



**STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES**

Margaret M. O'Neill Bldg., Suite 1
Dover, Delaware 19901
302-739-3621


The Honorable John Carney
Governor

John A. McNeal
Director

MEMORANDUM

DATE: April 16, 2019

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

FROM:  Mr. J. Todd Webb, Chairperson
State Council for Persons with Disabilities

RE: H.B. 103 (Division of Substance Abuse and Mental Health)

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 103, which seeks to more explicitly define the responsibilities of the Division of Substance Abuse and Mental Health (DSAMH) and encourages the creation of uniform standards for community mental health providers who contract with DSAMH. SCPD endorses the proposed legislation. However, if this bill is enacted into law, SCPD encourages the promulgation of regulations to formalize provider standards as well as eligibility, admission and discharge procedures for community behavioral health services in accordance with Medicaid rules. SCPD also has the following observations.

Currently, the Code does not provide any detailed description of DSAMHs powers or responsibilities beyond “performance of all of the powers, duties and functions... pursuant to Chapters 51, 53, 55, 57, 59 and 61 of Title 16.” See 16 Del. Code § 7908. Additionally, while there are currently regulations in place dictating licensing standards for substance abuse treatment facilities (see 16 Del. Admin. C. § 6001, et seq.), no comparable regulations exist for community mental health treatment providers, although mental health group homes are covered by regulations issued by the Division of Health Care Quality (formerly the Division of Long-Term Care Residents’ Protection).

As amended by the bill, §7908 maintains a general reference to “power, duties and functions” of various parts of Title 16 of the Code, but updates the relevant chapter numbers to add Chapter 22 (pertaining to the Substance Abuse Treatment Act) and Chapter 50 (dealing with involuntary civil commitments) and removes Chapters 53 (Governor Bacon Health Center) and 57

(sterilization). The amended statute would also enumerate specific powers and duties of DSAMH, including “[t]he authority to create, implement, and oversee licensing requirements for all mental health treatment programs serving individuals who are 18 years and older” and “[c]oordinate with other divisions within [DHSS] as well as with the Department of Services for Children Youth and Their Families.” Other enumerated duties include the provision of educational and training programs, making contracts, operating Delaware Psychiatric Center, acquiring or disposing of real property, and soliciting funds from the state and federal government. It also specifically states that DSAMH shall have the authority “to promulgate rules and regulations to implement this section.”

While many of the activities contemplated by the statute are already happening in practice and would logically fall under the broad authority already delegated to DSAMH by 16 Del. Code § 7908 as it is currently written, there is certainly no harm in formalizing some of these responsibilities. Also, the bill would update references to the various chapters of the Code relevant to DSAMHs work.

Additionally, having uniform licensing standards established by regulation encourages greater consistency and transparency in what is expected of community mental health providers. The proposed changes to the statute would potentially encourage the creation of more regulations to establish uniform licensing standards for all providers operating under contract with DSAMH. Currently standards for community mental health providers (not including mental health group homes) are largely dictated by contracts between DSAMH and its various providers, and licensure is otherwise given by outside bodies such as the Joint Commission or Commission on Accreditation of Rehabilitation Facilities (CARF).

Finally, SCPD realizes that the proposed legislation will not impact the number of individuals served by DSAMH; however, Council would like to note its support of the Division being able to serve more persons who currently aren’t getting the appropriate assistance to meet their needs.

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

cc: Ms. Elizabeth Romero, DSAMH
Ms. Laura Waterland, Esq.
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

HB 103 dsamh 4-16-19