

SCPD POLICY AND LAW COMMITTEE MEETING MINUTES
January 16, 2020
Smyrna State Service Center Conference Room, Smyrna

Members Present: Marge Turner, Co-Chair; Gene Aucott, Easter Seals; Kathie Cherry, GACEC; Moni Edgar, UCP-CAP; Terri Hancharick, EPIC/Parent; Kristy Handley, BIAD; Kristin Harvey, DDC; Laura Waterland, DLP; Todd Webb, Chair/SCPD; Kyle Hodges, Staff and Jo Singles, Support Staff.

CALL TO ORDER

Marge called the meeting to order at 1:37 pm. Introductions were made.

ADDITIONS OR DELETIONS TO THE AGENDA

None

APPROVAL OF MINUTES

The December 12th minutes were reviewed. Kathie made a motion that the minutes be approved as submitted. Moni seconded the motion. The minutes were approved as submitted, with no one abstaining or opposing.

REVIEW OF REGULATIONS

Laura reviewed the January, 2020 DLP Analysis (handout).

Proposed Regulations

1. Proposed DDOE Regulations 614 Uniform Definitions for Student Conduct Which May Result in Alternative Placement or Expulsion, 23. Del. Register of Regulations 507 (January 1, 2020) – No action taken.
2. Proposed DHSS/DMMA Regulation Regarding Non-Emergency Medical Transportation, 23 Del. Register of Regulations 519 (January 1, 2020) – Laura made a motion that the Council support this regulation and encourage other efforts to expand transportation services. Kathie seconded the motion. The motion was approved with no one opposing or abstaining.
3. Proposed DHSS/DMMA Regulation Regarding Adult Dental Services, 23 Del. Register of Regulations 523 (January 1, 2020) – Laura made a motion that the Council endorse this Medicaid State Plan Amendment. Kristin Harvey seconded the motion. The motion was approved with no one opposing or abstaining. Kyle stated that Steve is attending the January 27th SCPD meeting regarding an update and possible delay in implementation. There was some discussion if reimbursement rates were an issue in securing providers.
4. Proposed DHSS/DMMA regulation related to LTC Community Spouses. 23 Del. Register of Regulations 526 (January 1, 2020) – Laura initially made a motion that the Council not take a

position. After discussion, Laura made another motion to endorse the regulation. Moni seconded the motion. The motion was approved with no one opposing or abstaining.

5. Proposed DHSS/DMMA Regulation on Delaware Healthy Children’s Program State Plan, 23 Del. Register of Regulations 528 (January 1, 2020) – Laura made a motion that the Council oppose the regulation as currently written and provide the observations and recommendations consistent with the DLP memo. Motion was seconded by Todd. The motion was approved with no one opposing or abstaining.

The poverty unit at CLASI will be evaluating DSS proposed regulations related to child care (23 Delaware Regulations 531 and 539). These analyses will be shared when available. Kyle will copy the Executive Committee when received.

Proposed Legislation

1. H.B. 201, AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE STATEWIDE PROGRAM FOR SERVICES FOR STUDENTS WITH AUTISM SPECTRUM DISORDER. (June 11, 2019) – Laura made a motion that the Council support this proposed legislation but look into feasibility of using this approach for the Delaware School for the Deaf and the Division for the Visually Impaired. Gene seconded the motion. The motion was approved with no one opposing or abstaining.
2. HB 259, AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO COLLEGE SAVINGS AND “ABLE” SAVINGS ACCOUNTS – Laura made a motion that the Council support the proposed bill because it would provide more incentive to Delaware taxpayers to create ABLE Accounts which would be beneficial to disabled Delawareans. Gene seconded the motion. The motion was approved with no one opposing or abstaining.
3. HB 236, AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO LIMITATIONS ON USE OF SECLUSION AND RESTRAINT – Laura made a motion that the Council stay neutral but provide observations listed in the DLP Analysis. Terri seconded the motion. The motion was approved with no one opposing or abstaining.
4. SB 177- AN ACT TO AMEND TITLE 21 RELATING TO SUSPENSION OF DRIVERS LICENSES FOR SCHOOL EXPULSION – Laura made a motion to endorse this legislation. Terri seconded the motion. Motion was carried with no one opposing or abstaining.

Other Legislation

Kyle reviewed a legislative update handout: Status After Meeting with Senator Poore and Representative Longhurst (1/8/20). The following proposed legislative initiatives were included in the update:

- SCPD/Commission Merger – Senator Poore/Representative will sponsor. Bill will start in the Senate. There was discussion regarding having the ADA Coordinator on SCPD. There was discussion about some of the essential functions that are required for jobs that have nothing to do with the job, for example, having a driver’s license. These are barriers to employment opportunities. Kyle noted that a DHR representative sits on the

Employment First Oversight Commission. Todd spoke about State employees not being mandated to have training regarding working with employees with disabilities despite a great need for this. Kyle stated that legislation could be drafted to push the training issue without them being represented on the Council. He noted that it may not happen this year. Kyle stated that another option is to get DHR/ADA Coordinator involved in this Committee.

- Remote Access in Open Meetings - Senator Poore/Representative will sponsor. Bill will start in the Senate and forwarded to the Senate Attorneys.
- Registration of Interpreters for the Deaf & Hard of Hearing and Deaf-Blind – Agreed that we need to start the conversation with possible introduction of the bill but concerned that Delaware does not have enough interpreters. Want SCPD to discuss with Representative Quinn Johnson. Kyle will be meeting with a group downstate (Deaf Delawareans of Sussex County). He added that they sent constructive, well-written comments. He noted that currently there are no mandatory qualification requirements. Kyle will send the comments from the Deaf Delawareans of Sussex County and a copy of the draft interpreter bill to Laura.
- Persons with Disabilities Employment Protections – This needs to be revamped or removed. Suggested that Representative Kendra Johnson be solicited for sponsorship. Kyle will be meeting with her. He will discuss draft legislation with a legislative attorney if Representative Johnson is interested in sponsoring. Laura noted that her office is reviewing the Reasonable Accommodation statute. Laura will let Kyle know if DLP is interested in drafting legislation. Kyle suggested saying follow the requirements of ADA but does not know if this can be done. There was discussion about the Human Relations Commission. The process is much easier through the Equal Accommodations statute.
- 14c Certificates in Delaware – Aware of this issue and Representative Heffernan's interest. Summarized the December 11 meeting held with providers, AND, DLP, SCPD, DVR and DDDS. The next meeting is scheduled for February 14th. They are trying to develop a plan and timeline if this does take place. There may be costs involved, but DVR may have available funding. Terri added that there may be federal money available. DDDS may bring in a consultant that has done this type of work. There was discussion about more community education that needs to happen. Laura noted that this was a progressive program in 1938. Hope to reach common ground. At some point, parents need to be at the table to help alleviate some of the fear. Gene commented that it makes it difficult for his agency to bring employment partners on board, but they would not support subminimum wage. Kyle said that eliminating subminimum wage is happening on a federal level and we need to be prepared. Gene spoke about the pressure of minimum wage on the horizon and organizations like his are starving for employees.
- Medical Aid in Dying – Know SCPD's opposition to this bill. Both GACEC and DDC voted not to vote. The DLP did not vote because they have constituents on both sides.
- Helmet Bill – Are not interested in being involved in this legislation if introduced. Kyle noted that there were two sponsors last year and got the sense that it would not be supported. Marge added that this legislation is not supported in the general public. Kyle commented that the Brain Injury Committee will have further discussions on this legislation. There are strong lobbying groups that oppose this legislation. Kyle stated that SCPD will support this legislation but will not approach certain people about it.
- Training for People Providing Services for Individuals with Brain Injuries – Not Discussed. Kyle stated that we are working with BIAD on this issue because people who work with people with brain injuries do not have the correct training. Representative

Heffernan is interested in this legislation. Kristy added that she spoke to someone in the Governor's Office and they are interested and want to be kept updated. Marge spoke about the lack of services in Delaware. She has made referrals to BIAD and nothing happens. Kristy explained that resources are lacking in Delaware and BIAD is giving people the resources that they have. Marge commented that the resources are not available for children with Autism or TBI. She added that Delaware does not have a lot of supports for all types of disabilities. They receive minimum basics to get them halfway through their life and then get dropped. Kristy spoke about the lack of representation on any of the brain injury committees in Washington, DC. She has asked two of the three legislators to consider being on a committee, but nothing has happened. We need representation in order to get resources here in Delaware. There was no response from Senator Coons. Terri recommending speaking with Jim Paoli (State Director for Senator Coons) who has a son with a disability. Marge spoke about domestic violence and traumatic brain injury. Kristy commented that she plans to meet with a domestic violence group tomorrow to discuss mutual issues.

OTHER BUSINESS

Kyle referred to handout on Federal Register/Vol. 84. No. 241 (December 16, 2019) Department of Transportation – Action Petition for rulemaking: request for public comments. Summary: FMCSA request public comments on the National Association of the Deaf's (NAD's) petition for rulemaking to rescind the requirement for interstate drivers of commercial motor vehicle to be able to hear. NAD also requests that FMCSA (Federal Motor Carrier Safety Administration). amend the requirement that interstate drivers be able to speak, and the rule prohibiting the use of interrupters during the administration of the commercial driver's license skill test. Comments must be submitted by February 14, 2020. Laura stated that Stefanie/DLP will be addressing this and Laura will forward her comments to Kyle. Kyle stated that SCPD would be endorsing this regulation and will follow-up by using DLP's comments.

Kyle spoke about asking DLP to review Social Security Administration's proposed rules regarding the frequency and notice of continuing disability reviews, which could negatively impact people with disabilities. Laura will be providing comments.

Laura spoke about the issues that the DLP is seeing around mental health. They are seeing long waiting lists, people being discharged without needed services, some cannot get into nursing homes with mental health complex problems. Some people are living for months at Wilmington or Christiana Hospitals. They are trying to get into a State facility (through DSAAPD--DHCI or Governor Bacon) or into a group home through DSAMH or DDDS and cannot. Laura said this is a huge complex problem. Terri commented that this is happening across the state at Bayhealth and Nanticoke Hospital. Laura is planning to reach out to St. Francis or Bayhealth if their social work department can identify some people who are stuck in the hospitals. Laura added that an acute hospital is the most restrictive environment there is, less healthy and taking a bed for someone who needs it and is a huge waste of resources. Marge added that the nursing homes will turn people down who do not have Long Term Care Medicaid because there are no resources of payment. Kristy spoke about a young man in a wheelchair who cannot get into a mental health facility. Laura is aware of this case and the DLP is working on it. Laura added that private nursing homes discriminate against people with disabilities all the time. She would like to get the right case to pursue. Laura added that DHSS oversees the State facilities and

Health Care Licensing oversees the nursing homes. Laura spoke about the DHCI enabling statute that they do not have to take people with a mental health diagnosis. Laura said that there could be legislation that claims you cannot discriminate against someone with mental health issues. Kyle stated that we could bring this to the attention of the appropriate people. There is a huge waiting list and limited supports. DDDS is not willing to provide assistance to anyone over 18. DDDS only helps with respite services for those under 18. Laura said the people's lives are complex and family situations are complicated. DOE seems to work across agencies to get assistance for children. Marge spoke about not getting people to the table to discuss the issues. Laura added that people are unaware and do not know how to get services. Laura would like referrals. Kyle offered to facilitate a meeting with Secretary Walker and said the time might be now with the DHSS Reorganization discussions.

Todd spoke about Representative Mike Smith introducing legislation (HCR 69) to record and stream all legislative proceedings, have them archives and accessible. He has a House Concurrent Resolution which directs the Office of Research, Office of Management & Budget and DTI to cooperate and conduct a detailed plan to implement General Assembly streaming. Todd wants them to address closed captioning or real-time captioning. Also, if an interpreter is requested to comply with the request. The cost for these services needed to be included in the total cost. He said it is important for us to quickly comment on this. Todd made a motion that we comment on ensuring that closed captioning is included in the cost for streaming. Gene seconded the motion. The motion was carried with no one opposing or abstaining. Todd will work with Kyle to get our comments out.

Kyle spoke about SB 202, which clarifies that a person with a special license plate or placard may park for an unlimited period where otherwise the length of time is limited. They must be able to park in a metered parking space for at least one hour. This is a violation of Equal Accommodations Law. This is a heads up. Kyle will ask Laura to review this legislation.

Kyle spoke about SB 203 Children with disabilities that are home schooled are eligible to receive speech pathology and audio services in the same manner as those who attend private school.

Laura spoke about HB 263, which requires that individual, group, and State employee insurance plans cap the amount an individual must pay for insulin prescriptions at \$100 a month and must include at least 1 formulation of insulin on the lowest tier of the drug formulary developed and maintained by the carrier, capping price of insulin and required one formulary of insulin. Kyle will review this legislation.

Laura spoke about HB 265, which exempts county property taxes and local school taxes for a disabled veteran with a 100% VA rated service-connected, permanent and total disability or for a disabled veteran who is receiving 100% disability compensation due to individual unemployability.

ANNOUNCEMENTS

None

PUBLIC COMMENT

None

ADJOURNMENT

The meeting adjourned at 3:43 pm.

Respectfully submitted,

Jo Singles
Support Staff
policy & law/min 1-16-20