



PA 18-32—sSB 165
Public Health Committee

AN ACT CONCERNING THE DEPARTMENT OF DEVELOPMENTAL SERVICES' RECOMMENDATIONS FOR REVISIONS TO ITS STATUTES

SUMMARY: This act makes numerous changes in statutes governing the Department of Developmental Services (DDS). Specifically, the act:

1. allows other relatives, rather than just parents or guardians, of camp participants to be appointed to the Camp Harkness Advisory Committee (§ 6);
2. allows other relatives, rather than just parents, of individuals with intellectual disability to be members of DDS's regional advisory and planning councils (§ 23);
3. modifies reporting requirements for DDS-appointed assessment teams that evaluate individuals alleged to have intellectual disability as part of a probate court guardianship hearing (§ 37);
4. allows the DDS commissioner to waive the \$50 application fee for private providers applying for a license to operate DDS community living arrangements (i.e., group homes) (§ 38);
5. specifies that such licensure applications do not need to be notarized, but must be verified by oath, as under prior law (§ 38);
6. requires the DDS commissioner to establish a minimum number of unannounced licensure-related visits for group homes, and eliminates the requirement that at least half of a broader range of DDS facility visits be unannounced (§ 38); and
7. allows an advanced practice registered nurse (APRN) to order, or provide a second opinion on, a properly executed medical order to withhold cardiopulmonary resuscitation ("CPR") for an individual with intellectual disability under DDS supervision (§ 39).

In several sections, the act updates terminology to conform to existing practice, such as standardizing references to an individual's "legal representative" in laws that previously referenced specific types of such representatives (e.g., parent, guardian, or conservator).

It also makes various minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2018, except (1) upon passage for the provision on guardianship assessment teams and (2) October 1, 2018 for the provisions on licensure applications and fee waivers, licensure-related visits, and APRN orders.

§ 6 — CAMP HARKNESS ADVISORY COMMITTEE

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By law, a 12-member committee advises the DDS commissioner on issues concerning the health and safety of users of Camp Harkness facilities. Under prior law, the committee membership had to include two parents or guardians of individuals who use the camp (one each appointed by the governor and Senate president pro tempore). The act allows other relatives, not just parents or guardians, to fill these positions.

§ 23 — REGIONAL ADVISORY AND PLANNING COUNCILS

By law, DDS's regional advisory and planning councils each consist of at least 10 members appointed by the DDS commissioner. Prior law required at least two members of each council to be parents of individuals with intellectual disability. The act allows other relatives, not just parents, to fill these positions.

§ 37 — DDS GUARDIANSHIP ASSESSMENTS

By law, a DDS-appointed assessment team must evaluate an individual alleged to have intellectual disability as part of a probate court hearing on whether to appoint the individual a guardian.

The act eliminates the requirement that the assessment team submit a written report or testimony to the court if the DDS commissioner, or his designee, determined that the individual does not have an intellectual disability and thus is ineligible for DDS services. The act instead requires DDS to provide the court with a copy of the eligibility determination letter and the team is not required to further evaluate the individual.

§ 38 — UNANNOUNCED LICENSURE VISITS

The act requires the DDS commissioner, through regulations, to establish a minimum number of unannounced licensure-related visits for community living arrangements (i.e., group homes). It eliminates the requirement that the commissioner provide, in regulations, that at least half of DDS's quality service reviews, licensing inspections, or facility visits to community living arrangements and community companion homes be unannounced.

§ 39 — PROPERLY EXECUTED MEDICAL ORDERS

The act allows an APRN to order, or provide a second opinion on, a properly executed medical order to withhold CPR for an individual with intellectual disability under DDS supervision. Prior law required the signatures of only physicians, including: (1) the patient's attending physician and (2) a state-licensed physician in an appropriate specialty who confirms the patient's terminal condition (i.e., second opinion).

Under existing law, the DDS commissioner may not seek to impede such a properly executed order. As under prior law, an order may be executed only if the patient is in a terminal condition and the patient or a legally authorized person is consulted and provides consent. But the act allows an APRN, instead of only an attending physician, to determine the patient's condition and obtain such consent.

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Similar to prior law, under the act, if the patient is permanently unconscious, an order cannot be entered unless (1) a physician, or under the act an APRN, confirms the patient's condition with a neurologist and (2) the DDS commissioner determines the order is medically acceptable. The commissioner must make this determination after reviewing the decision with the DDS director of health and clinical services, or the director's designee; the patient's legal representative; and others the commissioner deems appropriate.

The act specifies that the provisions on such orders do not apply to individuals with intellectual disability who have a legally valid advance directive.