



State of Connecticut
Department of Developmental Services

DDS

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Governor

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Commissioner

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Deputy Commissioner

**TESTIMONY OF THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
TO THE
PUBLIC HEALTH COMMITTEE
March 12, 2008**

Senator Handley, Representative Sayers and members of the Public Health Committee. I am Peter O'Meara, Commissioner of Developmental Services (DDS), formerly DMR. Thank you for the opportunity to testify on DDS's agency proposals (HB 5630, HB 5541 and SB 242) and other related bills (HB 5666 and SB 575).

HB 5630 An Act Promoting Consistency Among Peer Review Proceedings:

This bill makes the Independent Mortality Review Board (IMRB) process consistent with that of peer review provision established in CGS 19a-17b for medical review teams and confidentiality of records provisions established under CGS 19a-25 for the Department of Public Health. Peer review is defined as "the procedure for evaluation by health care professionals of the quality and efficiency of services ordered or performed by other health care professionals, including practice analysis, inpatient hospital and extended care facility utilization review, medical audit, ambulatory care review and claims review." Without this legislation, there is a concern that there would be no incentive by individuals involved in the IMRB process to candidly evaluate and critique the service system and its processes, while suggesting changes to improve the system.

This proposal makes the proceedings of the IMRB consistent with the peer review process described in CGS 19a-17b in that the proceedings of a medical review committee conducting a peer review shall not be subject to discovery or introduction into evidence in any civil action for or against a health care provider arising out of the matters which are subject to evaluation and review by such committee, and no person who was in attendance at a meeting of such committee shall be permitted or required to testify in any such civil action as to the content of such proceedings; provided the provisions of this subsection shall not preclude (1) in any civil action, the use of any writing which was recorded independently of such proceedings; (2) in any civil action, the testimony of any person concerning the facts which formed the basis for the institution of such proceedings of which he had personal knowledge acquired independently of such proceedings; (3) in any health care provider proceedings concerning the termination or restriction of staff privileges, other than peer review, the use of data discussed or developed

during peer review proceedings; or (4) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restriction imposed, if any.

HB 5541 An Act Concerning Sexual Assault of Persons Placed or Treated Under the Direction of the Commissioner of Developmental Services:

This bill clarifies that it is a crime (sexual assault in the second degree) for someone in a supervisory capacity to engage in sexual relations with a client of the Department of Developmental Services. Currently, Section 17a-278 states that all such persons “under the custody and control of the director of such facility (a DDS Regional Director) are “in custody of law” for the sexual assault statute. The argument could be made that this statute, as currently written, would not apply to a person who only receives day services and has a relationship with a day services worker. This bill will make it possible to charge a crime against any person in a supervisory position over persons “in custody of law” OR “persons placed or treated under the direction of the Commissioner of Developmental Services in accordance with Section 17a-238 of the General Statutes.” We would hope that this statute would never need to be applied, but should a staff worker engage in a consensual sexual relationship with a client (regardless of whether or not the client is able to consent), the prosecutor would be able to charge the worker by applying this statute if the client is placed or treated under the direction of DDS. This issue was raised when a similar situation happened in the DCF system and the prosecutor was able to apply the statute and seek sexual assault charges against the staff person. It came to light that if this happened in the DDS system, the same protections would not exist. The proposal also extends the clarification to the sexual contact statute by expanding the definition of sexual assault in the fourth degree to include assaults committed on persons placed or treated under the direction of the Commissioner of Developmental Services.

SB 242 An Act Concerning Changes to Statutes Affecting the Department of Developmental Services:

This bill changes the name of the Council on Mental Retardation to the Council on Developmental Services. When DMR changed its name, effective Oct. 1, 2007 to the Department of Developmental Services (DDS), the Council’s name did not change. Simply, the name of the Council should correspond with the agency it advises. The bill also changes the name of an organization that the Governor makes an appointment from for the Camp Harkness Advisory Committee. The Southeastern Connecticut Association for the Retarded changed its name in 2006 to Southeastern Connecticut Advocates for Developmental Disabilities, now known as SECADD. Section nine of the bill will allow a Self Advocate Coordinator to be hired at DDS’s Central Office. Current statute allows up to ten DDS Self Advocate Coordinators (part-time positions) to receive personal, vacation and sick time per CGS 5-259(e). These ten positions are distributed evenly among the DDS regions: North (3), South (3) and West (3) and the Southbury Training School (1). DDS’s Self Advocate Coordinators, who are also consumers, have become an integral part of the agency. They continue to assist DDS staff within each of our three regions to better understand and apply best practices in self advocacy and self-determination for all individuals who receive services from the department. The issue has been raised that the Central (Executive) Office of the agency should have a Self Advocate Coordinator employed and we agree. The bill also makes technical changes to the statutes including the use of “people first” language when referring to the individuals who receive services and support from the Department and changing references of “mental retardation regions” to “developmental service regions.”

HB 5666 An Act Concerning Expansion of the Pilot Program for Persons with Autism Spectrum Disorders:

With the support of Governor M. Jodi Rell and the General Assembly, the Division of Autism Spectrum Services was established within the Department of Developmental Services (DDS), pursuant to legislation in 2007 (Sections 109-114 of Public Act 07-4 of the June Special

Session). This act requires DDS to make recommendations to the Governor and the Public Health Committee concerning legislation and funding required to provide necessary services to persons with autism spectrum disorders on or before February 1, 2009 and annually thereafter.

Pursuant to Section 37 of Public Act 06-188, DDS established an Autism Pilot Program in July 2006 for adults with Autism Spectrum Disorder (ASD) who do not also have mental retardation and are not receiving services from DDS. The Pilot was designed to implement services for up to 50 individuals for two years and to use the data and information obtained from the pilot to explore a Medicaid waiver to support this population. Also pursuant to Public Act 07-4 of the June Special session, DDS was named the lead state agency concerning autism spectrum disorders. This designation as lead state agency concerning autism addresses the requirement of the Federal Combating Autism Act to have a lead autism agency in each state.

A steering committee for the Autism Pilot composed of advocates, family members, service professionals and state agency representatives, has been meeting regularly for the past year and a half to advise on the development and implementation of the Autism Pilot and the feasibility of a federal Medicaid waiver for this population. The steering committee had transitioned to an independent advisory council while broadening their responsibilities to advise the Commissioner of Developmental Services on all matters pertaining to autism.

Currently, the Division of Autism Spectrum Services is funded to implement the autism pilot program and to study the feasibility of a Medicaid waiver. As more funding becomes available, the Division may expand its responsibilities to include other areas such as developing an autism database, implementing an autism-specific early intervention program, developing support services for children age 3-21, expanding adult services for individuals over the age of 21, enhancing training initiatives to develop a workforce able to provide autism-specific services or developing an autism-specific curriculum in coordination with the Department of Higher Education for college courses and degree programs. \$500,000 has been budgeted for next fiscal year (FY09) to add positions that will staff the newly formed division. We have already begun the process of identifying positions to assure that the staff will be in place as close to July 1, 2008 as possible. In addition, the division will receive an additional \$500,000 for new services in FY09. This funding is in addition to the original level of funding for the pilot (\$1 million), which has been continued in FY09.

The current Pilot Program is operating in the New Haven Region. There are 27 participants. Six of the individuals are working in new employment situations. Two are working in apprenticeship programs with the hopes of future employment. Four individuals who already had jobs, but were on the verge of losing them, have maintained employment with supports from the pilot. Five individuals are pursuing individual careers in the arts and were featured in a gallery showing of the Greater New Haven Arts Council. Four of these individuals have sold some of their individual artwork.

Many families have expressed their satisfaction with the program. A formal satisfaction survey will be completed in the fall of 2008. By focusing the pilot on one region of the state, we assured sufficient provider capacity for the population receiving services. There are currently eight providers approved. With the additional \$500,000 for services already included in the FY09 budget, the Division plans to expand the Pilot Program to the Hartford Region, where the current control group exists (individuals with Autism that do not have mental retardation were identified as part of a control group so that comparisons can be made between those who received services and those who did not.)

The Commissioner of DDS in consultation with the Commissioners of Social Services and Mental Health and Addiction Services is required to issue a report on the results of the pilot program by January 2009. This analysis of the pilot will help to structure any future service

system for individuals with Autism in Connecticut. As the pilot funding is available *through* FY09, it may make sense to extend the date for the required report to after June 30, 2009. We would be open to discussing the extension of this reporting requirement.

It is estimated by recent studies conducted by the Center for Disease Control that 1 in 150 people have Autism Spectrum Disorders. In Connecticut, estimates range from 10,000 to 14,000 adults with ASD and from 5000 to 7000 adults with ASD without mental retardation. DDS is proud to have a significant role in this important autism initiative for Connecticut.

SB 575 An Act Concerning the Establishment of a Task Force to Study Day Program Services Offered Through the Department of Developmental Services:

According to DDS's December 2007 Management Information Report (M.I.R.), there are currently 721 consumers statewide involved in a sheltered workshop employment option (591 in the private sector, 130 in the public sector). Of the 252 high school graduate Day Programs that were developed in FY08, Sheltered Workshops were chosen by only 4 individuals, less than 2%. However, for the consumers that do currently choose to utilize this day program opportunity, the option should remain.

The issue of Sheltered Workshops has been discussed as a recent national issue. Many states, including Connecticut, currently pay for Sheltered Workshops under their waivers, usually grouped as part of another service. The National Association of State Directors of Developmental Disability Services (NASDDDS) and their State Employment Leadership Network, has made a commitment to explore this issue with the Centers for Medicare and Medicaid Services (CMS) and develop a strategy that would minimize any financial or programmatic impact for affected states and the consumers and families they serve.

Of concern to DDS, is that if this bill is meant to initiate a study of all day program options including sheltered workshops, then the required report should not *require* ("shall also include") a recommendation for the phasing out of existing sheltered workshops. This essentially determines the outcome of the study, before it takes place. We would request that this requirement be taken out of the bill and also that more time be allowed for the task force to convene, study the issue and report its findings, perhaps July 1, 2009 would be more appropriate.

Thank you for allowing me the opportunity to testify today. I would be happy to answer any questions you might have at this time, or you may contact Christine Pollio, DDS Director of Legislative and Executive Affairs at 418-6066 with any questions.