

LEGISLATION COMMITTEE

Monday June 12, 2006 3:00 PM to 4:30 PM

Governor's Commission on Disabilities

John O. Pastore Center (Formerly the Howard Center)

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Secretary: Bob Cooper

Attendees: Paul Choquette (Chair); Tim Flynn (Vice Chair); Jeanne Behie; Sharon Brinkworth; Joseph Corrente; Linda Deschenes; Elaina Goldstein; Liberty Goodwin; Bill Inlow; Kate McCarthy-Barnett, EdD; Kenneth Pariseau; Arthur M. Plitt; Gwen Reeve; Rev. Gerard O. Sabourin; & Janet Spinelli;

Excused: Raymond Bandusky; Rosemary C. Carmody; & Marie Strauss

Minutes

3:00 PM Call to Order and acceptance of minutes Tim Flynn, Vice Chair

Discussion: Chair calls the meeting to order at 3:05 PM.

Members and guests introduce themselves

MOTION: To accept the minutes as presented PC/KMcC-B unanimously

3:05 PM Status of GCD Legislative Package Bob Cooper

- (1) Designation of a state department responsible for providing protective services to abused non-elderly adults (18-64) with severe impaired; {Rep. Naughton H 7226 & Sen. McCaffrey, S 2378} both are in the Senate HHS Committee. *The staff is working with MHRH & DHS on a substitute – see latest draft Substitute on page 5.*
- (2) Require health insurers when rejecting a health care service, in addition to providing information on how to file an appeal, provide the patient/family with the address and phone number of the attorney general's office of health care advocate and the health insurance commissioner {Rep. Story, H 7159 & Sen. Pichardo, S 2209} The Commission is supporting as a replacement Article 34 Relating 60 Insurance - Mandated Benefits which is part of the budget negotiations.
- (3) Authorize and direct the director of the department of health to establish minimum accessibility standards regarding fragrance-free, less-toxic, and low volatile organic compound cleaning product, pest control, and indoor air and environmental quality policies, based on the recommendations contained in the National Institute of Building Sciences' Indoor Environmental Quality Report, for health care, home care services facilities; adult and child daycare services; educational services, and public buildings. {Sen. Perry, Sen. Ciccone, S 2298 & Rep. Kilmartin, H 7095} The Senate adopted the following resolution (as a substitute): That the Department of

Administration is encouraged to use environmentally-safe and health-friendly cleaning products in state facilities and workplaces; that all State departments and authorities with purchasing responsibility shall procure and use cleaning products having properties that minimize potential impacts to human health and the environment, consistent with maintaining the effectiveness of these products for the protection of the public health and safety; and that the Department of Administration in consultation with the Department of Health and the Department of Environmental Management, shall establish guidelines or regulations to provide guidance to covered State entities in connection with the implementation of this Resolution. *The staff has recommended that H 7095 become an identical resolution.*

- (4) Fully fund RIDE & RIPTA as recommended by RIPEC in its Rhode Island at the Crossroads – A RIPEC Public Policy Issues Brief; In House Finance Committee and is part of the budget negotiations
- (5) Amend the Open Meeting Law's ban on the use of telephones allow the use of telephones as a reasonable accommodations for members of boards who are unable to be physically present at the meeting because of a disability; {**Sen. Ciccone S 2879 & Rep. Kilmartin H 7672**} The Senate adopted a Floor Amendment that authorizes the governor's commission on disabilities to: establish rules and regulations for determining whether a member of a public body is not otherwise able to participate in meetings of that public body without the use of electronic communication or telephone communication as a reasonable accommodation due to that member's disability and grant a waiver that allows a member to participate by electronic communication or telephone communication only if the member's disability would prevent her/him from being physically present at the meeting location and the use of such communication is the only reasonable accommodation. *The staff has recommended that H 7672, now in Senate Judiciary also be amended to match the Senate's floor amendment.*
- (6) Fully Fund modifications to homes/apartments owned or rented by families with disabled members (expand to include Medicare only recipients) and create flexible funding plan such as cash and counseling for families to modify home or yard; {**Sen. Pichardo S 2840 & Rep. Fox H 7262 Housing Resources - Neighborhood Opportunities Program**} Both are part of the budget negotiations, & {**Rep. Naughton H 7629 HUMAN SERVICES, if amended**} Is in the House Finance Committee, and may be part of the budget negotiations – *see draft Substitute on page 7.*
- (7) Advocate during the Medicaid Budget Hearing the following:
 - (a.) Expansion of Home Care Services so people can remain living in their community;
 - (b.) Adjustment of state's income eligibility level for Medicaid for persons with disabilities (100% of the federal poverty level) to match the Family Independence Program (180% of the federal poverty level)
 - (c.) Provide state funded health insurance coverage (including prescription drug coverage) during the 2-year wait for SSDI recipients to be covered by Medicare [by resolution or law];
 - (d.) Amendment of the State Medicaid Plan so "medically needy" persons with disabilities, receive the same benefits that are provided to "categorically needy" persons (outpatient hospital clinic and emergency room services; hearing aids and molded shoes; Podiatry Services; one pair of eyeglasses [frames, lenses, dispensing fees] every other year). The habilitation waiver should be expanded to include all eligible recipients who would benefit from physical therapy, occupational therapy, speech/language therapy, psychological therapy, rehabilitation services; and
 - (e.) Develop a Dental Benefit Management program for Medicaid beneficiaries (reimbursement rate).
- (8) Change the composition of the permanent advisory commission on traumatic brain injuries and

identify the services for TBI including, but not limited to: case management; cognitive rehabilitation; transitional living; structured day programs; assistive technology services; devices and equipment; transportation; housing; neuropsychological evaluations; behavioral health treatment; substance abuse treatment; respite; and other services and/or assistance as deemed appropriate by the commission for individuals with traumatic brain injury to accomplish a successful re-entry and maintenance in the community. {Sen. Blais, S 2604 Sub A as Amended & Rep. McNamara, H 7546 Sub A} S 2604 has been passed in concurrence but held on the House desk until H 7546 Sub A acted upon by the Senate.

- (9) Allow an individual to file a complaint with the governor's commission on disabilities who believes that he or she or specific class of individuals has been subject to discrimination on the basis of disability due to the physical inaccessibility of the building or structure. {Senator Polisen, S 2269} Passed the Senate is in the House Health, Education, & Welfare Committee.
- (10) Disability parking signage and access aisles {Rep. Naughton H-7081 Sub A} Passed in concurrence, awaiting transfer to the Governor.

Commission Supports if Amended – Bills never had a hearing:

- (11) Provide grants to cities and towns for projects undertaken specifically to comply with the department of education and department of health's joint health and environment recreational facility safety regulations and/or to provide access for people with disabilities. {Senator Blais, S 2134; Commission proposes amending to add an enforcement / monitoring provision} In Senate Finance Committee, never was heard.
- (12) Permit an accessory family dwelling within a single family residence for the sole use of one or more members of the family of the occupant who is a person with a disability or is over the age of sixty-five (65). {Senator Levesque, S 2334} In Senate Commerce, Housing and Municipal Government Committee, never was heard.

Commission opposed – Bills Died in Committee:

- (13) Extend disability parking privileges to all persons seventy-five (75) years of age or older without regard to disability. {Rep. Lewiss, H 6790} The bill would more than double the number of disability parking permits, without increasing the number of disability parking spaces. Died in House HEW Committee.
- (14) Delete the provision of the Access to Public Records Act which exempts from disclosure all records which are identifiable to an individual applicant for benefits, client, patient, student, or employee, including, but not limited to, personnel, medical treatment, welfare, employment security, pupil records, all records relating to a client/attorney relationship and to a doctor/patient relationship, and all pertaining to personal, health information or medical information relating to an individual in any files. {Sen. Lenihan 06 S 2268 & S 2270 PUBLIC RECORDS & Rep. Dennigan 06 H-6951 & H 6952} Died in the Senate & House Judiciary Committees.

2006 H 7226 / S 2378 draft sub a relating to criminal offenses – assaults

Changes from the original bills:

- 1. Makes the definition of a person with severe impairments identical in all three laws, by
 - A) adding definition of “major life activities” (in the 2 Assault laws); and
 - B) Deleting the definition of mental retardation (in § 11-5-11);
- 2. Establishes a crisis intervention program on July 1, 2007 at MHRH to provide assistance to victims with severe impairments;

3. Limits MHRH responsibility to crisis intervention (during the immediate hours and days following the arrest of the caregiver);
4. Authorizes DHS to seek a Medicaid State Plan amendment to initiate a crisis intervention service.

It is enacted by the General Assembly as follows:

SECTION 1. Sections 11-5-10.2, 11-5-11 and 11-5-12 of the General Laws in Chapter 11-5 entitled "Assaults" are hereby amended to read as follows:

11-5-10.2. Assault on persons who are severely impaired causing serious bodily injury. Assault on persons with severe impairments causing serious bodily injury. -- (a) Any person who shall commit an assault or battery, or both, upon a person with severe impairments ~~who is severely impaired,~~ causing serious bodily injury, shall be deemed to have committed a felony and shall be imprisoned for not less than two (2) years but not more than twenty (20) years, or fined not more than five thousand dollars (\$5,000), or both. Every person so convicted shall be ordered to make restitution to the victim of the offense or to perform up to five hundred (500) hours of public community restitution work, or both, or any combination of them imposed by the sentencing judge. The court may not waive the obligation to make restitution and/or public community restitution work. The restitution and/or public community restitution work shall be in addition to any fine or sentence which may be imposed and not in lieu of the fine or sentence.

(b) "Serious bodily injury" means physical injury that:

(1) Creates a substantial risk of death, serious disfigurement;

(2) Causes protracted loss or impairment of the function of any bodily part, member or organ; or

(3) Causes serious permanent disfigurement.

(c) For the purposes of this section: ;

(2) "major life activities" means (i) mobility; (ii) self-care; (iii) communication; (iv) receptive and/or expressive language; (v) learning; (vi) self-direction; (vii) capacity for independent living; or (viii) economic self-sufficiency

(3) "severely impaired person with severe impairments" means a child or adult who has a disability which is attributable to a mental or physical impairment or combination of mental and physical impairments and results in substantial functional limitations in one or more major life activities.

(d) Violations of this section shall be reported to the local police department.

(e) After July 1, 2007 pursuant to § 40-8.5-2, the local police department may request the department of mental health, retardation, and hospitals provide crisis intervention services for the adult victim with severe impairments when:

(1) necessary to ensure the immediate health and safety of the adult victim and

(2) the adult victim relied on the arrested caregiver for assistance in performing three or more major life activity.

11-5-11. Assault on persons who are mentally retarded or severely impaired. Assault on persons with severe impairments. -- (a) ~~For the purposes of this section, "person who is mentally retarded" means a child or adult who has a mental disability which is attributable to:~~

~~(1) Mental retardation or autism; or~~

~~(2) Any other condition of a person found to be closely related to mental retardation because the condition results in similar impairment of general intellectual functioning or adaptive behavior to that of persons who are mentally retarded or requires treatment and services similar to those required for such persons, and which constitutes a substantial limitation on the person's ability to function normally in society.~~

~~(b) For the purposes of this section: ;~~

(1) "adult" means a person over the age of eighteen (18).

1 (2) “major life activities” mean (i) mobility; (ii) self-care; (iii) communication; (iv) receptive and/or
2 expressive language; (v) learning; (vi) self-direction; (vii) capacity for independent living; or (viii)
3 economic self-sufficiency.

4 (3) "person with severe impairments ~~who is severely impaired~~ means a child or adult who has a
5 disability which is attributable to a mental or physical impairment or combination of mental and physical
6 impairments which results in a substantial limitation on the person's ability to function independently in
7 the family or community and in one or more major life activities. ~~The phrase "severely impaired" includes~~
8 ~~a person who is mentally retarded as defined in subsection (a) of this section.~~

9 (e) b Any person who shall commit an assault and battery upon a person who is severely impaired as
10 defined in subsection (~~b~~ a) of this section, causing bodily injury, shall be deemed to have committed a
11 felony and shall be imprisoned not exceeding five (5) years, or fined not exceeding two thousand dollars
12 (\$2,000), or both.

13 (c) Violations of this section shall be reported to the local police department.

14 (d) After July 1, 2007 pursuant to § 40-8.5-2, the local police department may request the department
15 of mental health, retardation, and hospitals provide crisis intervention services for the adult victim with
16 severe impairments when:

17 (1) necessary to ensure the immediate health and safety of the adult victim and

18 (2) the adult victim relied on the arrested caregiver for assistance in performing three or more major
19 life activity.

20 **11-5-12. Abuse and neglect of adults with severe impairments.** -- (a) Any person primarily responsible
21 for the care of an adult with severe impairments who shall willfully and knowingly abuse, neglect or
22 exploit that adult: (1) shall be subject to a fine of not more than three ~~two~~ thousand dollars (\$3,000)
23 (\$2,000), or imprisoned not more than one year five years, or both, and ordered to make full restitution of
24 any funds as the result of any exploitation which results in the misappropriation of funds. Every person
25 convicted of or placed on probation for violation of this section or whose case is filed pursuant to section
26 12-10-12 where the defendant pleads nolo contendere shall be ordered by the sentencing judge to attend
27 appropriate professional counseling to address his or her abusive behavior; and (2) upon a conviction for a
28 second or subsequent violation shall be subject to a fine of not more than five thousand dollars (\$5,000),
29 or imprisoned not more than three (3) years, or both, and ordered to make full restitution of any funds
30 obtained as the result of any exploitation which results in the misappropriation of funds. Every person
31 convicted of or placed on probation for violation of this section or whose case is filed pursuant to section
32 12-10-12 where the defendant pleads nolo contendere shall be ordered by the sentencing judge to attend
33 appropriate professional counseling to address his or her abusive behavior.

34 (b) As used in this section:

35 (1) "Abuse" means the subjection of an adult with a severe impairment to willful infliction of physical
36 pain, willful deprivation of services necessary to maintain the physical or mental health of the person, or
37 unreasonable confinement.

38 (2) "Adult with severe impairments" means a person over the age of eighteen (18) who has a disability
39 which is attributable to a mental or physical impairment or combination of mental and physical
40 impairments and results in substantial functional limitations in ~~three (3)~~ one (1) or more of the following
41 areas of-major life activity: (i) mobility; (ii) self-care; (iii) communication; (iv) receptive and/or
42 expressive language; (v) learning; (vi) self-direction; (vii) capacity for independent living; or (viii)
43 economic self-sufficiency.

44 (3) "Exploitation" means an act or process of taking pecuniary advantage of impaired persons by use
45 of undue influence, harassment, duress, deception, false representation, false pretenses, or
46 misappropriation of funds.

47 (4) "Neglect" means the willful refusal to provide services necessary to maintain the physical or
48 mental health of an adult with severe impairments.

1 (5) "Person primarily responsible for care" or "caregiver" means any person who is for a significant
2 period of time the primary caregiver or is primarily responsible for the management of the funds of an
3 adult with severe impairments.

4 (c) Violations of this section shall be reported to the local police department.

5 (d) After July 1, 2007 pursuant to § 40-8.5-2, the local police department may request the department
6 of mental health, retardation, and hospitals provide crisis intervention services for the adult victim with
7 severe impairments when:

8 (1) necessary to ensure the immediate health and safety of the adult victim and

9 (2) the adult victim relied on the arrested caregiver for assistance in performing three or more major
10 life activity.

11 ~~(d)~~ (e) Any person who fails to report known or suspected abuse or neglect shall be guilty of a
12 misdemeanor and upon conviction shall be subject to a fine of not more than five hundred dollars (\$500).

13 ~~(e)~~ (f) Nothing in this section shall be interpreted to apply to the discontinuance of life-support systems
14 or life-sustaining treatment for an adult for whom, if the treatment were terminated, death may result.

15 ~~(f)~~ (g) Any person participating in good faith in making a report pursuant to this chapter, excluding any
16 perpetrator or conspirator of the acts, shall have immunity from any civil liability that might otherwise be
17 incurred or imposed.

18 ~~(g)~~ (h) Nothing in this section shall be interpreted to prohibit the use of any medical or psychological
19 treatment procedure designed and conducted in accordance with applicable professional standards when
20 performed by appropriately trained personnel under the supervision of a person or facility licensed or
21 approved by the state of Rhode Island and when any consent as is required by law has been obtained.

22 ~~(h)~~ (i) Nothing in this chapter shall be construed to mean a person is abused or neglected for the sole
23 reason that the person is being furnished or relies upon treatment by spiritual means through prayer alone
24 in accordance with the tenets and practices of a church or religious denomination recognized by the laws
25 of this state;

26 SECTION 2. Chapter 40 - 8.5 of the general laws entitled "Health Care for Elderly and Disabled
27 Residents Act" is hereby amended by adding the following section.

28 **40-8.5-2. Services for adult victims with severe impairments of assault, abuse or neglect.**

29 (a) As used in this section the terms:

30 (1) "Adult victim with severe impairments" means:

31 (i) a person over the age of eighteen (18) who has a disability which is attributable to a mental or
32 physical impairment or combination of mental and physical impairments and results in substantial
33 functional limitations in three (3) or more major life activity;

34 (ii) is an alleged victim of an abuse, neglect or exploitation pursuant to § 11-5-12; or assault pursuant
35 to §§11-5-10.2 or 11-5-11 by a caregiver of the victim;

36 (iii) the adult victim relied on the arrested caregiver for assistance in performing three or more major
37 life activity; and

38 (iv) crisis intervention services are necessary to ensure the immediate health and safety of the adult
39 victim;

40 (2) "Crisis intervention services" means the short term provision of health care and residential services
41 in the immediate hours and days following the arrest of the primary caregiver who has allegedly assaulted
42 an adult with severe impairments;

43 (3) "Major life activities" mean (i) mobility; (ii) self-care; (iii) communication; (iv) receptive and/or
44 expressive language; (v) learning; (vi) self-direction; (vii) capacity for independent living; or (viii)
45 economic self-sufficiency; and

46 (4) "Supportive services" means longer term support services for an adult victim with severe
47 impairments, and when appropriate that victim's family.

1 (c) After July 1, 2007, local police departments may request the department of mental health,
2 retardation, and hospitals provide crisis intervention services for the adult victim with severe impairments
3 when:

4 (1) necessary to ensure the immediate health and safety of the adult victim and

5 (2) the adult victim relied on the arrested caregiver for assistance in performing three or more major
6 life activity, daily.

7 (d) If the department of mental health, retardation, and hospitals determines that longer term supportive
8 services are necessary, the victim and when appropriate that victim's family will be referred to the public
9 and private agencies and departments whose supportive services are within its statutory and/or regulatory
10 responsibility, as are needed by the victim.

11 (2) In developing the supportive services care plan, the adult victim with severe impairments' rights to
12 self-determination and lifestyle preferences commensurate with his or her needs shall be of prime
13 consideration.

14 (3) If the adult victim with severe impairments withdraws consent or refuses to accept crisis
15 intervention or supportive services, the services shall not be provided.

16 (e) The DHS is hereby authorized to seek federal approval of a state plan amendment to its title xix
17 state plan to initiate a crisis intervention services and support services for adults who qualify for title xix
18 services and are victims of severe impairments of abuse, assault, neglect or exploitation.

19 SECTION 3. This act shall take effect shall take effect upon passage.

MOTION: To find the Draft Sub A **06 H-7226 & 06 S-2378 Relating to Criminal Offenses – Assaults** does meet the original criteria set in the Legislative Package - Designation of a state department responsible for providing protective services to abused non-elderly adults (18-64) with severe impairments PC/EG passed, JS abstained

H 7629 Relating to Human Services

(Rhode Island Housing and Mortgage Finance Corporation)

The changes from the original are:

1. Authorizes a referendum question on the November ballot requesting \$5 million in bonds for housing modification.
2. Moves the program from DHS to RI Housing; and
3. Creates a home modification revolving loan fund at RI Housing

It is enacted by the General Assembly as follows:

1 **SECTION 1. Proposition to be submitted to the people.** -- At the general election to be held on the
2 Tuesday next after the first Monday in November 2006, there shall be submitted to the people for their
3 approval or rejection the following proposition:

4 "Shall the action of the general assembly, by an act passed at the January 2006 session, authorizing the
5 issuance of bonds, refunding bonds, and temporary notes of the state in the amount of five million dollars
6 (\$5,000,000) be approved, and the issuance of bonds, refunding bonds, and temporary notes authorized in
7 accordance with the provisions of said act?"

8 **SECTION 2. Ballot labels and applicability of general election laws.** -- The secretary of state shall
9 prepare and deliver to the state board of elections ballot labels for the project provided for in section 1
10 hereof with the designations "approve" or "reject" provided next to the description of each such project to
11 enable voters to approve or reject each such proposition.

12 The general election laws, so far as consistent herewith, shall apply to this proposition.

13 **SECTION 3. Approval of projects by people.** -- If a majority of the people voting on the proposition
14 provided for in section 1 hereof shall vote to approve the proposition as to any project provided for in

1 section 1 hereof, said project shall be deemed to be approved by the people. The authority to issue bonds,
2 refunding bonds and temporary notes of the state shall be limited to the aggregate amount for all such
3 projects as set forth in the proposition provided for in section 1 hereof which has been approved by the
4 people.

5 SECTION 4. **Legislative Findings-**(a) The general assembly hereby finds and declares that:

6 1. All Rhode Islanders, regardless of age or disability, want to live independently in the community or
7 housing arrangement of their choice;

8 2. The lack of available, affordable and accessible housing for people with disabilities and the elderly
9 prevent many Rhode Islanders from obtaining this goal;

10 3. The use of home modifications provides people with disabilities and elders the opportunity to live and
11 remain in the living environment of their choice;

12 4. Accessibility features can assist an individual in completing daily living tasks as well as enhance
13 opportunities for work, community or social events, and supportive services;

14 5. Without necessary home modifications, many people feel isolated from the community and some are
15 left with no choice but to move into a nursing home or institutional setting;

16 6. Currently, in Rhode Island, there is limited funding for home modifications and the funding that is
17 available is difficult to identify and obtain;

18 7. The implementation of a home modification revolving loan fund will provide loans for accessibility
19 modifications to the residences, whether rentals or purchased homes, of people with disabilities and the
20 elderly so they can remain active members of our society.

21 SECTION 5. Chapter 42-55 of the General Laws entitled "Rhode Island Housing and Mortgage Finance
22 Corporation" is hereby amended by adding the following section:

23 **42-55-31. Home modification revolving loan fund program for people with disabilities and the**
24 **elderly.**

25 (a) There is created, as a separate fund within the treasury, the home modifications revolving loan fund
26 for people with disabilities and the elderly. The fund shall consist of general obligation bonds and
27 temporary notes approved by the people, any sums that the state may from time to time appropriate, as
28 well as money received from donations, gifts, bequests, or otherwise from any public or private source,
29 which money is intended for the purpose of making home modifications to the primary residence of
30 persons who: (1) has a disability; or (2) are age 65 or older; or (3) are the caregiver of a family member
31 who has a disability who lives in the caregiver's primary residence, to allow such persons for the purposes
32 of improving accessibility and/or to live more independently in the community.

33 (b) The treasurer shall contract with the Rhode Island housing and mortgage finance corporation for the
34 administration and disbursement of funding. The Rhode Island housing and mortgage finance corporation
35 shall adopt rules and regulations in conjunction with the governor's commission on disabilities consistent
36 with the purposes of this section and the Administrative Procedures Act, chapter 35 of this title, which
37 provide for the orderly and equitable disbursement and repayment of funds.

38 (c) All funds placed in the home modifications revolving loan fund for people with disabilities and the
39 elderly shall be made available to make loans to individuals, and landlords for the purpose of making
40 modifications to the primary residence of persons who: (1) has a disability; or (2) are age 65 or older; or
41 (3) are the caregiver of a family member who has a disability and lives in the caregiver's primary
42 residence, to allow such persons to live more independently in the community and for necessary costs for
43 the administration of the program.

44 (d) Loans made available under the provisions of this section may be made directly, or in cooperation
45 with independent living centers, other public and private lenders, or any agency, department, or bureau of
46 the federal government or the state.

47 (1)The loans pursuant to this section shall be available on the basis of a sliding scale relative to the
48 homeowner's income and assets to the cost of the home modifications.

- 1 (2) Interest rates shall be means tested and may be determined pursuant to income standards developed by
 2 the director of the Rhode Island housing and mortgage finance corporation.
 3 (3) Repayment of any loan pursuant to this chapter may be delayed until the sale of the principal residence
 4 by the homeowner.
 5 (e) The proceeds from the repayment of any loans made for that purpose shall be deposited in and
 6 returned to the home modifications revolving loan fund for people with disabilities and the elderly to
 7 constitute a continuing revolving loan fund for the purposes provided in this section.
 8 (f) Nothing contained herein shall be construed as giving rise to enforceable legal rights on entitlement to
 9 any services.
 10 (g) The director of Rhode Island housing and mortgage finance corporation shall submit annually reports
 11 to the general assembly detailing the status of the home modification revolving loan fund program.
 12 (h) As used in this section the term:
 13 (1) "home modification" shall mean an adaptation to the physical living environment for ease of use,
 14 safety, security and/or to allow such persons to live more independently in the community;
 15 (2) "major life activities" include walking, talking, hearing, seeing, breathing, learning, performing
 16 manual tasks, and caring for oneself; and
 17 (3) "person who has a disability" shall mean a person who has a physical or mental impairment which
 18 substantially limits one or more of such person's major life activities.
 19 **SECTION 6. Independent evaluation of home modification revolving loan fund program.** An
 20 independent evaluation of the effectiveness and administration of this program will take place no later
 21 than one year after the fund becomes operational. The Rhodes to Independence will perform the
 22 evaluation and a full report with findings will be presented to the House and Senate Finance Committees
 23 for review no later than eighteen months after the fund becomes operational. Funding for this evaluation
 24 is authorized from the revolving loan fund.
 25 **SECTION 8.** This act shall take effect upon passage

MOTION: To find the final draft Sub A H 7629 Relating to Human Services (Rhode Island Housing and Mortgage Finance Corporation) does meet the original criteria set in the Legislative Package - Fully Fund modifications to homes/apartments owned or rented by families with disabled members (expand to include Medicare only recipients) and create flexible funding plan such as cash and counseling for families to modify home or yard. AP/KP passed unanimously

The Committee finds these bills Beneficial

Vetoed by Governor

1. 06 H-6754 Sub A SEPARATION OF POWERS Rep. Coderre Identical to the original versions of:

Passed in Concurrence awaiting transmitted to the Governor

2. 06 S-2138 Sub B as Amended SEPARATION OF POWERS Sen. Connor & 06 H-7975
 SEPARATION OF POWERS Rep. Coderre – diversify the membership of the RIPTA

Recommend Pass in Concurrence

3. 06 S-2615 Sub A as Amended LONG-TERM HEALTH CARE Sen. Paiva-Weed & 06 H-8166
 HEALTH AND SAFETY - LONG-TERM CARE It would make the long term care ombudsperson are
 health oversight agencies. Both on House Calendar (H 8166 with Recommendation to Pass).
 06 H-7233 Sub A HEALTH AND SAFETY - LONG TERM CARE Rep. Naughton was recommitted
 to House Health, Education, & Welfare Committee.

Recommend Passage

4. 06 S-2379 Sub A PUBLIC UTILITIES AND CARRIERS - RHODE ISLAND PUBLIC TRANSIT
 AUTHORITY Sen. Raptakis to require RIdе buses to be equipped passenger security cameras when
 the funds become available. The national and state criminal records check of drivers On Senate

Calendar.

Scheduled for hearing and/or consideration

5. 06 S-2042 Sub A as Amended MOTOR AND OTHER VEHICLES Sen. Cote Identical to H 6826 This act would define various terms designating different areas that a bicycle may be operated, and would also set forth rules for users of shared use paths to follow while on shared use paths. House Environmental and Natural Resources Committee heard on 6/8/2006.

In Committee/Hearing Continued

6. 06 S-2217 INSURANCE -- COVERAGE FOR MENTAL ILLNESS AND SUBSTANCE ABUSE Sen. Perry To require reimbursement for professional providers for mental illness coverage be comparable to that paid for similar medical services. Had Senate Finance Committee hearing.
7. 6 S-2560 STATE AFFAIRS AND GOVERNMENT Sen. Perry This act would make eligibility changes to the Prescription Drug Discount Program for the Uninsured. To change the ages of coverage from between age nineteen (19) and sixty-five (65) years of age to age nineteen or older. Had Senate Finance Committee hearing.
8. 06 S-2563 PHARMACEUTICAL ASSISTANCE TO THE ELDERLY Sen. Perry Identical to H 7822 To add to the list of drugs defined as "eligible drugs" to include injectable drugs for that are used in the treatment of multiple sclerosis. Had Senate Finance Committee hearing.
9. 06 S-2568 STATE AFFAIRS AND GOVERNMENT -- PHARMACEUTICAL ASSISTANCE TO THE ELDERLY ACT Sen. Roberts This act would promote coordination of benefits between the elderly pharmaceutical assistance program and Medicare Part D prescription drug plan. Had Senate Finance Committee hearing.
10. 06 S-2707 MENTAL HEALTH, RETARDATION, AND HOSPITALS - DIVISION OF MENTAL HEALTH Sen. Pichardo This act would provide an additional amount of four million dollars (\$4,000,000) Had Senate Finance Committee hearing.
11. 06 H-7429 HEALTH AND SAFETY- STEM CELL RESEARCH Rep. Ajello Had House HEW Committee hearing. & 06 S-2240 HEALTH AND SAFETY- STEM CELL RESEARCH Sen. Perry In Senate Health and Human Services Committee never had a hearing.
12. 06 H-7806 SOVEREIGN IMMUNITY Rep. Moura & 06 S-2250 as Amended SOVEREIGN IMMUNITY Sen. McCaffrey allowing the state to be sued for monetary damages for violating federal civil rights laws. Both are in House Finance Committee which heard H 7806.
13. 06 S-2026 CHILDREN WITH DISABILITIES Sen. Tassoni This act would require the state to provide funding for the special education needs of a child who moves into a city or town after the school committee adopts its budget for the school year. In Senate Finance never had a hearing.
14. 06 H-7189 EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION Rep. Almeida This act would delete references in the Rhode Island general laws which exempt the legislative branch of state government from compliance with provisions of equal opportunity and affirmative action. In Senate Judiciary Committee, no hearing yet.
15. 06 H-7822 PHARMACEUTICAL ASSISTANCE TO THE ELDERLY Rep. Crowley Identical to S 2563 This act would add to the list of drugs defined as "eligible drugs" to include injectable drugs for that are used in the treatment of multiple sclerosis. This act would take effect upon passage. Had House HEW Hearing.
16. 06 H-7856 HEALTH AND SAFETY -- LICENSING OF REHABILITATION COUNSELORS Rep. Naughton This act would provide for the establishment of the Rhode Island Rehabilitation Counselor License Act. This act would take effect upon passage. Recommitted to House Corporations Committee.

The Committee finds this bill Beneficial if amended

Continued

06 S-2562 STATE AFFAIRS AND GOVERNMENT Sen. Alves & 06 H-6992 HUMAN SERVICES

Rep. Slater This act would provide certain private community-based organizations with an annual contractual adjustment based upon the average annual percentage prescribed by the CMS Home Health Market Basket Index for the preceding year and would require those agencies to provide audit results showing how the index funds were spent. *The Committee finds this bill Beneficial if amended - The bill would be beneficial if amended to include all community based & home care services for children & adults with disabilities; such as personnel care attendants, youth diversion, CASSP or Project HOPE employees; and vocational rehabilitation service providers (funded through the Office of Rehabilitation Services or Services for the Blind and Visually Impaired).* Senate Finance Committee heard 3/23/06.

The Committee finds these bill Harmful unless amended

Passed

1. 06 S-2185 as Amended & 06 S-2251 as Amended ASSAULTS Sen. McCaffrey & 06 H-7228 ASSAULTS Rep. Naughton This act would mandate that a person convicted of abuse and neglect of adults with severe impairments be subject to a fine of not more than two thousand dollars (\$2,000), or imprisoned not more than five (5) years, or both, and ordered to make full restitution of any funds obtained as the result of any exploitation which results in the misappropriation of funds. *The Committee finds this bill Harmful unless amended - This bill needs to be amended to include protective services for the victims who due to their severe impairments may immediately need assistance in cases where the alleged abuser is also the caregiver (see S 2378 & H 7226). In addition judges should retain the discretion where the defendant pleads nolo contendere to order the defendant to attend appropriate professional counseling to address his or her abusive behavior.* Staff worked with Dr. John Susa, Lenny Lopes (AG), and others to develop the floor amendment that addresses everyone's concerns – see on page 13. Passed on 6/7/06 & 6/8/06.

In Committee/Hearing Continued

2. 06 H-7067 PHARMACEUTICAL ASSISTANCE TO THE ELDERLY Rep. Naughton & 06 S-2368 PHARMACEUTICAL ASSISTANCE TO THE ELDERLY Sen. Felag This act would change the definition of eligible drugs and specifically excludes prescription drugs used for cosmetic purposes. The new definition of eligible drugs is "(5) (i) 'Eligible drugs' means noninjectable drugs which require a physician's prescription according to federal law and which are contained in the American Hospital Formulary Service pharmacologic -therapeutic classifications categories that have not been determined by the federal 'Drug Efficacy and Safety Implementation (DESI) Commission' to lack substantial evidence of effectiveness, which are not included in the definition of drugs as defined in this subdivision. However, this shall not include prescription drugs used for cosmetic purposes." The new definition does not cover any injectable drugs including insulin. *The Committee finds this bill Harmful unless amended - While the bill's intent to expand coverage to all prescription drugs within the American Hospital Formulary is admirable, the exclusion of all injectable drugs will leave out many of the most effective treatments for multiple sclerosis, cancer and, diabetes. Injectable insulin is presently included in the RIPAE program, but as drafted the bill will delete its coverage.* House Finance Committee heard on 4/27/06, sponsors agree to retain coverage for injectable insulin.

In Committee/Hearing Continued – Died in Committee:

3. 06 S-2754 OPERATORS' AND CHAUFFEURS' LICENSES Sen. Roberts This act would require the medical advisory board to promulgate specific rules and regulations to determine whether a person who has suffered an epileptic seizure in the past would be considered physically ineligible to obtain a motor vehicle operator's license. This act would also require an expedited hearing process for persons who remain seizure free for more than one year. *The Committee finds this bill Harmful unless amended - The current s division of motor vehicles standard for determining physical and mental fitness for motor vehicle licensure, is a functional standard, not a disability specific standard. A functional standards conforms to the requirements of the Americans with Disabilities Acts, a disability specific standard would violate the ADA.* Senate Health and Human Services Committee

heard on 5/17/06.

4. 06 H-6826 MOTOR AND OTHER VEHICLES Rep. McCauley This act would define various terms designating different areas that a bicycle may be operated, and would also set forth rules for users of shared use paths to follow while on shared use paths. "Bikeway," "bike path" or "shared use path" means a transportation/recreational facility physically separated from motorized vehicular traffic by an open space or barrier. These facilities may be used by pedestrians, bicyclists, roller bladders, joggers, wheelchair users and other nonmotorized users. *The Committee finds this bill Harmful unless amended - The bill needs to be amended to match Identical to S 2042.* House Environmental and Natural Resources Committee heard on 3/2/06.
5. 06 H-7507 BRIDLE AND HIKING TRAILS Rep. Ginaitt This act would restrict the use of motorized vehicles on state bridle and hiking paths (no exception for motorized wheelchairs). *The Committee finds this bill Harmful unless amended - The bill needs to be amended to ensure it doesn't prohibit the use of motorized wheelchairs from state bridle or hiking paths.* House Environmental and Natural Resources Committee heard on 3/16/06.

2006 -- S 2185 As Amended Relating to Assaults

The change from the original is a new subsection to address the concerns of parents of adults with disabilities that they would be criminally liable if any state cutbacks in services resulted in "neglect".

It is enacted by the General Assembly as follows:

- 1 SECTION 1. Section 11-5-12 of the General Laws in Chapter 11-5 entitled "Assaults" is hereby amended
2 to read as follows:
3 **11-5-12. Abuse and neglect of adults with severe impairments.** -- (a) Any person primarily responsible
4 for the care of an adult with severe impairments who shall willfully and knowingly abuse, neglect or
5 exploit that adult: (1) shall be subject to a fine of not more than ~~three two~~ thousand dollars ~~(\$3,000)~~
6 (\$2,000), or imprisoned not more than ~~one year~~ five years, or both, and ordered to make full restitution of
7 any funds as the result of any exploitation which results in the misappropriation of funds. ~~Every person~~
8 ~~convicted of or placed on probation for violation of this section or whose case is filed pursuant to section~~
9 ~~12-10-12 where the defendant pleads nolo contendere shall be ordered by the sentencing judge to attend~~
10 ~~appropriate professional counseling to address his or her abusive behavior; and (2) upon a conviction for a~~
11 ~~second or subsequent violation shall be subject to a fine of not more than five thousand dollars (\$5,000),~~
12 ~~or imprisoned not more than three (3) years, or both, and ordered to make full restitution of any funds~~
13 ~~obtained as the result of any exploitation which results in the misappropriation of funds.~~ Every person
14 convicted of or placed on probation for violation of this section ~~or whose case is filed pursuant to~~
15 ~~section 12-10-12 where the defendant pleads nolo contendere~~ shall be ordered by the sentencing judge to
16 attend appropriate professional counseling to address his or her abusive behavior.
17 (b) As used in this section:
18 (1) "Abuse" means the subjection of an adult with a severe impairment to willful infliction of physical
19 pain, willful deprivation of services necessary to maintain the physical or mental health of the person, or
20 unreasonable confinement.
21 (2) "Adult with severe impairments" means a person over the age of eighteen (18) who has a disability
22 which is attributable to a mental or physical impairment or combination of mental and physical
23 impairments and results in substantial functional limitations in three (3) or more of the following areas of
24 major life activity: (i) mobility; (ii) self-care; (iii) communication; (iv) receptive and/or expressive
25 language; (v) learning; (vi) self-direction; (vii) capacity for independent living; or (viii) economic self-
26 sufficiency.

- 1 (3) "Exploitation" means an act or process of taking pecuniary advantage of impaired persons by use of
 2 undue influence, harassment, duress, deception, false representation, false pretenses, or misappropriation
 3 of funds.
- 4 (4) "Neglect" means the willful refusal to provide services necessary to maintain the physical or mental
 5 health of an adult with severe impairments.
- 6 (5) "Person primarily responsible for care" means any person who is for a significant period of time the
 7 primary caregiver or is primarily responsible for the management of the funds of an adult with severe
 8 impairments.
- 9 (c) Violations of this section shall be reported to the local police department.
- 10 (d) Any person who fails to report known or suspected abuse or neglect shall be guilty of a misdemeanor
 11 and upon conviction shall be subject to a fine of not more than five hundred dollars (\$500).
- 12 (e) Nothing in this section shall be interpreted to apply to the discontinuance of life-support systems or
 13 life-sustaining treatment for an adult for whom, if the treatment were terminated, death may result.
- 14 (f) Any person participating in good faith in making a report pursuant to this chapter, excluding any
 15 perpetrator or conspirator of the acts, shall have immunity from any civil liability that might otherwise be
 16 incurred or imposed.
- 17 (g) Nothing in this section shall be interpreted to prohibit the use of any medical or psychological
 18 treatment procedure designed and conducted in accordance with applicable professional standards when
 19 performed by appropriately trained personnel under the supervision of a person or facility licensed or
 20 approved by the state of Rhode Island and when any consent as is required by law has been obtained.
- 21 (h) Nothing in this chapter shall be construed to mean a person is abused or neglected for the sole reason
 22 that the person is being furnished or relies upon treatment by spiritual means through prayer alone in
 23 accordance with the tenets and practices of a church or religious denomination recognized by the laws of
 24 this state.
- 25 (i) Nothing in this chapter shall be construed to mean a person is abused or neglected when the parent or
 26 legal guardian of an adult with severe impairments, who is the person primarily responsible for care of the
 27 adult, (1) decides, in good faith, not to accept support services from a governmental agency, which in the
 28 opinion of the parent or legal guardian and the adult, is considered to be inappropriate or inconsistent with
 29 the best interests of that adult; or (2) decides, in good faith, to reduce or discontinue assistance to that
 30 adult who is developing, acquiring or practicing independent decision-making or living skills.
- 31 SECTION 2. This act shall take effect upon passage

MOTION: To find beneficial 06 S 2185 As Amended & H 7228 As Amended Relating to Assaults. PC/KMcCB passed unanimously

The Committee finds these bills Harmful – Died in Committee

In Committee/Hearing Continued

1. 06 H-7337 EDUCATION -- SCHOOL COMMITTEES AND SUPERINTENDENTS Rep. Loughlin
 This act would allow city and town councils to seek waivers of any state law or regulation related to education, including, but not limited to, regulations governing the education of children with disabilities, to the extent permitted by federal law, in order to reduce school budget increases to three percent (3%) over the prior fiscal year. The commissioner shall grant the waiver to the extent permitted by federal law so as to reduce the school budget increase to no more than five and one-half percent (5.5%). *The Committee finds this bill Harmful - This bill appears to target special education services for cuts, since it's the only "example" provided in the text of the legislation. Rhode Island has been in the forefront of services to children and adults with disabilities, and reducing services to the lowest possible level "permitted by federal law, etc. is a short term solution with long term economic consequences.* House Health, Education, & Welfare Committee heard on 4/12/06.

2. 06 H-7880 MANDATED BENEFITS REVIEW ACT Rep. Menard This act would create an independent committee to review the cost effectiveness, medical efficacy and social need for mandated health insurance benefits. *The Committee finds this bill Harmful - Persons with chronic health conditions are most often the ones seeking mandated health insurance benefits. Weighing the "social impact" of that benefit, essentially is weighing their life and the degree they can remain in the community against the cost of treatment, spread across the community.*
House Corporations Committee heard on 4/5/06.

3:20 PM Review of Tabled Bills

Bob Cooper

Discussion: Members discussed the following bills, tabled at the last meeting

Category: Health Care Services Tabled for more information from MHA, CA, & RIPIN
06 H-8071 STATE AFFAIRS AND GOVERNMENT -- DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES Sponsor: Rep. Costantino
 Description: This act would amend the provisions of the general laws relating to the voluntary admission of children for treatment of mental disability. Section 1 would take effect upon passage, and would be retroactive to April 30, 2006. Section 2 of this act would take effect on January 1, 2007.
 In House Finance Committee never been heard.

It is enacted by the General Assembly as follows:

- 1-1 SECTION 1. Section 40.1-5-6 of the General Laws in Chapter 40.1-5 entitled "Mental
 1-2 Health Law" is hereby amended to read as follows:
 1-3 **40.1-5-6. Voluntary admission. [Effective until January 1, 2007.] --** (a) (4) General. -
 1-4 Any individual of lawful age may apply for voluntary admission to any facility provided for by
 1-5 this law seeking care and treatment for alleged mental disability. The application shall be in
 1-6 writing, signed by the applicant in the presence of at least one witness, who shall attest to the
 1-7 application by placing his or her name and address thereon. If the applicant has not yet attained
 1-8 his or her eighteenth birthday, the application shall be signed by him or her and his or her parent,
 1-9 guardian, or next of kin.
 1-10 ~~(2) Admission of children. — Any person who is under the age of eighteen (18) and who~~
 1-11 ~~receives medical benefits funded in whole or in part by either the department of children, youth~~
 1-12 ~~and families or by the department of human services may be admitted to any facility provided for~~
 1-13 ~~by this chapter seeking care and treatment for alleged mental disability only after an initial mental~~
 1-14 ~~health crisis intervention is completed by a provider that is licensed by the department of~~
 1-15 ~~children, youth and families for emergency services, has proper credentials and is contracted with~~
 1-16 ~~the RItE Care health plan or the state and said provider, after considering alternative services to~~
 1-17 ~~hospitalization with the child, family and other providers, requests prior authorization for the~~
 1-18 ~~admission from a representative of the child and family's insurance company or utilization review~~
 2-1 ~~organization representing the insurance company. If the inpatient hospital admits a child without~~
 2-2 ~~the crisis intervention and prior authorization from the insurance company or utilization review~~
 2-3 ~~organization, the hospital will be paid a rate equivalent to an Administratively Necessary Day~~
 2-4 ~~(AND) for each day that the insurance company or utilization review organization representing~~
 2-5 ~~the insurance company determines that the child did not meet the inpatient level of care criteria.~~
 2-6 ~~The state shall ensure that this provision is included in all publicly financed contracts and~~
 2-7 ~~agreements for behavioral health services. Activities conducted pursuant to this section shall be~~
 2-8 ~~exempt from the provisions of section 23-17.12, but shall be subject to the provisions of~~
 2-9 ~~subsection (b) of this section.~~
 2-10 ~~(3) The department of human services shall develop regulations for emergency~~
 2-11 ~~admissions, that would allow the admitting hospital to maintain their compliance with the~~
 2-12 ~~provisions of the act, while meeting the need of the child.~~

2-13 (b) Period of treatment. - If it is determined that the applicant is in need of care and
2-14 treatment for mental disability and no suitable alternatives to admission are available, he or she
2-15 shall be admitted for a period not to exceed thirty (30) days. Successive applications for
2-16 continued voluntary status may be made for successive periods not to exceed ninety (90) days
2-17 each, so long as care and treatment is deemed necessary and documented in accordance with the
2-18 requirements of this chapter, and no suitable alternatives to admission are available.

2-19 (c) Discharge.

2-20 (1) A voluntary patient shall be discharged no later than the end of the business day
2-21 following of his or her presenting a written notice of his or her intent to leave the facility to the
2-22 medical official in charge or the medical official designated by him or her, unless that official or
2-23 another qualified person from the facility files an application for the patient's civil court
2-24 certification pursuant to section 40.1-5-8. The notice shall be on a form prescribed by the director
2-25 and made available to all patients at all times. If a decision to file an application for civil court
2-26 certification is made, the patient concerned and his or her legal guardian(s), if any, shall receive
2-27 immediately, but in no event later than twelve (12) hours from the making of the decision, notice
2-28 of the intention from the official in charge of the facility, or his or her designee, and the patient
2-29 may, in the discretion of the official, be detained for an additional period not to exceed two (2)
2-30 business days, pending the filing and setting down for hearing of the application under section
2-31 40.1-5-8.

2-32 (2) A voluntary patient who gives notice of his or her intention or desire to leave the
2-33 facility may at any time during the period of his or her hospitalization prior to any certification
2-34 pursuant to section 40.1-5-8, following the giving of the notice, submit a written communication
3-1 withdrawing the notice, whereby his or her voluntary status shall be considered to continue
3-2 unchanged until the expiration of thirty (30) or ninety (90) days as provided in subsection (b). In
3-3 the case of an individual under eighteen (18) years of age, the notice or withdrawal of notice may
3-4 be given by either of the persons who made the application for his or her admission, or by a
3-5 person of equal or closer relationship to the patient, who shall, as well, receive notice from the
3-6 official in charge indicating a decision to present an application for civil court certification. The
3-7 official may in his or her discretion refuse to discharge the patient upon notice given by any
3-8 person other than the person who made the application, and in the event of such a refusal the
3-9 person giving notice may apply to a justice of the family court for release of the patient.

3-10 (d) Examination at facility. - The medical official in charge of a facility shall ensure that
3-11 all voluntary patients receive preliminary physical and psychiatric examinations within twenty-
3-12 four (24) hours of admission. Furthermore, a complete psychiatric examination shall be
3-13 conducted to determine whether the person qualifies for care and treatment under the provisions
3-14 of this chapter. The examination shall begin within forty-eight (48) hours of admission and shall
3-15 be concluded as soon as practicable, but in no case shall extend beyond five (5) days. The
3-16 examination shall include an investigation with the prospective patient of (1) what alternatives for
3-17 admission are available and (2) why those alternatives are not suitable. The alternatives for
3-18 admission investigated and reasons for unsuitability, if any, shall be recorded on the patient's
3-19 record. If it is determined that the patient does not belong to the voluntary class in that a suitable
3-20 alternative to admission is available, or is otherwise ineligible for care and treatment, he or she
3-21 shall be discharged.

3-22 (e) Rights of voluntary patients. - A voluntary patient shall be informed in writing of his
3-23 or her status and rights as a voluntary patient immediately upon his or her admission, and again at
3-24 the time of his or her periodic review(s) as provided in section 40.1-5-10, including his or her
3-25 rights pursuant to section 40.1-5-5(f). Blank forms for purposes of indicating an intention or
3-26 desire to leave a facility shall be available at all times and on and in all wards and segments of a
3-27 facility wherein voluntary patients may reside.

3-28 SECTION 2. Section 40.1-5-6 of the General Laws in Chapter 40.1-5 entitled "Mental
3-29 Health Law" is hereby amended to read as follows:

3-30 **40.1-5-6. Voluntary admission. [Effective January 1, 2007.]** -- (a) (1) General. - Any
3-31 individual of lawful age may apply for voluntary admission to any facility provided for by this
3-32 law seeking care and treatment for alleged mental disability. The application shall be in writing,
3-33 signed by the applicant in the presence of at least one witness, who shall attest to the application
3-34 by placing his or her name and address thereon. If the applicant has not yet attained his or her
4-1 eighteenth birthday, the application shall be signed by him or her and his or her parent, guardian,
4-2 or next of kin.

4-3 (2) Admission of children. - Any person who is under the age of eighteen (18) and who
4-4 receives medical benefits funded in whole or in part by either the department of children, youth
4-5 and families or by the department of human services may be admitted to any facility provided for
4-6 by this chapter seeking care and treatment for alleged mental disability only after an initial mental
4-7 health crisis intervention is completed by a provider that is licensed by the department of
4-8 children, youth and families for emergency services, has proper credentials and is contracted with
4-9 the RIte Care health plan or the state and said provider, after considering alternative services to
4-10 hospitalization with the child, family and other providers, requests prior authorization for the
4-11 admission from a representative of the child and family's insurance company or utilization review
4-12 organization representing the insurance company. If the inpatient hospital admits a child without
4-13 the crisis intervention and prior authorization from the insurance company or utilization review
4-14 organization, the hospital will be paid a rate equivalent to an Administratively Necessary Day
4-15 (AND) for each day that the insurance company or utilization review organization representing
4-16 the insurance company determines that the child did not meet the inpatient level of care criteria.
4-17 The state shall ensure that this provision is included in all publicly financed contracts and
4-18 agreements for behavioral health services. Activities conducted pursuant to this section shall be
4-19 exempt from the provisions of section 23-17.12, but shall be subject to the provisions of
4-20 subsection (b) of this section.

4-21 (3) The department of human services shall develop regulations for emergency
4-22 admissions, that would allow the admitting hospital to maintain their compliance with the
4-23 provisions of the act, while meeting the need of the child.

4-24 (b) Period of treatment. - If it is determined that the applicant is in need of care and
4-25 treatment for mental disability and no suitable alternatives to admission are available, he or she
4-26 shall be admitted for a period not to exceed thirty (30) days. Successive applications for
4-27 continued voluntary status may be made for successive periods not to exceed ninety (90) days
4-28 each, so long as care and treatment is deemed necessary and documented in accordance with the
4-29 requirements of this chapter, and no suitable alternatives to admission are available.

4-30 (c) Discharge.

4-31 (1) A voluntary patient shall be discharged no later than the end of the business day
4-32 following of his or her presenting a written notice of his or her intent to leave the facility to the
4-33 medical official in charge or the medical official designated by him or her, unless that official or
4-34 another qualified person from the facility files an application for the patient's civil court
5-1 certification pursuant to section 40.1-5-8. The notice shall be on a form prescribed by the director
5-2 and made available to all patients at all times. If a decision to file an application for civil court
5-3 certification is made, the patient concerned and his or her legal guardian(s), if any, shall receive
5-4 immediately, but in no event later than twelve (12) hours from the making of the decision, notice
5-5 of the intention from the official in charge of the facility, or his or her designee, and the patient
5-6 may, in the discretion of the official, be detained for an additional period not to exceed two (2)
5-7 business days, pending the filing and setting down for hearing of the application under section
5-8 40.1-5-8.

5-9 (2) A voluntary patient who gives notice of his or her intention or desire to leave the
5-10 facility may at any time during the period of his or her hospitalization prior to any certification
5-11 pursuant to section 40.1-5-8, following the giving of the notice, submit a written communication
5-12 withdrawing the notice, whereby his or her voluntary status shall be considered to continue
5-13 unchanged until the expiration of thirty (30) or ninety (90) days as provided in subsection (b). In
5-14 the case of an individual under eighteen (18) years of age, the notice or withdrawal of notice may
5-15 be given by either of the persons who made the application for his or her admission, or by a
5-16 person of equal or closer relationship to the patient, who shall, as well, receive notice from the
5-17 official in charge indicating a decision to present an application for civil court certification. The
5-18 official may in his or her discretion refuse to discharge the patient upon notice given by any
5-19 person other than the person who made the application, and in the event of such a refusal the
5-20 person giving notice may apply to a justice of the family court for release of the patient.

5-21 (d) Examination at facility. - The medical official in charge of a facility shall ensure that
5-22 all voluntary patients receive preliminary physical and psychiatric examinations within twenty-
5-23 four (24) hours of admission. Furthermore, a complete psychiatric examination shall be
5-24 conducted to determine whether the person qualifies for care and treatment under the provisions
5-25 of this chapter. The examination shall begin within forty-eight (48) hours of admission and shall
5-26 be concluded as soon as practicable, but in no case shall extend beyond five (5) days. The
5-27 examination shall include an investigation with the prospective patient of (1) what alternatives for
5-28 admission are available and (2) why those alternatives are not suitable. The alternatives for
5-29 admission investigated and reasons for unsuitability, if any, shall be recorded on the patient's
5-30 record. If it is determined that the patient does not belong to the voluntary class in that a suitable
5-31 alternative to admission is available, or is otherwise ineligible for care and treatment, he or she
5-32 shall be discharged.

5-33 (e) Rights of voluntary patients. - A voluntary patient shall be informed in writing of his
5-34 or her status and rights as a voluntary patient immediately upon his or her admission, and again at
6-1 the time of his or her periodic review(s) as provided in section 40.1-5-10, including his or her
6-2 rights pursuant to section 40.1-5-5(f). Blank forms for purposes of indicating an intention or
6-3 desire to leave a facility shall be available at all times and on and in all wards and segments of a
6-4 facility wherein voluntary patients may reside.

6-5 SECTION 3. Section 1 shall take effect upon passage, and shall be retroactive to April
6-6 30, 2006. Section 2 of this act shall take effect on January 1, 2007.

Discussion: The committee took no position

3:30 PM Review of New Bills

Tim Flynn

Discussion: Members discussed the following bills.

Review requested by Arthur Plitt Financial Assistance

06 H-7902 EDUCATION – LOAN REPAYMENT PROGRAM

Sponsors: Rep. Naughton & Reps. Dennigan, Ginaitt, San Bento, & Kennedy

Description: This act would create an incentive program to allow eligible health care professionals employed in that capacity in the health care field to have the interest on his or her student loans forgiven under certain terms and conditions. This act would also require the general assembly to provide \$250,000 per year in matching funds to the fund starting in fiscal year 2007. This act would take effect upon passage. House Finance Committee heard on 5/24/06.

It is enacted by the General Assembly as follows:

1-1 SECTION 1. Title 16 of the General Laws entitled "EDUCATION" is hereby amended
1-2 by adding thereto the following chapter:

1-3 **CHAPTER 62.2**

LOAN REPAYMENT PROGRAM

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16-62.2-1. Legislative findings. -- The purpose of this chapter is to provide an incentive, in the form of interest reduction on certain types of education loans, to students who desire to serve the health care needs of individuals in Rhode Island by enrolling in a teaching visually impaired, or an orientation and mobility specialist, or a registered practicum training program for occupational, physical and/or speech therapist, or a clinical social worker and psychologist employed by agencies providing Home Based Therapeutic Services, early intervention provider, CEDARR Service Provider, hospitals, nursing homes and home nursing care, assisted living residences, adult day services, health care and human service providers, and other providers of services to individuals with disabilities. The general assembly has found and hereby declares that it is in the public interest and essential to the welfare and well being of the inhabitants of the state that a sufficient number of these health care professionals be attracted to Rhode Island to serve the health care needs of our population. The general assembly further finds that there is a growing shortage of these qualified health care professionals to meet the needs of the state's population. The general assembly determines that it is vital to the welfare of the state's citizenry that an incentive be provided to attract and retain these health care professionals in the state to meet their needs.

16-62.2-2. Definitions. -- For the purpose of this chapter, the following terms shall have the following meanings unless the context clearly requires otherwise:

(1) "Authority" means the governmental agency and public instrumentality authorized, created and established pursuant to section 16-62-4.

(2) "Eligible teacher of the visually impaired, orientation and mobility specialist, occupational, physical and/or speech health care professional" means an individual who holds a valid Rhode Island license to practice as teacher of the visually impaired, orientation and mobility specialist, occupational, physical and/or speech professional and who works as in that capacity in this state and can document that they work at least half time (average of twenty (20) hours per week), or is employed in a certified nurse education training program.

(3) "Loan" means a federal Stafford (FFELP) loan made by the authority or one of its participating lenders, issued after July 1, 2000 and not in default.

(4) "Eligible employment" shall mean employment as a teacher of the visually impaired, orientation and mobility specialist, occupational, physical and/or speech therapist, clinical social workers and psychologists employed by agencies providing Home Based Therapeutic Services, early intervention provider, CEDARR Service Provider, hospitals, nursing homes and home nursing care, assisted living residences, adult day services, health care and human service providers, and other providers of services to individuals with disabilities.

16-62.2-3. Interest forgiveness on loans. -- Subject to funds made available by the authority and matching funds annually appropriated by the general assembly, an eligible teacher of the visually impaired, orientation mobility specialist, occupational, physical and/or speech therapist, clinical social worker, and psychologist shall be eligible to have the interest on his or her loan or a portion of the loan forgiven for each year he or she has eligible employment by agencies providing Home Based Therapeutic Services, early intervention provider, CEDARR Service Provider, hospitals, nursing homes and home nursing care, assisted living residences, adult day services, health care and human service providers, and other providers of services to individuals with disabilities in the state up to a maximum of four (4) years and prior to the termination of this program.

16-62.2-4. Application for loan interest forgiveness. -- Any individual seeking interest forgiveness or loan forgiveness pursuant to the provisions of this chapter shall apply to the authority on forms prescribed by the authority containing any information that the authority deems advisable to fulfill the provisions of this program. The authority's executive director, or

2-34 his or her designee, shall determine the eligibility of each applicant.

3-1 **16-62.2-5. Continued eligibility.** -- Any individual deemed eligible shall, not less than

3-2 annually, submit to the authority any information that the authority may prescribe to determine

3-3 the individual's continued eligibility for the interest forgiveness on his or her eligible loan under

3-4 this chapter.

3-5 **16-62.2-6. Penalty for failure to maintain eligibility.** -- In the event the authority

3-6 determines that an individual is no longer eligible for the interest or loan forgiveness on his or her

3-7 loan as provided in this chapter, that individual shall be required to pay the holder of his or her

3-8 loan forthwith all accrued interest and principle and any late payment penalties which have

3-9 accrued during the periods of the ineligibility.

3-10 **16-62.2-7. Regulations.** -- The authority may promulgate any regulations that it deems

3-11 necessary to implement the provisions of this interest and loan forgiveness program.

3-12 **16-62.2-8. No adverse effect on authority's bond issues or rating.** -- Notwithstanding

3-13 any provision of this chapter to the contrary, to the extent, if any, that this interest and loan

3-14 forgiveness program shall have any material adverse effect on the authority's ability to issue

3-15 negotiable bonds and notes, the authority shall be empowered to suspend this program on a

3-16 prospective basis, provided that any individual who has previously been determined to be eligible

3-17 for the program's benefits shall retain their eligibility up to the maximum period prescribed in this

3-18 chapter.

3-19 **16-62.2-9. Severability of provisions.** -- The provisions of this chapter are severable. If

3-20 any provisions are deemed invalid by a court of competent jurisdiction, that determination shall

3-21 not affect the validity of the remaining provisions.

3-22 **16-62.2-10. Termination of interest and loan forgiveness on December 31, 2012.** --

3-23 The interest and loan forgiveness benefits granted under this program shall cease after December

3-24 31, 2012 unless extended by an act of the general assembly.

3-25 **16-62.2-11. Annual appropriation.** -- Beginning in fiscal year 2007 the general

3-26 assembly shall annually appropriate the sum of two hundred and fifty thousand dollars (\$250,000)

3-27 for the purpose of providing matching funds to the authority to carry out the provisions of this

3-28 chapter.

3-29 SECTION 2. This act shall take effect upon passage and shall expire on December 31,

3-30 2012.

Discussion: Members spoke about the shortage of health care workers and the need to do “everything” to increase the pool of workers.

MOTION: To find beneficial **06 H-7902 EDUCATION - LOAN REPAYMENT PROGRAM**
BI/KP passed unanimously

06 S-2628 Sub A as Amended MEDICAL ASSISTANCE – LONG-TERM CARE SERVICE AND FINANCE REFORM Sponsor: Sen. Perry (**Original S 2628 Identical to H 7686 (in House Finance)**)

Description: This act would require the department of human services to implement a model system for integrated long-term care that expands the capacity of the long-term care system as a whole to support consumer choice and independence. This act would take effect upon passage.

The Substitute adds a new section that amends the new voluntary Medicaid managed care option (Chapter 40-8.5 entitled “Health Care for Elderly and Disabled Residents Act – Categorically needy medical assistance coverage) by deleting the word “voluntary”. To ensure the delivery of timely and appropriate services to persons who become automatically eligible for Medicaid by virtue of their eligibility for a social security administration program, data on their special needs may be reported to the department of human services by the social security administration. The department of human services is authorized to seek any and all data sharing agreements or other agreements with the social security administration as

may be necessary to receive timely and accurate diagnostic data and clinical assessments to be used exclusively for the purpose of service planning, and to be held and exchanged in accordance with all applicable state and federal medical record confidentiality laws and regulations. The other revisions include:

1) changing from allocating Medicaid resources “as needed to ensure that those in need of long-term care and support services receive them in the least restrictive setting appropriate to their needs and preferences.” To “as needed to ensure that those in need of long-term care and support services receive them in the setting most appropriate to their needs and preferences.”

2) changing the date to begin to implement a model system for integrated long-term care and the unified long-term care budget, from July 1, 2006 and July 1, 2007.

The Floor Amendment restores 1. the “voluntary” Medicaid managed care option, but makes will require people who want the standard “fee for service” plan to “opt-out” of the managed care program; and 2. restores the “least restrictive setting” language from the original bill.

Both In House Finance Committee, heard 06/01/06

It is enacted by the General Assembly as follows:

1-1 SECTION 1. Title 40 of the General Laws entitled "HUMAN SERVICES" is hereby
1-2 amended by adding thereto the following chapter:

1-3 **CHAPTER 8.9**
1-4 **MEDICAL ASSISTANCE - LONG-TERM CARE SERVICE AND FINANCE REFORM**

1-5 **40-8.9-1. Findings. --** (a) The number of Rhode Islanders in need of long-term care
1-6 services continues to rise substantially, and the quality of life of these Rhode Islanders is
1-7 determined by the capacity of the long-term care system to provide access to the full array of
1-8 services and supports required to meet their health care needs and maintain their independence.

1-9 (b) It is in the interest of all Rhode Islanders to endorse and fund statewide efforts to
1-10 build a fiscally sound, dynamic long-term care system that supports: consumer independence and
1-11 choice; the delivery of high quality, coordinated services; the financial integrity of all
1-12 participants-purchasers, payers, providers and consumers; and the responsible and efficient
1-13 allocation of all available public and private resources.

1-14 (c) It is in the interest of all Rhode Islanders to assure that rates paid for community-
1-15 based long-term care services are adequate to assure high quality as well as supportive of
1-16 workforce recruitment and retention.

1-17 (d) It is in the interest of all Rhode Islanders to improve consumer's access information
1-18 regarding community-based alternatives to institutional settings of care.

2-1 **40-8.9-2. System reform goal. --** On or before July 1, 2007, the department of human
2-2 services shall begin to implement a model system for integrated long-term care, that expands the
2-3 capacity of the long-term care system as a whole to support consumer choice and independence;
2-4 enables consumers to access coordinated services; assures quality outcomes through certification
2-5 standards, performance measures and incentives and rewards that promote service excellence and
2-6 generates the information consumers need to make reasoned choices about their health care; and
2-7 improves the system's overall stability by reinvesting the benefits that accrue from the more
2-8 efficient utilization of services to enhance the capacity of each of its component parts. Attaining
2-9 system-wide reform of the magnitude set forth herein will require significant changes in the
2-10 organization, financing and delivery of services that must be implemented incrementally.

2-11 **40-8.9-3. Least restrictive setting requirement. --** Beginning on July 1, 2006, the
2-12 department of human services is directed and authorized to allocate existing Medicaid resources
2-13 as needed to ensure that those in need of long-term care and support services receive them in the
2-14 least restrictive setting appropriate to their needs and preferences. The department is hereby
2-15 authorized to utilize screening criteria, to avoid unnecessary institutionalization of persons during

2-16 the full eligibility determination process for Medicaid community based care.
2-17 **40-8.9-4. Unified long-term care budget.** – Beginning on July 1, 2007, a unified long-
2-18 term care budget shall combine in a single line-item within the department of human services
2-19 budget, annual department of human services Medicaid appropriations for nursing facility and
2-20 community-based long-term care services (including adult day care, home health, and personal
2-21 care in assisted living settings). Beginning on July 1, 2007, the total system savings attributable to
2-22 the value of the reduction in nursing home days paid for by Medicaid shall be allocated for the
2-23 express purpose of promoting and strengthening community-based alternatives.
2-24 **40-8.9-5. Administration and regulations.** -- As the single state agency designated to
2-25 administer the Rhode Island Medicaid program, the department is hereby directed and authorized
2-26 to develop and submit any requests for waivers, demonstration projects, grants and state plan
2-27 amendments or regulations that may be considered necessary and appropriate to support the
2-28 general purposes of this statute. Such requests shall be made in consultation with any affected
2-29 departments and, to the extent feasible, any consumer group, advisory body, or other entity
2-30 designated for such purposes.
2-31 **40-8.9-6. Reporting.** -- Annual reports shall be submitted by the department to the Joint
2-32 Legislative Committee on Health Care Oversight as well as the finance committees of both the
2-33 senate and the house of representatives and shall include estimates of the investments necessary
2-34 to provide stability to the existing system and establish the infrastructure and programs required
3-1 to achieve system-wide reform.
3-2 **40-8.9-7. Rate reform.** – By January 2008 the department of human services shall design
3-3 and require to be submitted by all service providers cost reports for all community-based long-
3-4 term services.
3-5 **40-8.9-8. System screening.** – By January 2008 the department of human services shall
3-6 develop and implement a screening strategy for the purpose of identifying entrants to the publicly
3-7 financed long-term care system prior to application for eligibility as well as defining their
3-8 potential service needs.
3-9 SECTION 2. Section 40-8.5-1 of the General Laws in Chapter 40-8.5 entitled "Health
3-10 Care for Elderly and Disabled Residents Act" is hereby amended to read as follows:
3-11 **40-8.5-1. Categorically needy medical assistance coverage.** -- (a) The department of
3-12 human services is hereby authorized and directed to amend its Title XIX state plan to provide for
3-13 categorically needy medical assistance coverage as permitted pursuant to Title XIX of the Social
3-14 Security Act [42 U.S.C. section 1396 et seq.] as amended to individuals who are sixty-five (65)
3-15 years or older or are disabled (as determined under section 1614(a)(3)) of the Social Security Act
3-16 [42 U.S.C. section 1382c(a)(3)] as amended whose income does not exceed one hundred percent
3-17 (100%) of the federal poverty level (as revised annually) applicable to the individual's family
3-18 size, and whose resources do not exceed four thousand dollars (\$4,000) per individual, or six
3-19 thousand dollars (\$6,000) per couple. The department shall provide medical assistance coverage
3-20 to such elderly or disabled persons in the same amount, duration and scope as provided to other
3-21 categorically needy persons under the state's Title XIX state plan.
3-22 (b) In order to ensure that individuals with disabilities, have access to quality and
3-23 affordable health care, the department is authorized to plan and to implement a system of health
3-24 care delivery through a voluntary (opt-out) managed care health system for such individuals.
3-25 "Managed care" is defined as a system that: integrates an efficient financing mechanism with
3-26 quality service delivery; provides a "medical home" to assure appropriate care and deter
3-27 unnecessary and inappropriate care; and places emphasis on preventive and primary care.
3-28 (c) The department is authorized to obtain any approval and/or waivers from the United
3-29 States Department of Health and Human Services, necessary to implement a voluntary (opt-out)
3-30 managed health care delivery system to the extent approved by the United States Department of

3-31 Health and Human Services.
3-32 (d) The department shall submit a report to the Permanent Joint Committee on Health
3-33 Care Oversight no later than April 1, 2006 that proposes an implementation plan for this
3-34 voluntary program, based on beginning enrollment not sooner than July 1, 2006. The report will
4-1 describe projected program costs and savings, the outreach strategy to be employed to educate the
4-2 potentially eligible populations, the enrollment plan, and an implementation schedule.
4-3 (e) To ensure the delivery of timely and appropriate services to persons who become
4-4 automatically eligible for Medicaid by virtue of their eligibility for a social security
4-5 administration program, data on their special needs may be reported to the department of human
4-6 services by the social security administration. The department of human services is authorized to
4-7 seek any and all data sharing agreements or other agreements with the social security
4-8 administration as may be necessary to receive timely and accurate diagnostic data and clinical
4-9 assessments to be used exclusively for the purpose of service planning, and to be held and
4-10 exchanged in accordance with all applicable state and federal medical record confidentiality laws
4-11 and regulations.
4-12 SECTION 3. This act shall take effect upon passage.

Discussion: EG spoke about the need for consumer input on an advisory / steering committee on the Medicaid managed care program.

MOTION: To find beneficial 06 S-2628 Sub A as Amended and 06 H-7686 (if amended to match S-2628 sub A as Amended) MEDICAL ASSISTANCE - LONG-TERM CARE SERVICE AND FINANCE REFORM KP/AP passed, PC abstained

Review requested by DEM, who requests the Commission take no position, since they are opposed.

06 H-8171 Fish and Wildlife – Hunting and Hunting Safety

This act would forbid the use of remote control hunting device in Rhode Island except for people with physical limitations who have applied for a special permit. This act would take effect upon passage.

House Environmental and Natural Resources Heard on 06/08/06

It is enacted by the General Assembly as follows:

1-1 SECTION 1. Chapter 20-13 of the General Laws entitled "Hunting and Hunting Safety"
1-2 is hereby amended by adding thereto the following section:
1-3 20-13-19. Remote control hunting. – (a) For purposes of this section:
1-4 (1) A "captive animal" is defined as an animal which has been brought into and kept in
1-5 captivity for the purpose of taking it.
1-6 (2) "Remote control hunting" is defined as the use of a computer or any device which
1-7 uses the Internet or any other technology to control remotely the aiming and discharge of any
1-8 device such as a firearm, bow or spear to take a wild or captive animal.
1-9 (b) Except as provided for in subsection (e) herein, no person shall take a wild or captive
1-10 animal using a remote control hunting device. This shall apply to any person who is in Rhode
1-11 Island while using a remote control hunting device regardless of the location of the animal taken.
1-12 (c) No person shall establish or operate a remote control hunting site in Rhode Island.
1-13 (d) No person shall import, export or possess a wild or captive animal or any part thereof
1-14 which has been taken by a remote control hunting device except for those persons referred to in
1-15 subsection (e) herein.
1-16 (e) A person who is physically impaired to the degree that he or she cannot operate a
1-17 device allowed for the taking of game under Rhode Island law may apply for a permit to use
1-18 remote control technology but not the Internet. The device must be in the immediate vicinity of
1-19 the permittee.
2-1 (f) A person applying for a permit under subsection (e) herein shall apply to the

- 2-2 [department of environmental management, shall submit proof of physical limitation by his or her](#)
2-3 [physician defining and describing his or her limitations and shall appear in person at a time set at](#)
2-4 [the time of applying for a permit. The department of environmental management can obtain a](#)
2-5 [second medical opinion to verify the disability.](#)
2-6 [\(g\) Upon satisfactory proof of disability the department of environmental management](#)
2-7 [may issue a permit which will list the device and method this person may use to take game. The](#)
2-8 [department of environmental management may require that the permittee be accompanied while](#)
2-9 [hunting by a person licensed to hunt in Rhode Island, unless the permittee can prove that he or](#)
2-10 [she is able to track injured game and to retrieve and care for a carcass.](#)
2-11 [\(h\) The permit granted under subsection \(e\) herein shall be in addition to a hunting](#)
2-12 [license and shall be attached to the hunting license. It shall be produced on demand by any](#)
2-13 [department of environmental management personnel or law enforcement personnel. This permit](#)
2-14 [shall be renewed on a yearly basis.](#)
2-15 SECTION 2. This act shall take effect upon passage.

Existing State Hunting Laws allowing for “reasonable accommodations

20-15-2. Deer permits.

(a) No person shall hunt deer within this state unless that person possesses a deer tag. Any resident or non-resident holder of a hunting license or combination license may obtain a shotgun, muzzle loading rifle, or crossbow, or archery deer tag from the director. The deer permit shall be carried at all times by the person to whom it is issued while hunting for deer. Any person who takes a deer in this state shall immediately affix his or her tag portion of his or her deer permit to the carcass of the taken deer, and, within twenty-four (24) hours of the taking, convey the deer to an environmental police officer or other designee of the department, or to a deer check station, if one is in operation at the time, for checking. Any dead deer found not having a tag attached to it identifying the owner shall be the property of the state and shall be seized by any environmental police officer who finds or locates the carcass, to be disposed of by direction of the director.

(b) Crossbow permits. *Crossbow permits may be issued by the department to those persons who have a permanent physical impairment due to injury or disease, congenital or acquired, which renders them so severely disabled as to be unable to use a conventional bow and arrow device.* Said permits will be issued by the department only after the receipt of a physician's statement confirming the applicant is impaired as referred to above. All permittees must have taken and successfully completed both hunter education and bow hunter education classes prior to the issuance of a permit.

20-15-4. Equipment used by archers.

(a) No person hunting, pursuing or taking deer by archery shall be equipped with equipment not authorized by regulations promulgated by the department and/or as authorized by subsection (b) herein.

(b) Possession of archery aid devices for deer hunting with special permit. *Any person who has a permanent physical impairment due to injury or disease, congenital or acquired, which renders them so severely disabled as to be unable to use a conventional bow and arrow device, and/or who is sixty-five (65) years of age or older, may legally hunt deer using adaptive equipment and aids.* Said permits will be issued by the department only after the receipt of a physician's statement confirming the applicant is impaired as referred to above.

Discussion: The Committee took no position.

Requested by the RI Disability Law Center
06 H-7990 State Affairs and Government - - Elderly Affairs

This act would revise the abuse and neglect of the elderly laws, by deleting the definitions of: "Abandonment"; "Abuse"; "Exploitation"; "Long term care entry system"; and "Neglect" and replacing them with definitions of: "Physical Abuse"; "Sexual Abuse"; "Psychological Abuse"; "Exploitation"; "Neglect"; "Willful"; "Duty of Care"; "Caretaker"; and "Self-Neglect".

Eliminating the responsibility of:

1. reporting neglected, exploited, or abandoned, requiring instead to only report abuse or self-neglect;
2. the Department of Elderly Affairs to investigate exploitation or abandonment, requiring instead investigating only abuse or self-neglect;
3. the \$500 fine for obstructing the provision of services in cases of neglected, exploited, or abandoned, instead only fining for obstruction in cases of abuse, or self-neglect; and
4. the requirement to keep confidential, records pertaining to neglected, exploited or abandoned and instead only requiring confidentiality of records pertaining to abuse, or self-neglect.

This act would take effect upon passage.

It is enacted by the General Assembly as follows:

- 1-1 SECTION 1. Section 42-66-4.1, 42-66-8, 42-66-8.1, 42-66-8.2, 42-66-9 and 42-66-10 of
1-2 the General Laws in Chapter 42-66 entitled "Elderly Affairs Department" are hereby amended to
1-3 read as follows:
- 1-4 **42-66-4.1. Definitions.** -- As used in this chapter:
- 1-5 ~~(1) "Abandonment" means the desertion of an elderly person by a caretaker or other~~
1-6 ~~person with a duty of care, or the withdrawal of necessary assistance owed an elderly person by a~~
1-7 ~~caretaker or other person with an obligation to provide services.~~
- 1-8 ~~(2) "Abuse" means the subjection of an elderly person to the willful infliction of physical~~
1-9 ~~pain, or willful deprivation of services by a caretaker or other person with a duty of care for the~~
1-10 ~~elderly person. Abuse also includes neglect, abandonment, and exploitation.~~
- 1-11 ~~(3) "Exploitation" means an act or process of taking pecuniary advantage of an elderly~~
1-12 ~~person by use of undue influence, harassment, duress, deception, false representation or false~~
1-13 ~~pretenses.~~
- 1-14 ~~(4) "Long term care entry system" means a system which provides information and~~
1-15 ~~referrals relative to long term care, initial screening for services and benefits eligibility, and a~~
1-16 ~~uniform assessment program for state supported long term care.~~
- 1-17 ~~(5) "Neglect" means the willful refusal to provide services necessary to maintain~~
1-18 ~~physical and mental health on the part of a caretaker or other person with a duty of care.~~
- 1-19 (1) "Physical Abuse" means the willful infliction of pain or injury (e.g. slapping, bruising
2-1 or restraining).
- 2-2 (2) "Sexual Abuse" means the infliction of non-consensual sexual contact of any kind.
- 2-3 (3) "Psychological Abuse" means the infliction of emotional anguish (e.g. humiliating,
2-4 intimidating or threatening).
- 2-5 (4) "Exploitation" means the improper act or process of an individual using the resources
2-6 of an older person without consent, for someone else's benefit.
- 2-7 (5) "Neglect" means the failure to provide goods or services necessary to avoid physical
2-8 harm, mental anguish or mental illness including "abandonment" (withdrawal of necessary
2-9 assistance) and denial of food or health related services.
- 2-10 (6) "Willful" means intentional, conscious and directed toward achieving a purpose.
- 2-11 (7) "Duty of Care" means a requirement that a person act toward others and the public
2-12 with the watchfulness, attention, caution and prudence that a reasonable person in the
2-13 circumstances would use.

2-14 (8) "Caretaker" means a person who has the responsibility for the care of an elderly
2-15 person as a result of a family relationship or who has assumed the responsibility for the care of
2-16 the elderly voluntarily, by contract or by order of a court of competent jurisdiction.

2-17 (9) "Self-Neglect" means a pattern of behavior in an elder (a person sixty (60) years of
2-18 age or older) that directly threatens his/her own health, safety, or welfare or that directly threatens
2-19 the health, safety, or welfare of proximate neighbors. It is sometimes characterized by a change in
2-20 behavioral patterns. Self-neglect generally manifests itself in an older person's refusal or inability
2-21 to provide self with food, water, shelter, safety, basic personal hygiene, or necessary medications
2-22 to the point of establishing imminent risk. Elders who neglect themselves may have cognitive,
2-23 psychological, and/or physical impairments. There may be no one available, able, or willing to
2-24 assist them. They are at risk of directly harming themselves or proximate neighbors through their
2-25 own actions or inactions.

2-26 (6)(10) "Protective services" means services and/or action intended to prevent and/or
2-27 alleviate the abuse (including physical, sexual, psychological, exploitation and neglect) or self-
2-28 neglect of elderly persons. Protective services may include supervision, counseling, and
2-29 assistance in securing health and supportive services, safe living accommodations and legal
2-30 intervention.

2-31 **42-66-8. Abuse of elderly persons -- Duty to report. -- Abuse and self-neglect of**
2-32 **elderly persons -- Duty to report. --** Any person who has reasonable cause to believe that any
2-33 person sixty (60) years of age or older has been abused, ~~neglected, exploited, or abandoned~~ or is
2-34 self-neglecting, shall make an immediate report to the director of the department of elderly affairs
3-1 or his or her designee. Any person who fails to make the report shall be punished by a fine of not
3-2 more than one thousand dollars (\$1,000) or shall be imprisoned for a term of not more than one
3-3 year, or both.

3-4 **42-66-8.1. Abuse of elderly persons -- Telephone line. -- Abuse and self-neglect of**
3-5 **elderly persons -- Telephone line. --** The director shall provide, for the use of the general public,
3-6 a statewide toll free, twenty-four (24) hour a day, seven (7) days a week, ~~WATS~~ telephone line,
3-7 to report abuse and self-neglect of the elderly.

3-8 **42-66-8.2. Abuse of elderly persons -- Investigation of reports. -- Abuse and self-**
3-9 **neglect of elderly persons -- Investigation of reports. --** (a) The director of the department shall
3-10 cause the report to be investigated immediately to determine the circumstances surrounding the
3-11 alleged abuse, or self-neglect, ~~exploitation or abandonment~~ and its cause. The investigation shall
3-12 include personal contact with the ~~alleged elderly victim~~ elder named in the report. Any person
3-13 required to investigate reports of abuse, or self-neglect, ~~exploitation or abandonment~~ may
3-14 question the subjects of those reports with or without the consent of the caretaker, guardian,
3-15 conservator, person possessing a power of attorney given by the subject or other person
3-16 responsible for the elderly person's welfare.

3-17 (b) When deemed by the investigator or other person responsible for the investigation of
3-18 the report to be in the best interests of the alleged victim, the interview of the alleged victim(s)
3-19 shall take place in the absence of the caretaker, guardian, conservator, person possessing a power
3-20 of attorney given by the subject or other person responsible for the elderly person's welfare, or
3-21 any other person, ~~allegedly responsible for the abuse, neglect, exploitation or abandonment.~~

3-22 (c) In the event that any person required to investigate those reports is denied reasonable
3-23 access to an ~~alleged~~ elderly victim subject of the report by the caretaker, guardian, conservator,
3-24 person possessing a power of attorney given by the subject or other person responsible for the
3-25 elderly person's welfare and the investigator determines that the best interests of the ~~alleged~~
3-26 elderly victim elder require, the investigator with the approval of the director may request the
3-27 intervention of the local law enforcement agency to secure reasonable access to the ~~alleged~~
3-28 elderly victim subject of the report.

3-29 (d) In the event that after investigation, the department has reasonable cause to know or
3-30 suspect that a person sixty (60) years of age or older has been a victim of: (1) an "assault" as
3-31 defined in chapter 5 of title 11; or, (2) an "assault" as defined in chapter 37 of title 11; or, (3) an
3-32 offense under chapter 10 of title 11, or has been a victim of "exploitation" as defined in this
3-33 chapter, the investigator, with the approval of the director, shall immediately forward that
3-34 information to the local law enforcement agency.

4-1 (e) When it is determined after investigation that protective services are necessary, the
4-2 department shall develop a protective services care plan and coordinate, in conjunction with
4-3 existing public and private agencies and departments, available and existing services as are
4-4 needed by the person abused, ~~neglected, exploited or abandoned.~~ or self-neglecting. In developing
4-5 the protective services care plan, the elderly person's rights to self-determination and lifestyle
4-6 preferences commensurate with his or her needs shall be of prime consideration. If the elderly
4-7 person withdraws consent or refuses to accept protective services, the services shall not be
4-8 provided.

4-9 **42-66-9. Obstruction of provision of services.** -- (a) No person shall obstruct the
4-10 provision of available and existing services to a person sixty (60) years of age or older who has
4-11 been abused, ~~neglected, exploited, or abandoned.~~ or who is self-neglecting. For the purposes of
4-12 this section, "obstruction" shall mean threats, intimidation, assaults and/or abuse, whether
4-13 physical or psychological, made with the intent to prevent or dissuade the recipient or proposed
4-14 recipient from accepting, requesting, and/or receiving services available under section 42-66-8.
4-15 Any person who violates the provisions of this section shall be punished by a fine of not more
4-16 than five hundred dollars (\$500).

4-17 (b) However, nothing in this chapter is construed to mean a person is abused, ~~neglected,~~
4-18 ~~or in need of emergency or protective services~~ or self-neglecting for the sole reason that person is
4-19 being furnished or relies upon treatment by spiritual means through prayer alone in accordance
4-20 with the tenets and practices of a church or religious denomination recognized by the laws of this
4-21 state.

4-22 (c) No person shall deny access by departmental staff to a person sixty (60) years of age
4-23 or older who is alleged to be a victim of abuse, ~~neglect, exploitation or abandonment,~~ or who is
4-24 self-neglecting, while the staff person is investigating a report made under this chapter.

4-25 **42-66-10. Confidentiality of records.** -- Any records of the department or other agency
4-26 pertaining to a person reported to be abused, ~~neglected, exploited or abandoned~~ or self-neglecting
4-27 shall be confidential. The records shall not be deemed public and shall be considered records
4-28 under section 38-2-2(4)(i). The director may, however, disclose to the attorney general, any local
4-29 or state police officials, appropriate courts, state departments, public or private agencies, or
4-30 medical personnel, pertinent information that is necessary to investigate reports of abuse; or self-
4-31 neglect, ~~exploitation, or abandonment,~~ the coordination of needed services, the protection of the
4-32 elderly victim or criminal prosecution.

5-1 SECTION 2. This act shall take effect upon passage.

Discussion: Members raised concerns about the change in concept from being neglected by a caregiver and "self-neglect", also the creation of a caregiver's "duty of care". There isn't protective service options other than nursing homes.

MOTION: To find harmful **06 H-7990 State Affairs and Government - - Elderly Affairs**
BI/KP passed, EG & JS Nay

4:00 PM Public Forums on the Concerns of People with Disabilities and their Families Bob Cooper & Christine Botts	
Discussion: 2 Forums have sponsoring hosts and are scheduled for: Monday July 24 th at the Newport Public Library from 3 – 5 PM, host is the State Independent Living Council and Thursday July 27 th at the Warwick Public Library from 4:45 – 6:15, host is the Ocean State Center for Independent Living.	
Rhodes To Independence will host a forum at URI Kingston Tuesday or Wednesday; and MHRH will look into hosting a forum at Zambarano.	
4:25 PM Announcements and Scheduling of Meetings	
Final planning for the Public Forums Monday July 10 th .	
Adjourned at:	4:40 PM
Resource People:	Anne Mulready (RIDLC), Chris Botts & Leah Charpentier (GCD)