

**MICHAEL A. BARBIERI**  
STATE REPRESENTATIVE  
Eighteenth District



HOUSE OF REPRESENTATIVES  
STATE OF DELAWARE  
LEGISLATIVE HALL  
DOVER, DELAWARE 19901

COMMITTEES  
Health & Human Development,  
Chair  
Education  
Energy  
Gaming & Pari-mutuels  
Labor

**Health & Human Development Committee**  
Meeting Minutes  
June 23, 2010

Chairman Barbieri called the meeting to order at 12:36 p.m. Members present included Reps. Jaques, Q. Johnson, Scott, Brady, and Walls. Reps. Schwartzkopf and Briggs-King were also present. For a list of guests, please see the attached document.

Chairman Barbieri referred to Rep. Schwartzkopf to introduce **HB 488, AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO PLUMBING PERMITS**. He stated that three years ago legislation was passed which imposed a fee on plumbing permits. The fee was intended to address only new construction but in the last three years, the \$100 fee has been assigned to all plumbing permits issued by the Division of Public Health. He stated that this legislation just clarifies that the \$100 fee assessed by the Division of Public Health for plumbing permits applies only to new construction.

Rep. Scott motioned to release the bill. Rep. Brady seconded the motion. The bill was released from committee with eight votes on its merits.

Rep. Q Johnson introduced **SB 275, AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO HEALTH CARE PRACTICES**, with Senate Amendment 2. Rep. Q Johnson stated that the amendment becomes the bill and that the amendment removes license renewals from the scope of the bill while increasing the duty upon health care facilities to report incidents to the board within 30 days of occurrence. It also provides immunity for health care facilities and licensees reporting misconduct within 30 days of occurrence. The legislation also permits doctors working out of state or country in the past five years to be granted licenses provided the out-of-state health care facilities are asked to provide service letters. Finally, the bill aligns its immunity provision with that which is contained in current reporting provisions, and requires the board to verify an applicant is not on the Child Abuse or Adult Abuse Registries.

Rep. Scott asked how the section relating to service letters will be applied or enforced outside of the state. Rep. Q. Johnson stated that getting facilities outside of Delaware to comply may be an issue. However, he stressed that the attempt of the facility to receive a service letter should be noted because the intent was there. He also clarified that while it may be hard to mandate outside the state, it is only one step in the checks and balances established within the system.

Wayne Smith, President & CEO of the Delaware Healthcare Association, voiced his support of the legislation. However, he believed that the requirement to acquire a letter from an out-of-state facility is very difficult and stated that his experience has shown that many facilities ignore these requests.

Mr. Smith also stated that while some organizations have issues with the language relating to immunity, the immunity language in this legislation is standard and necessary. Rep. Brady motioned to release the bill. Rep. Walls seconded the motion. The bill was released from committee with seven votes on its merits.

Chairman Barbieri referred to Rep. Briggs-King to introduce **HB 484, AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO HEALTH FACILITIES AND PEER REVIEW OF ALLEGED CRIMINAL CONDUCT.**

Rep. Briggs King stated that this bill requires health facilities to conduct an independent peer review process when a complaint is made and an investigation is needed within a facility. The legislation requires that the peer review investigation must be conducted by another health facility that has no business relationship to the party or parties being investigated.

Chairman Barbieri asked what costs would be incurred upon the hospitals due to this legislation. Rep. Briggs-King believed that no additional costs would be incurred because of the legislation. She stated that the peer review investigation process would be a cooperative effort between hospitals and that because of this cooperative effort, the processes would be reciprocal so hospitals would have good faith among each other.

Rep. Scott voiced some concern over the possible duplication or conflicting policies with this legislation and legislation recently passed by the legislature. He believed previous legislation discussed and passed required that any complaints and investigations be dealt with by the Attorney General's Office.

Rep. Briggs-King stated that currently when a complaint is made within a hospital, an internal review is expected. This legislation changes this process and requires that the review be conducted by another health facility.

Rep. Jaques stated that the state has had difficulties getting doctors to testify against other doctors during a criminal investigation. He questioned whether this legislation would have a similar effect with hospitals not wanting to testify against other hospitals.

Rep. Briggs-King stressed the idea of this legislation being a cooperative effort among hospitals thus not encouraging that to occur.

Rep. Barbieri and Rep. Jaques questioned what was defined as a health care facility. Rep. Briggs-King responded that only hospitals were considered health care facilities in this legislation; nursing homes and day care centers were not included.

Rep. Jaques also questioned that if this legislation only applies to hospitals, does it only apply to employees of that hospital. Rep. Briggs-King stated that that legislation applies to employees of the facility and any doctors that have practicing privileges at the hospital. Rep. Jaques then questioned how the legislation addressed those doctors that have privileges at multiple facilities.

Chairman Barbieri questioned what was defined as “criminal conduct.” He supported the idea of limiting the abuse of power in hospitals, but stated that the legislation lacked a clear definition of what and who determined “criminal conduct.” He also stated that legislation discussed yesterday required complaints to be reported and dealt with by the Office of Attorney General. He asked if this legislation required that a investigation be conducted by the AG’s Office as well as a peer review.

Rep. Briggs-King stated that currently there are three different ways to report a complaint. They include reporting a complaint to the Medical Society, the liscensing board, and the AG’s office. However, she believed that it was very unlikely for an employee within a facility to make a complaint directly to the AG’s office. She believed it was much more likely for an employee to report a complaint internally and that this idea was what the legislation addressed.

Rep. Scott referenced HB 459 and again voiced his concern over the conflicting ideas among the bills.

Rep. Briggs-King again stressed that this bill applies to internal complaints and that she believed this process would be much more accepted by employees than requiring them to go straight to the AG’s office.

Mr. Smith praised the intentions of the legislation but believed that operationally it would be difficult to apply. He stated that it would be nearly financially impossible for Delaware hospitals to conduct independent peer reviews; the funds were just not available. Additionally, when this legislation was discussed among the medical association, multiple hospitals voiced their concern about this legislation impeding on the recruitment of doctors from out of the state. Delaware already has recruitment issues. While he stressed the importance of peer reviews as a great learning tool in the medical field, he stressed that requiring peer reviews for criminal investigations changes the environment of the hospital. This thus may cause doctors to be hesitant to join the workforce at that particular hospital.

In regards to the working environment, Mr. Smith also stated that peer reviews are valuable in assessing the behavior of the facility and how the environment has changed due to an accusation. He believed that a peer review from another hospital would not be able to address or understand the attitudes or behaviors of the original facility. He concluded that this legislation was repetitive in its efforts.

Rep. Briggs-King stated that she does not believe the legislation will cause a recruitment problem and that while the legislation may seem repetitive, she deems it as an imperative method to safeguard the public.

No motions were made and the committee decided to move on to the next agenda item.

Rep. Barbieri introduced **SJC 3, CALLING FOR THE DESIGNATION OF THE ENTIRE STATE OF DELAWARE AS A HEALTHCARE INNOVATION ZONE.**

He stated that this Senate Joint Resolution explains the concept of the “Healthcare Innovation Zone,” stresses its potential for increasing the effectiveness of healthcare services while reducing costs, and directs the Department of Health and Social Services, acting in conjunction with other state and private agencies and organizations, to take steps to prepare an application for the entire state of Delaware to be designated as a Healthcare Innovation Zone. The resolution also urges the governor of Delaware to proclaim the entire state of Delaware as a Healthcare Innovation Zone in order to demonstrate the interest of the healthcare provider community and state government in pursuing this opportunity. He clarified that this legislation does not require or mandate any action but merely promotes the concept of a Healthcare Innovation Zone.

Rep. Scott motioned to release the bill. Rep. Brady seconded the motion. The bill was released from committee with seven votes on its merits.

Without any further questions or comments, Chairman Barbieri adjourned the meeting at 1:15 p.m.

Respectfully submitted,

Amy Clark