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Department of Developmental Services

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DEPARTMENT OF DEVELOPMENTAL SERVICES
TESTIMONY BEFORE THE LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE RE: THE PROVISION OF SELECTED SERVICES FOR CLIENTS WITH INTELLECTUAL DISABILITY

Raised Bill No. 5036, An Act Implementing the Recommendations of the Legislative Program Review and Investigations Committee Concerning the Provision of Selected Services for Persons with Intellectual Disability.

February 22, 2012

Good afternoon. Senator Fonfara, Representative Rowe and members of the Legislative Program Review and Investigations Committee (LPRIC). I am Terrence W. Macy, Ph.D., Commissioner of the Department of Developmental Services (DDS). Thank you for the opportunity to comment on your study regarding the provision of selected services for consumers with intellectual disability. I understand that the focus of this study was to compare the cost of providing public and private services (residential and day) to individuals with intellectual disability who are consumers of the services and supports provided by DDS. I very much appreciate the time and effort that has gone into studying this important issue that impacts many individuals in our service system.

I have repeatedly said that DDS's current Legacy System is an unsustainable paradigm. For many, there is an expectation that services should follow a specific path: Birth to Three followed by school, transition to a day program, and finally adulthood in a group home. I strongly believe that we need to embrace a new paradigm that focuses on building a larger service network around families supporting individuals longer and more comprehensively in their homes. This does not mean families will be asked to take individuals out of their current residential programs to care for them or that there will be no future need for residential services. However, along with many partners, DDS needs to examine better ways to support individuals with less expensive natural, family, and community supports. The department must look at other less costly options. Our future support system will need to be more flexible and less regulatory-based; it should have strong performance standards while offering more choices for in-home supports, day and residential supports. Any shift will need to be extremely mindful of the existing waiver programs which garner a significant amount of federal revenue that ultimately helps to cover a large portion of the cost of DDS services in Connecticut.

Regarding the specific recommendations supported by committee members, I certainly appreciate the committee's position. However, I would caution implementing legislation that

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might restrict the department's ability to make necessary changes to processes within the current paradigm shift. As the agency seeks to create systemic change, maximum flexibility is needed. The department issued its Five Year Plan (2012-2017) to the legislature last week. For those of you who haven't yet seen it, but are interested, it can be found on our website: www.ct.gov/dds. I believe you will see that the goals outlined in the plan are in line with many of the recommendations that the LPRIC staff have arrived at. I would request that the committee give DDS time to begin implementing aspects of the Five Year Plan before codifying specific recommendations of the LPRIC study.

I offer the following comments in response to **Raised Bill No. 5036**, An Act Implementing the Recommendations of the Legislative Program Review and Investigations Committee Concerning the Provision of Selected Services for Persons with Intellectual Disability.

Section 1 would require DDS to prohibit admissions to public residential programs except in limited circumstances and restrict hiring for direct care positions. While reducing the size of DDS operated services, the department has attempted to balance a variety of individual, employee and organizational issues. DDS does not support restrictions on the placement of people with the public sector. While the recommendation would be appropriate for many placements, there may be specific circumstances that require a placement into the public sector. Additionally, DDS does not support restrictions on the hiring of direct care staff. DDS will continue to provide direct services in the near future, even with a continued focus on reducing the number of public operations. At times it will be necessary to hire direct care staff in order to provide quality services, manage overtime, and meet organizational needs. This should be evaluated on a case by case basis while being mindful of the long term direction of the department. The department will continue to do staffing analyses as public facilities close and community placements increase, to ensure the most appropriate balance of staff.

Section 2 reflects the language of the Settlement Agreement in Messier vs. Southbury Training School. The Settlement Agreement required DDS to inform individuals at STS and their families/guardians of community placement options available to them. DDS intends to employ a similar process for individuals residing in other congregate settings operated by the department; however, legislation is unnecessary for the department to address this issue. This intent has been outlined in the Department's Five Year Plan as submitted to the legislature. DDS is not planning, nor is it authorized to extend, the court approved Settlement Agreement to other settings, but will utilize the concepts embodied in the Settlement Agreement to comply with the Americans with Disabilities Act, such as extending the team training required in the Settlement Agreement to Regional Centers.

Section 3 would require the sharing of quality inspections with all clients' Planning and Support Teams, which would include guardians and families. Quality Service Reviews (QSR) and Community Living Arrangement (CLA) licensing results are currently posted on the DDS Website. QSR results are located within each Provider Profile. CLA licensing results are located under Quality Management and Licensure- CLA Licensing/Inspection reports. Therefore, there is no need for legislation to address this issue. Additionally, quality measures will be reviewed by department stakeholders in the near future, as addressed in the department's Five Year Plan.

Section 4 would require a centralized utilization review process for clients exceeding the residential funding guidelines. Implementing such a centralized system would be a hardship on private providers, especially small and medium-sized providers who serve people with intensive support needs in only one region. Small and medium-sized providers constitute the majority of providers in the state and they already believe the current Utilization Resource Review (URR) process in each region is an administrative burden and overtaxes their administrative responsibilities. DDS currently uses a uniform URR process in each region for residential and day services, which is overseen by the Regional Director's designee from each DDS division, including Public Residential and Day Services, Individual

and Family Services, Private Administration and Self-Determination. The URR process is consistently reviewed jointly by the Waiver and Planning and Resource Allocation Team managers in each region in order to ensure continuity and consistency of practice. The URR process needs to remain a regional process with centralized coordination for the following reasons: 1) Case managers assigned to work with each individual and monitor individual plan implementation and oversight are based in each region; 2) Resource management staff who provide fiscal and quality oversight for each provider is based in each region; 3) Case manager supervisors and resource manager supervisors are based in each region; 4) Division directors who oversee support services provided by DDS are based in each region; 5) While some providers operate throughout the state, the majority of providers are based in each region and it would be a hardship for them to travel to a centralized site for URR reviews; 6) Thorough reviews of staffing levels require announced and unannounced observations, and the staffing for such observations are based in the regions; and 7) Thorough review of staffing levels require detailed knowledge of consumers and providers; and 8) DDS is utilizing the same database in all regions and will soon be able to generate the type of data requested for the Management Information Report (MIR).

Sections 5 and 6 would revise the current statutes related to the total cost allowance for the salary of private provider executive directors and would require DDS, as a condition of future contracts with a private provider, to ensure that the provider has complied with the requirements of cost reporting, including the submission of forms on executive director's salary. These sections would also require an examination of salaries paid to direct care workers in future DDS contracts.

DDS fully appreciates the importance of sustainable wages for employees who are employed to support individuals with intellectual disability. Governor Malloy's proposed COLA in his FY2013 budget adjustments, which is being targeted at wages and benefits for employees, is a positive first step toward helping providers who have continuously been asked to do more with less. DDS representatives routinely participate in initiatives to review issues relating to employee compensation. We believe that a participatory process with other human service agencies and key stakeholders is the best strategy for addressing this issue. Significant resources would be necessary to both study this issue and implement a responsive change.

The decision of compensation for agency executives rests with the governing body of the agency and it would be their determination to compensate above the current $100,000 threshold. In accordance with Section 7 of Public Act No. 07-238, the total cost allowance for the salary of the director to any organization or facility which provides employment opportunities or day services, or services in a residential facility, for persons referred by the Department of Developmental Services, Mental Health or Human Services, or any other state agency shall not exceed $100,000 unless increased by an amount not to exceed the percentage increase of any cost of living increase provided under the terms of the contract of the organization. DDS currently limits the reimbursable part of the Executive Director's Salary. We believe this approach is effective regarding executive level salaries.

Again, thank you for the opportunity to comment on Raised Bill 5036. I would be happy to answer any questions you have for me at this time.