long term services and supports and the Promise Program. According to the notice, DMMA is proposing no changes to the benefits covered or the groups covered (although the waiver was recently amended to include out of state former foster care youth). Likewise, DMMA is not proposing to alter the delivery system, which is primarily managed care, with FFS carve outs for children’s dental and non-emergency transportation. The waiver was recently amended to include DDDS Lifespan Waiver enrollees in Managed Care, and as mentioned above, an amendment is proposed to include SUD services at IMDs.

The draft is noteworthy in that it references an interim evaluation that shows general success, but that additional efforts may be needed with respect to the PROMISE program and coordination of care for dual eligibles. These conclusions were based on 2016 and 2107 assessments. The Council may wish to follow up with requests for more information on how DMMA will address deficiencies in these areas.

The Council may wish to ask DMMA to increase thresholds for some services. Limits on home modifications under DSHP+ come to mind. Currently, this benefit is limited to \$6000 per project, \$10,000 per year, with a \$20,000 lifetime limit. Additionally, stair lifts and elevators are specifically excluded. These limits should be increased to reflect the actual cost of common modifications as well as increasing costs over time. Additionally, some mechanism should be added to cover stair lifts (which do not improve the value of a home or make it more usable to others) in certain circumstances. Particularly in older, urban homes, stair lifts may be the only way to create accessibility and a viable community placement for an individual.

Pending Bills

House Substitute 1 for House Concurrent Resolution 34 Task Force to Investigate Cost of Special Education

This bill creates a task force to define the reasons behind the “dramatic” recent rise in special education and funding, study the issues related to funding, recommend strategies to reduce costs (the savings from which will be reinvested in special education, yet this will somehow reduce costs) and study and recommend standards and oversight to ensure that programs and services are

delivered in a cost effective manner. The Task Force includes many representatives from the DDOE and school administration, four at large members appointed by legislators, one Governor's appointee, a representative from the teacher's union, three parents, a representative from GACEC and a representative from the Special Education Strategic Advisory Council.

It is worth noting that the percentage of students in Delaware with IEPs is around 15%, which is entirely consistent with national averages. (See document from U.S. DOE). Special education services cost more than traditional services; special education services will continue to represent a fairly large piece of any education budget. The increase nationally and in Delaware of children with special education needs is a complex issue that may be beyond the capacity of this Task Force; they may wish to involve representatives from the Division of Public Health (DPH) and other state agencies to gain a better understanding of Delaware's demographics and health trends.

Senate Bill 172 School Funding Transparency

This bill requires DDOE to develop a standardized statewide approach to the collection of data related to per pupil expenditures. The bill then requires DDOE to report per pupil expenditures at the school level on online individual school report cards, and on downloadable statewide data files that allow individuals to draw comparisons between schools. These reports also include other information such as average teacher salaries, demographics such as rates of English learners, students living in poverty and numbers of special education students.

The DDOE is required to include community involvement in developing standardized approaches and must hold at least three public meetings. They are obligated to include a broad range of advocates and interested stakeholders, including a representative of the teacher's union and of the GACEC. (Per Senate Amendment 1).

The stated goal of the statewide standardization of data collection and the reporting requirements is to force the DDOE to report this information at the school level in a public manner. With this information, the goal is to ascertain which schools are getting more or less support, to ensure funding to schools according to need and to learn ways to allocate resources more effectively.

The Council should consider endorsing this legislation in order that the public and more importantly decision-makers will have the data needed to fund Delaware's schools in a fair manner and address inequities in funding at specific schools that have led to disparate outcomes for students of color, English learners and students living in poverty.

House Bill 374, with House Amendment 1 - Additions to Debilitating Conditions/ Medical Marijuana

This bill in original form adds glaucoma and chronic debilitating migraines to the list of conditions eligible for participation in the medical marijuana program. The original bill also included pediatric autism spectrum disorder and pediatric sensory processing disorder, but these conditions were removed by amendment on 4/27/2018. There is a trend nationally to include autism spectrum disorder (ASD) to the list of debilitating conditions for medical marijuana, and there are a number of clinical trials being performed to study efficacy. (See article) The Council should consider

endorsing this bill with the observation that it may be appropriate to add ASD as a debilitating condition appropriate in certain cases, as results from these studies emerge.

House Bill 401- Exempting FDA approved medications from Controlled Substances Schedule

House Bill 401 seeks to exempt federally lawful FDA approved marijuana containing products from Schedule I of the state Controlled Substances Act. This is being proposed in anticipation of FDA approval of drugs using cannabidiol in the treatment of certain pediatric seizure disorders. Taking such medications off Schedule I will hasten access to the medications once approved and available. This will also assist in access to other similar medications that may be approved in the future. The Council should consider endorsing this measure to improve access to effective treatments for serious pediatric seizure disorders.

House Substitute 1 for House Bill 344- Availability of Alternate Achievement Diploma in Department of Corrections (DOC) Educational Programs

The Council reviewed House Bill 344 which addresses DOC educational programs. House Substitute 1 amendments updated the language related to the terminology (Diploma of Alternate Achievement Standards) and also added language to clarify that the Diploma will be made available as an option for inmates who have been court ordered to compulsory education. These were concerns raised by the Councils last month.

House Bill 398- DOE Regulatory Authority for DOC Education Program

HB 398 is a companion to HB 344, which empowers the DDOE to issue regulations related to the Prison Education Program. The Council should consider endorsing this provision as it is clear that the program could benefit from regulations.

House Bill 352- Child Care Provider Administration of Medication

HB 352 authorizes licensed child care providers who have undergone medication training programs to administer non-intravenous injections with the permission of the parent or guardian. This bill furthers the goals of the regulations reviewed at last month's meetings related to medical accommodations in child care facilities and homes. Children with chronic illnesses such as diabetes and seizure disorders will benefit from this change. The change also reflects the growing understanding that properly trained lay personnel are capable of administering routine medications, which will allow easier and fuller access to community life for children and adults with disabilities. The Council should consider endorsing this bill.

House Bill 406- Allowing Small Employers to buy Stop Loss Insurance

This bill allows insurance companies to sell to "stop loss" insurance plans to employers who self-fund their health insurance programs (instead of purchasing health insurance) if the employer have at least five employees, the majority of whom are employed within the State at least half of the time. Under current law, "stop loss" plans can only be sold to employers with at least 15

employees. Thus, the law would expand the availability of “stop loss” insurance to employers with between five and 14 employees.

Some large employers and, increasingly, some smaller employers, choose to self-fund their health coverage. In so doing, the employer pays the healthcare costs of its employees directly (or through a management company). Because self-funded health insurance plans can create large expenses for the employers if there is high usage or high-cost expenditures (e.g., everyone gets the flu in the same month or an employee needs an organ transplant), there are “stop loss” insurance policies that limit the amount that an employer will need to pay out of pocket to cover healthcare costs.

Allowing smaller employers to purchase stop-loss insurance will make it easier for them to self-fund their health insurance instead of taking part in the larger health insurance market. For an employer, there are several potential benefits. First, it allows them to offer less costly health coverage to their employees by limiting what the insurance covers. Self-funded health insurance plans do not have to offer the Essential Health Benefits and thus may provide coverage for fewer healthcare services than traditional plans. Younger, healthier employees may be incentivized to self-fund their health insurance to save money. This puts additional pressure on the traditional health insurance market by removing young, healthy people and making the rest of the market, for lack of a better term, older and sicker. This drives up insurance premiums for everyone in the traditional market. It can destabilize the Affordable Care Act Marketplace.

Actions that encourage additional employers to self-fund their health insurance put pressure on the traditional insurance markets by potentially pulling out the younger, healthier people into the self-funded programs. This can raise premiums and deductibles and effectively cause healthcare to become unaffordable even for those who can theoretically afford insurance. It can destabilize the Affordable Care Act Marketplace.

Moreover, because employers can limit coverage for services in ways that they cannot with traditional plans, persons with disabilities (who are statistically more likely to be high utilizers of healthcare) may be discouraged from working at employers with self-funded health insurance plans because vital services may not be covered. This may keep persons with disabilities out of the workplace and serve as a de facto barrier to employment. Alternatively, individuals may only be able to find work with smaller employers, and accept inferior insurance protections and coverage in order to take the work.

Because of the potential effects on the insurance system, and because of the potential employment effects if more and more employers self-fund their health insurance, the Council may wish to comment on this bill.

House Bill 400- Election Day Voter Registration

This bill allows voter registration up to the day of election by applying and presenting adequate identification at the polling place. Currently, the deadline for registration is the fourth Saturday prior to the election. This bill will make it easier for voters to register and/or change their polling place due to change of address, and will lead to greater public participation in the voting process, including among voters with disabilities, who disproportionately do not vote in elections. The use of up to date electronic registration data by the Department of Elections will eliminate any risk of

fraud. The Council should consider endorsing this legislation, which will provide greater access to the voting process for all voters.

MEMBERSHIP COMMITTEE

Nothing to report at this time.

PERSONNEL COMMITTEE

Nothing to report at this time.

OUTSIDE COMMITTEE UPDATES

Letters and responses may be found in the binder at the front of the room.

A motion was made and approved to adjourn the meeting. The meeting was adjourned at **9:15 pm.**