

**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 29, 2010

Chairman Barbieri called the meeting to order at 12:42 p.m. Members present included Reps. Jaques, Q. Johnson, Scott, Brady, Walls and Kowalko. Rep. D. Short was also present. For a list of guests, please see the attached document.

Chairman Barbieri referred to Rep. D. Short to introduce **HB 491, AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO THE DIVISION OF CHILD SUPPORT ENFORCEMENT AND CONFIDENTIALITY OF RECORDS**. Rep. Short stated this bill authorizes the Division of Child Support Enforcement to release information to a court-approved guardian or a person appointed pursuant to a durable power of attorney. He stated that this legislation was developed because of a constituent's experience.

Debbie Gottschalk, from the Department of Health and Social Services, stated that she could help look into the issue and possibly solve the issue without legislation. Rep. D. Short would be happy to address the issue without legislation if possible.

Rep. Barbieri had no issue with the legislation but thought it may be difficult to have the Senate hear it before session was over.

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

Rep. Barbieri introduced **SB 233, AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO THE BOARD OF MEDICAL PRACTICE**. He stated the bill mandates that the Board of Medical Practice shall adopt rules and regulations establishing guidelines for the imposition of discipline against physicians and the members of other professions regulated by the board. The bill gives the board one year from the date of enactment to adopt these rules and regulations. He referred to James Collins, from the Division of Professional Regulation, to speak on behalf of Senator Marshall's bills.

Mr. Collins stated that while this is a simple bill, it can have a big impact. He stated that the legislation mandates that the board establish rules and regulations with defined maximum and minimum penalties for violations. He believes the established rules would be beneficial for the board because they would diminish the emotional component during

hearing processes and also bring continuity and consistency to the processes and decisions of the board.

Rep. Kowalko and Rep. Scott voiced their understanding of the consistency issue. Rep. Q. Johnson motioned to release the bill. Rep. Jaques seconded the motion. The bill was released from committee with nine votes on its merits.

**SB 221, AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO MENTAL HEALTH**, was next on the agenda. Rep. Barbieri introduced the bill stating that the bill updates the statute that allows the Division of Developmental Disabilities Services to authorize surgical procedures for persons receiving residential services from the division. It expands the range of potentially available relatives to authorize elective surgery for persons receiving services from the Division of Developmental Disabilities Services. It expands the scope of the authorization to diagnostic procedures and corrects the statutory definition of who is covered by this law.

Ms. Gottschalk stated that this legislation amends the existing statute relating to clients of the Division of Developmental Disabilities Services. The legislation just updates the statute to incorporate modern medicine and modern family structures.

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

Rep. Barbieri introduced **SB 291, AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO NURSING FACILITIES AND SIMILAR FACILITIES**, and referred to Judge Susan C. Del Pesco, of the Superior Court of Delaware, to speak on behalf of the bill. She stated that this bill makes changes which require the Division of Long Term Care Residents Protection to post online the results of its surveys of nursing facilities. The act also eliminates the current obligation of the division to conduct a follow-up meeting after every survey of a nursing facility and replaces it with an obligation to conduct such meetings upon request by the facility, a resident, or a resident's family member or agent. Because these meetings occur after the report is issued and a plan of action approved, it is held months after the surveyors have left the facility. The new CMS survey protocol, which is required in Delaware's 50 skilled nursing facilities, includes an expanded component of patient and family interviews including no less than 40 residents or family members for those who are not cognitively able to be interviewed. Additionally, a representative of the resident council is invited to meet with the survey team when it exits the facility. The bill also makes it clear that the state is meeting its obligations to follow the federal regulations regarding the certification of nursing assistants. It also clarifies the student teacher ratio for registered nurses and licensed practical nurses with experience.

Judge Del Pesco also clarified that the amendment strikes section three of the bill relating to eliminating meetings. She was told of the value of the meetings and thus supports the amendment.

Rep. Barbieri voiced concern regarding the timing of the meetings. He questioned why they occurred several months later. Judge Del Pesco clarified that that process with surveys can be very complicated. There are established time periods for getting parts done and that it usually takes 4-5 months to complete a survey. Federal law even requires a particular number of interviews and contacts with family members and sufficient time for follow-up questions and interviews.

Rep. Barbieri and Rep. Scott asked what specific information is actually posted. Judge Del Pesco stated that information can only be posted once the entire survey process has been completed and approved.

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. Barbieri introduced **SB 303, AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DIVISION OF LONG TERM CARE RESIDENTS PROTECTION**. He stated that this act addresses clarifying the authority of the Division of Long Term Care Residents Protection to regulate nursing assistant training programs. The division is currently approving the curriculum of training programs and conducting annual inspections pursuant to Chapter 30A of Title 16. This act will improve the division's authority to regulate those programs by allowing it to impose sanctions for non-compliance with statutes and regulations. It adds the authority to publish, through an online listing, the pass rates of the training programs so that consumers can make better informed choices of schools. Finally, it will change the current practice of allowing persons who have been sanctioned for abuse, neglect mistreatment or financial exploitation to remain certified. Persons who have, as part of that sanctions, been "flagged" on the Delaware CNA Registry should have their certification suspended or revoked, depending on circumstances.

Judge Del Pesco stated that they currently have the responsibility of licensing in schools and that by allowing the posting of pass rates gives people the opportunity to choose a good school.

Rep. Jaques asked if these certified nursing assistants were trained in accordance to nursing school standards. Rep. Barbieri clarified that certified nursing assistants are not nurses. They are more like technicians and provide care giving services such as bathing patients, etc. Judge Del Pesco also clarified that CNAs are creatures of federal regulation and require 150 hours of training.

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

**SB 304, AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE CHILD PROTECTION ACCOUNTABILITY**

**COMMISSION**, was next on the agenda. Rep. Barbieri referred to Tania Cullen, from the Office of the Child Advocate, to speak on behalf of the bill.

Ms. Cullen stated that this bill allows the two law enforcement members of the Delaware Child Protection Accountability Commission (CPAC) to designate proxies. It also requires CPAC to submit a copy of its annual report to the General Assembly instead of to the Governor's Advisory Council for Children, Youth and Their Families. Finally, it eliminates the requirement to distribute copies of quarterly written reports to certain House and Senate Committees, instead requiring that such reports be made available to the General Assembly and the public.

Rep. Jaques asked why only the two law enforcement members are allowed to designate proxies. Ms. Cullen stated that there are only eight at large members on the commission and that they were all in agreement on the legislation.

Rep. Jaques asked how often proxies are sent to meetings. Ms. Cullen stated that in the past they were used quite frequently. However, she believes this was due to the an open position on the commission not being filled for quite some time. She stated that a new head was just appointed but that they have not had the opportunity to see if the new head was going to show up more.

Rep. Barbieri asked the value of having law enforcement members at the meetings. Ms. Cullen stated that police presence was of great value. However, she stated that having proxies was the best way of accomplishing their mission efficiently. She also stated that other department heads already have the power and opportunity to designate proxies to attend meetings.

Rep. Kowalko motioned to release bill. Rep. Brady seconded the motion. The bill was released from committee with seven votes on its merits and one unfavorable vote.

**SB 289, AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO THE INTERSTATE COMPACT FOR JUVENILES**, was last on the agenda. Rep. Barbieri referred to Mary Kate McLaughlin, from the Department of Services for Children, Youth, and their Families. Ms. McLaughlin stated that this bill establishes the State Council for Interstate Juvenile Supervision as required by the Interstate Compact for Juveniles. The State Council's role is to administer the State of Delaware's participation in the compact and ensure that the state remains a productive member of the compact. She clarified that the attached amendment corrects a technical error and also adds two members to the council.

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

Without any further questions or comments, Rep. Barbieri adjourned the meeting at 1:20 p.m.

Respectfully submitted by,

Amy Clark