

Division of Developmental Disabilities Services (DDDS) Task Force

Regulations Subcommittee

Meeting Minutes – December 20, 2019

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Senator Anthony N. Delcollo, Chair, called the meeting to order at 10:00am. Subcommittee members present were Marissa Band, Lowell Thomas, Melinda South, Terry Olson, Thomas Cook and David Paige.

James Dickinson, Sandra Hale and Gabriela Kejner from DDDS were present, as was Deputy Attorney General Lauren Maguire.

Attending by telephone were Libby Cusack, Kyle Hodges, Debra Miller and Donnia Melton.

David Burris and Conner Dunleavy of the Senate Minority Caucus were also present.

Chair Anthony Delcollo greeted the committee and led introductions. A motion to approve the minutes from December 2, 2019 was made by member Marissa Band, and seconded by member Debra Miller. Minutes from the December 2, 2019 meeting were approved without objection.

Chair Delcollo led the committee in a discussion about the state and federal requirements for regulations in the affected areas of policy. Senator Delcollo offered a brief review of the discussion from the first committee meeting about the framework of regulation, the source of regulatory authority and about the need to balance predictability for providers with safety and security for those receiving care.

Sandra Hale was identified as the committee's representative from DDDS.

Jim Dickinson offered DDDS' perspective on some history of the regulatory process around the abuse and neglect issues being discussed by the committee.

Chair Delcollo led a discussion on the intent of the committee to review the flow of regulatory authority from CMS through the enabling statute through the PM-46 in an attempt to capture the guidelines and requirements that would affect the pending regulation. Additional discussion ensued about the difference between a policy, a regulation and a law, as it pertains to oversight in this area.

Member Thomas Cook offered a similar history from the perspective of the provider community.

A question arose as to whether the regulation approach was the best approach, and whether the intent of moving from a policy approach toward a regulation approach is the correct decision.

A review and discussion took place concerning the CMS waiver process and requirements, including the 3-state OIG report.

Committee members discussed the role of investigations, the processes involved, and the information flow toward providers and families. Member L.J. Thomas and Thomas Cook expressed frustration on the part of providers about investigations and communication.

Jim Dickinson offered DDDS' perspective on these issues, and additional discussion ensued about specific policies and procedures covering investigations. Subsequent discussion centered around timelines for investigation, and proposed changes to those timelines.

A motion was made by Thomas Cook that the subcommittee approve a recommendation to the full committee that DDDS should move from a policy-based approach to a regulations-based approach. The motion was seconded and approved unanimously.

The next meeting was tentatively planned for January 10, 2020, beginning at 10am and ending no later than 12:30pm. Room location to be announced.

No public comment was offered.

The meeting concluded at 11:50am.

Minutes prepared by:

David Burris, Chief of Staff, Delaware Senate Minority Caucus

Access to a limited audio recording of this proceeding is available upon request.