

## MEMORANDUM

DATE: March 9, 2009

TO: All Members of the Delaware State Senate  
and House of Representatives

FROM: Ms. Daniese McMullin-Powell  
Chairperson  
State Council for Persons with Disabilities

RE: H.B. 36 [Protection of Long-Term Care Facility Residents]

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 36 which clarifies the role of the Disabilities Law Program (DLP) within the Community Legal Aid Society, Inc. (CLASI). DLP is Delaware's Protection and Advocacy Agency mandated by federal law to protect patients and residents in nursing and similar facilities. SCPD endorses the proposed legislation and has the following observations.

This bill amends Delaware's long-term care facility statutes which cover, among other things, licensed mental health group homes. The bill authorizes the DLP to complement the State's quality assurance and abuse/neglect investigation systems. DHSS would be required to incorporate a requirement of cooperation with DLP investigations and monitoring into licenses for long-term care facilities (lines 16-19). Interference with DLP investigations would have the same licensing consequences as interference with State investigations (lines 8-9). Likewise, retaliation against persons cooperating with a DLP investigation would be prohibited (lines 10-11)

The bill also amends the abuse/neglect statutes covering long-term care facilities, the DPC, and mental health hospitals accepting involuntary commitments [Title 16 Del.C. §1131(4)]. When the State receives an abuse/neglect report, it is currently required to send the complainant an acknowledgment [Title 16 Del.C. §1134(d)(2)]. The bill would require the acknowledgment to include information about other remedial agencies, including the Ombudsman and DLP (lines 39-40). The DLP would be authorized to receive abuse/neglect reports, to access facilities, and conduct investigations (lines 43-49). Retaliation against persons cooperating with the DLP would be prohibited (lines 56-57).

Thank you for your consideration and please contact SCPD if you have any questions regarding our position or observations on the proposed legislation.

cc: The Honorable Jack Markell  
The Honorable Rita Landgraf  
Mr. Brian Hartman, Esq  
Governor's Advisory Council for Exceptional Citizens  
Developmental Disabilities Council