



STATE OF DELAWARE  
STATE COUNCIL FOR PERSONS WITH DISABILITIES

MARGARET M. O'NEILL BUILDING  
410 FEDERAL STREET, SUITE 1  
DOVER, DE 19901

VOICE: (302) 739-3620  
TTY/TDD: (302) 739-3699  
FAX: (302) 739-6704

**MEMORANDUM**

DATE: March 5, 2014

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.S. 1 for H.B. 218 (Prescription Pick-up)

The State Council for Persons with Disabilities (SCPD) has reviewed H.S. 1 for H.B. 218. The original version of this legislation was introduced on June 30, 2013. As background, SCPD was provided with an informal, multi-point critique of the legislation which was also shared with the Department of Health and Social Services (DHSS) on January 23, 2014. DHSS identified similar concerns which were shared with the sponsors. As a result, a substitute bill was introduced on January 29, 2014 which adopts a simpler and more flexible approach to safeguards in receiving prescriptions.

The crux of the substitute bill is the addition of the following provision to an existing statute covering prescriptions:

(e) An ultimate user shall be permitted to prohibit or limit a person other than the ultimate user from receiving a prescription on the ultimate user's behalf from a pharmacy.

The Department of State, which oversees pharmacies, would issue regulations to implement this provision which would be applicable on January 1, 2015.

SCPD has the following observations.

First, the substitute bill is a major improvement over the original version. It authorizes ultimate users to restrict receipt of prescription drugs on their behalf without imposing categorical

restrictions which could result in hardship to individuals with disabilities.

Second, the Department of State may not be as acquainted with aspects of the regulations which could affect the elderly or persons with disabilities (e.g. guardian authority; residential licensing standards) as the Department of Health & Social Services. Therefore, the reference could be changed to “the Department of State, in consultation with the Department of Health and Social Services, shall promulgate...” For similar approaches in the Delaware Code, see Title 5 Del.C. §929( c) and 14 Del.C. §303(b).

Third, Section 2, which contains the regulatory authorization, should be incorporated into amended §4739 so it appears in the Code. Compare H.B. No. 129. For example, Section 2 could be deleted and a new subsection (f) added at line 17 to read as follows: “The Department of State, in consultation with the Department of Health and Social Services, shall promulgate such rules, regulations, and standards as are necessary to implement subsection (e) of this section.”

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

cc: Mr. Deborah Gottschalk, DHSS  
Mr. Brian Posey, AARP  
Mr. Darren Lester, DSHS  
Mr. Brian Hartman, Esq.  
Governor’s Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

HB 218 prescriptions 3-5-14