



# Governor's Commission on Disabilities Legislation Committee

Monday December 10, 2007 3 – 4:30 PM

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<b>Attendees:</b>	Timothy Flynn (Chair); Kate McCarthy-Barnett (Vice Chair); Raymond Bandusky; Jeanne Behie; Sharon Brinkworth; Linda Deschenes; Elaina Goldstein; Liberty Goodwin; William R. Inlow; Ken Pariseau; Arthur M. Plitt; Gwendolyn Reeve; Rev. Gerard O. Sabourin;	
<b>Excused:</b>	Rosemary C. Carmody; Paul Choquette; Deborah Garneau; Dianne Kayala; Paula Parker; Janet Spinelli; & Michael Spierri	
<b>Absent:</b>		
<b>----- Minutes -----</b>		
<b>Call to Order and Acceptance of the Minutes</b>	<b>Tim Flynn Chairperson</b>	<b>5 min.</b>
Introductions: Chair called the meeting to order at 3:07 PM		
MOTION: To accept the minutes of the previous meeting as presented GR/KMcB passed, KP abstained		
<b>Action Items:</b>	<b>Discussion Leader:</b>	<b>Time:</b>
<b>1. 2008 Legislative Package</b>	<b>Tim Flynn</b>	
<p>The Commission adopted the 2008 Legislative Package, as recommended by the Legislation Committee, without any changes.</p> <ol style="list-style-type: none"> <li>1. Extend governmental tort liability to members of state boards and commissions when acting in their official capacity and legal representation;</li> <li>2. Ensure families of children with severe impairments who have coverage from both Medicaid &amp; commercial health care insurance, get quick resolution of their claims, rather than be bounced back and forth between Medicaid and the insurer (Public Law 2006 Chapter 246 Article 34 Section 5 Insurance -- Mandated Benefits / Children's health account);</li> <li>3. Ensure implementation of the crisis intervention services for abused non-elderly adults (18-64) with severe impaired (Public Law 2006 Chapter 275 Assault on persons with severe impairments or mentally disabled - penalties - services for adult victims with severe impairments of abuse, neglect and/or exploitation);</li> <li>4. Refocus Medicaid from institutional care to home &amp; community based services so people can remain living in their community (Public Law 2006, Chapter 263 / RIGL 40-8.9 Medical Assistance - Long-Term Care Service And Finance Reform);</li> <li>5. 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); and</li> </ol>		

- 6. Restoration of DCYF services to children:
  - a. 18-21 and
  - b. housing adolescents 17-21 at the youth correctional facility not in ACI (accomplished by 07 S-1141 Sub B An Act Relating To Family Court – Jurisdiction)

The Commission also adopted the Committee’s Scope of Review, as recommended: Civil Rights, Disability Prevention, Employment, Health Care Services, Housing, Special Education, Transportation

<b>2. Draft Bills for 2008</b>	<b>Bob Cooper, Executive Secretary</b>	
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Discussion: The two bills from 2007 to be reintroduced are # 1 the government board member liability and # 5 the accessory family dwelling bills. The accessory family dwelling bill was modified extensively to overcome objections from the Pawtucket City Planning & Zoning Officials, to late in the session to ensure passage.

DRAFT 2008 –  
**STATE OF RHODE ISLAND  
 IN GENERAL ASSEMBLY  
 JANUARY SESSION, A.D. 2008**

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 AN ACT  
 RELATING TO STATE BOARDS AND COMMISSIONS

Introduced By:  
Date Introduced:  
Referred To:

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 9-31-8; 9-31-9; 9-31-10; 9-31-11; 9-31-12; Chapter 9-31 of the General  
 2 Laws entitled “Governmental Tort Liability” is hereby amended to read as follows:  
 3 **9-31-8. Defense of state employees and members of state boards and commissions - Attorney**  
 4 **general.**  
 5 Except as provided in § 9-31-9, the attorney general shall, upon a written request of an employee or  
 6 former employee of the state of Rhode Island or members of state boards and commissions, defend any  
 7 action brought against the state employee or former state employee or members of state boards and  
 8 commissions, on account of an act or omission that occurred within the scope of his or her employment or  
 9 service on a state board or commission with the state.  
 10 **9-31-9. Refusal to defend - Attorney general.**  
 11 The attorney general may refuse to defend an action referred to in § 9-31-8 if he or she determines that:  
 12 (1) The act or omission was not within the scope of employment or service on a state board or  
 13 commission;  
 14 (2) The act or the failure to act was because of actual fraud, willful misconduct, or actual malice;  
 15 (3) The defense of the action or proceeding by the attorney general would create a conflict of interest  
 16 between the state of Rhode Island and the employee or former employee or members of state boards and  
 17 commissions;  
 18 (4) Within ten (10) days of the time he or she is served with any summons, complaint, process, notice,  
 19 demand, or pleading, the employee or former employee or members of state boards and commissions fails  
 20 to deliver the original or a copy thereof to the attorney general or his or her designee; or

1 (5) The state employee or former state employee or members of state boards and commissions refuses to  
2 cooperate fully with the attorney general's defense.

3 **9-31-10. Exclusive control over litigation.**

4 Whenever the attorney general defends a state employee or former state employee or members of state  
5 boards and commissions pursuant to §§ 9-31-8 - 9-31-12, the attorney general shall assume exclusive  
6 control over the representation of the employee or former state employee, and the employee or former  
7 state employee shall cooperate fully with the attorney general's defense. The attorney general is  
8 authorized to compromise or settle any claims after the institution of suit thereon, with the approval of the  
9 court in which the suit is pending.

10 **9-31-11. Conflict - Payment of counsel fees by state.**

11 In the event there is a conflict of interest or the attorney general determines it is not in the best interest of  
12 the state or the state employee or former state employee or members of state boards and commissions to  
13 represent him or her, the state shall pay for reasonable counsel fees; provided, however, that the attorney  
14 general shall consult in advance with the prospective counsel to establish the parameters within which the  
15 state will be liable for attorneys' fees; and provided, further, that their reasonableness shall ultimately be  
16 reviewed and approved by the court before paid.

17 **9-31-12. Indemnification - Reservation of obligation - Certification.**

18 (a) The state reserves the right to determine whether or not it will indemnify any employees or members  
19 of state boards and commissions defended pursuant to §§ 9-31-8 - 9-31-11, if a judgment is rendered  
20 against the employee or members of state boards and commissions.

21 (b) Upon certification by the court in which the tort action against a state employee or members of state  
22 boards and commissions is pending that (1) the defendant employee was acting within the scope of his or  
23 her office or employment when the claim arose, and (2) the claim does not arise out of actual fraud,  
24 willful misconduct, or actual malice by the employee or members of state boards and commissions, any  
25 civil action or proceeding commenced upon the claim under this statute shall be deemed to be an action or  
26 proceeding brought against the state under the provisions of this title and all references thereto, and the  
27 state shall be substituted as the party defendant.

28 **9-1-31.1. Members of public bodies - Exemption from liability.**

29 (a) Definitions. The following words and terms shall have the following respective meanings, unless the  
30 context clearly indicates a different meaning:

31 (1) "Public body" means any branch, department, division, agency, commission, committee, board,  
32 council, bureau, authority, or any subdivision thereof of state government or any other public agency or  
33 public body corporate of the state of Rhode Island or any political subdivision thereof.

34 (2) "Qualified member" means an individual who serves without monetary or other compensation as a  
35 member of a public body for the purpose of setting policy, controlling, or otherwise overseeing the  
36 activities or functional responsibilities of the public body. As used in this section, "compensation" does  
37 not include a per diem or per meeting allowance, health insurance benefits, or reimbursement for out-of-  
38 pocket costs and expenses incurred in the service.

39 (b) Limitation of liability. Notwithstanding any other law, a qualified member of a public body shall not  
40 be held civilly liable for any breach of his or her duties as such member, provided that nothing herein  
41 contained shall eliminate or limit the liability of a qualified member:

42 (1) For acts or omissions not in good faith or which involve intentional misconduct or a knowing violation  
43 of law;

44 (2) For any transaction from which such member derived an improper personal benefit; or

45 (3) For any malicious, willful or wanton act.

1 SECTION 2. Section 42-9-6 of the General Laws entitled "Department Of Attorney General" is hereby  
2 amended to read as follows:

3 **42-9-6. Legal adviser - Representation of state officers and agencies.**

4 Except as otherwise in the general laws provided, the attorney general, whenever requested, shall act  
5 as the legal adviser of the individual legislators of the general assembly, of all state boards, divisions,  
6 departments, and commissions and the officers thereof, of all members of state boards and commissions  
7 ~~commissioners appointed by the general assembly~~, of all the general officers of the state, and of the  
8 director of administration, in all matters pertaining to their official duties, and shall institute and  
9 prosecute, whenever necessary, all suits and proceedings which they may be authorized to commence, and  
10 shall appear for and defend the above-named individual legislators, boards, divisions, departments,  
11 commissions, or members of state boards and commissions ~~commissioners~~, and officers, in all suits and  
12 proceedings which may be brought against them in their official capacity.

13 SECTION 3. This act takes effect upon passage.

14 EXPLANATION  
15 BY THE LEGISLATIVE COUNCIL  
16 OF  
17 AN ACT  
18 RELATING TO STATE BOARDS AND COMMISSIONS

19 This act would include members of state boards and commissions when acting in their official  
20 capacity to the provisions of the governmental tort liability and the attorney general's responsibilities in  
21 providing legal representation of state officers and agencies.

22 This act would take effect upon passage.

MOTION: To direct staff to contact this year's sponsors (Sen. Lenihan and Rep. Mumford) and request they reintroduce their bills in the 2008 General Assembly session, as presented RB/JB passed unanimously

DRAFT 2008 – \_\_\_\_\_  
STATE OF RHODE ISLAND  
IN GENERAL ASSEMBLY  
JANUARY SESSION, A.D. 2008

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AN ACT  
RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

Introduced By:

Date Introduced:

Referred To:

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-24-37 of the General Laws in Chapter 45-24 entitled "Zoning  
2 Ordinances" is hereby amended to read as follows:

3 **45-24-37. General provisions -- Permitted uses.** -- (a) The zoning ordinance provides a listing of all  
4 land uses and/or performance standards for uses which are permitted within the zoning use districts of the  
5 municipality.

6 (b) Notwithstanding any other provision of this chapter, the following uses are permitted uses within  
7 all residential zoning use districts of a municipality and all industrial and commercial zoning use districts  
8 except where residential use is prohibited for public health or safety reasons:

9 (1) Households;

- 1 (2) Community residences;
- 2 (3) Family day care homes.

3 (c) Any time a building or other structure used for residential purposes, or a portion of a building  
4 containing residential units, is rendered uninhabitable by virtue of a casualty such as fire or flood, the  
5 owner of the property is allowed to park, temporarily, mobile and manufactured home or homes, as the  
6 need may be, elsewhere upon the land, for use and occupancy of the former occupants for a period of up  
7 to twelve (12) months, or until the building or structure is rehabilitated and otherwise made fit for  
8 occupancy. The property owner, or a properly designated agent of the owner, is only allowed to cause the  
9 mobile and manufactured home or homes to remain temporarily upon the land by making timely  
10 application to the local building official for the purposes of obtaining the necessary permits to repair or  
11 rebuild the structure.

12 (d) Notwithstanding any other provision of this chapter, appropriate access for people with disabilities  
13 to residential structures is allowed as a reasonable accommodation for any person(s) residing, or intending  
14 to reside, in the residential structure.

15 (e) Notwithstanding any other provision of this chapter, an accessory family dwelling unit in an owner-  
16 occupied, single-family residence shall be permitted as a reasonable accommodation only for family  
17 members with disabilities. The appearance of the structure shall remain that of a single-family residence  
18 and there shall be an internal means of egress between the principal unit and the accessory family  
19 dwelling unit. If possible, no additional exterior entrances should be added. Where additional entrance is  
20 required, placement should generally be in the rear or side of the structure. When the structure is  
21 serviced by an individual sewage disposal system, the applicant shall have the existing or any new system  
22 approved by the department of environmental management. The zoning enforcement officer shall require  
23 that a declaration of the accessory family dwelling unit for the family member or members and its  
24 restrictions be recorded in the land evidence records and filed with the zoning enforcement officer and the  
25 building official. Once the family member or members with disabilities no longer resides in the premises  
26 on a permanent basis, or the title is transferred, the property owner shall notify the zoning official in  
27 writing, and the accessory family dwelling unit shall no longer be permitted, unless there is a subsequent,  
28 valid application.

29 (f) When used in this section the terms “people with disabilities” or “member or members with  
30 disabilities” means a person(s) who has a physical or mental impairment which substantially limits one or  
31 more major life activities, as defined in §34-37-3 of the general laws.

32 SECTION 2. This act takes effect upon passage.

33  
34 EXPLANATION  
35 BY THE LEGISLATIVE COUNCIL  
36 OF  
37 AN ACT  
38 RELATING TO TOWNS AND CITIES -- ZONING ORDINANCES

39 This act would authorize an accessory family dwelling unit in a single-family residence as a reasonable  
40 accommodation for family-members with disabilities.

41 This act would take effect upon passage.

MOTION: To direct staff to contact this year’s sponsor (Sen. Levesque) and request he introduce the amended version of the bill presented in the 2008 General Assembly session and find a House sponsor BI/AP passed unanimously.

# 2 Ensure families of children with severe impairments who have coverage from both Medicaid &

commercial health care insurance, get quick resolution of their claims, rather than be bounced back and forth between Medicaid and the insurer.

**Public Law 2006 Chapter 246 Article 34 Section 5 Insurance -- Mandated Benefits**

**42-12-29. Children's health account.** – (a) There is created within the general fund a restricted receipt account to be known as the "children's health account". All money in the account shall be utilized by the department of human services to effectuate coverage for home health services, CEDARR services, and children's intensive services (CIS). All money received pursuant to this section shall be deposited in the children's health account. The general treasurer is authorized and directed to draw his or her orders on the account upon receipt of properly authenticated vouchers from the department of human services.

(b) Beginning in the fiscal year 2007, each insurer licensed or regulated pursuant to the provisions of chapters 18, 19, 20, and 41 of title 27 shall be assessed for the purposes set forth in this section. The department of human services shall make available to each insurer, upon its request, information regarding the department of human services child health program and the costs related to the program. Further, the department of human services shall submit to the general assembly an annual report on the program and cost related to the program, on or before February 1 of each year. Annual assessments shall be based on direct premiums written in the year prior to the assessment and shall not include any Medicare Supplement Policy (as defined in section 27-18-2.1(g)), Medicare managed care, Medicare, Federal Employees Health Plan or dental premiums. As to accident and sickness insurance, the direct premium written shall include, but is not limited to, group, blanket, and individual policies. Those insurers assessed greater than five hundred thousand dollars (\$500,000) for the year shall be assessed four (4) quarterly payments of twenty-five percent (25%) of their total assessment. Beginning July 1, 2006, the annual rate of assessment shall be determined by the director of human services in concurrence with the primary payors, those being insurers likely to be assessed at greater than five hundred thousand dollars (\$500,000). The director of the department of human services shall deposit that amount in the "children's health account". The assessment shall be used solely for the purposes of the "children's health account" and no other.

(c) Any funds collected in excess of funds needed to carry out the programs shall be deducted from the subsequent year's assessment.

(d) The total annual assessment on all insurers shall be equivalent to the amount paid by the department of human services for such services, for children insured by such insurers, but not to exceed five thousand dollars (\$5,000) per child covered by the services.

(e) The children's health account shall be exempt from the indirect cost recovery provisions of section 35-4-27 of the general laws.

# 3. Ensure the implementation of the crisis intervention services for abused non-elderly adults (18-64) with severe impaired

**Public Law 2006 Chapter 275 Assault on persons with severe impairments or mentally disabled - penalties - services for adult victims with severe impairments of abuse, neglect and/or exploitation**  
**11-5-10.2. 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 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:

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

(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) "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 relies on the person believed to have committed the assault and/or battery, for assistance in performing three (3) or more major life activities.**

**11-5-11. Assault on persons with severe impairments.**

(a) For the purposes of this section:

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

(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) "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 which results in a substantial limitation on the person's ability to function independently in the family or community and in one or more major life activities.

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

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

**(d) 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 relies on the person believed to have committed the assault and/or battery, for assistance in performing three (3) or more major life activities.**

**11-5-12. Abuse, neglect and/or exploitation of adults with severe impairments.**

(a) Any person primarily responsible for the care of an adult with severe impairments who shall willfully and knowingly abuse, neglect or exploit that adult shall 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 as the result of any exploitation which results in the misappropriation of funds. Every person convicted of or placed on probation for violation of this section shall be ordered by the sentencing judge to attend appropriate professional counseling to address his or her abusive behavior.

(b) As used in this section:

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

(2) "Adult with severe impairments" means a person over the age of eighteen (18) 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 of the following areas of major life activity: (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) "Exploitation" means an act or process of taking pecuniary advantage of impaired persons by use of undue influence, harassment, duress, deception, false representation, false pretenses, or misappropriation of funds.

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

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

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

**(d) After July 1, 2007 pursuant to section 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 relies on the person believed to have committed the abuse, neglect and/or exploitation, for assistance in performing three (3) or more major life activities.**

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

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

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

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

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

(j) Nothing in this chapter shall be construed to mean a person is abused or neglected when the parent or legal guardian of an adult with severe impairments, who is the person primarily responsible for care of the adult, (1) decides, in good faith, not to accept support services from a governmental agency, which in

the opinion of the parent or legal guardian and the adult, is considered to be inappropriate or inconsistent with the best interests of that adult; or (2) decides, in good faith, to reduce or discontinue assistance to that adult who is developing, acquiring or practicing independent decision-making or living skills.

# 4. Refocus Medicaid from institutional care to home & community based services so people can remain living in their community

## **Chapter 8.9 Medical Assistance - Long-Term Care Service And Finance Reform**

### **40-8.9-1. Findings.**

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

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

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

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

### **40-8.9-2. System reform goal.**

On or before July 1, 2007, the department of human services shall begin 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; enables consumers to access coordinated services; assures quality outcomes through certification standards, performance measures and incentives and rewards that promote service excellence and generates the information consumers need to make reasoned choices about their health care; and improves the system's overall stability by reinvesting the benefits that accrue from the more efficient utilization of services to enhance the capacity of each of its component parts. Attaining system-wide reform of the magnitude set forth herein will require significant changes in the organization, financing and delivery of services that must be implemented incrementally.

### **40-8.9-3. Least restrictive setting requirement.**

Beginning on July 1, 2006, the department of human services is directed and authorized to allocate existing 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. The department is hereby authorized to utilize screening criteria, to avoid unnecessary institutionalization of persons during the full eligibility determination process for Medicaid community based care.

### **40-8.9-4. Unified long-term care budget.**

Beginning on July 1, 2007, a unified long-term care budget shall combine in a single line-item appropriation within the department of human services budget, annual department of human services Medicaid appropriations for nursing facility and community-based long-term care services for elderly sixty-five (65) years and older and younger persons at risk of nursing home admissions (including adult day care, home health, and personal care in assisted living settings). Beginning on July 1, 2007, the total system savings attributable to the value of the reduction in nursing home days including hospice nursing home days paid for by Medicaid shall be allocated in the budget enacted by the general assembly for the ensuing fiscal year for the express purpose of promoting and strengthening community-based alternatives. Beginning on January 1, 2008, the allocation shall include, but not be limited to, the establishment of

presumptive eligibility criteria for the purposes of accessing home and community care. The home and community care service presumptive eligibility criteria shall be developed through rule or regulation on or before September 30, 2007.

The caseload estimating conference pursuant to section 35-17-1 shall determine the amount of general revenues to be added to the current service estimate of community based long-term care services for elderly sixty-five (65) and older and younger persons at risk of nursing home admissions for the ensuing budget year by multiplying the combined cost per day of nursing home and hospice nursing home days estimated at the caseload conference for that year by the reduction in nursing home and hospice nursing home days from those in the second fiscal year prior to the current fiscal year to those in the first fiscal year prior to the current fiscal year.

**40-8.9-5. Administration and regulations.**

As the single state agency designated to administer the Rhode Island Medicaid program, the department is hereby directed and authorized to develop and submit any requests for waivers, demonstration projects, grants and state plan amendments or regulations that may be considered necessary and appropriate to support the general purposes of this statute. Such requests shall be made in consultation with any affected departments and, to the extent feasible, any consumer group, advisory body, or other entity designated for such purposes.

**40-8.9-6. Reporting.**

Annual reports shall be submitted by the department to the Joint Legislative Committee on Health Care Oversight as well as the finance committees of both the senate and the house of representatives and shall include estimates of the investments necessary to provide stability to the existing system and establish the infrastructure and programs required to achieve system-wide reform.

**40-8.9-7. Rate reform.**

By January 2008 the department of human services shall design and require to be submitted by all service providers cost reports for all community-based long-term services.

**40-8.9-8. System screening.**

By January 2008 the department of human services shall develop and implement a screening strategy for the purpose of identifying entrants to the publicly financed long-term care system prior to application for eligibility as well as defining their potential service needs.

# 6 Restoration of DCYF services to children: a. 18-21 and b. Housing adolescents 17-21 at the youth correctional facility not in ACI (accomplished by 07 S-1141 Sub B An Act Relating to Family Court – Jurisdiction)		
<b>3. Legislative Strategy</b>	<b>Tim Flynn</b>	
<b>Legislative Event</b>	<b>Dates for the 2007 Session</b>	
Opening Day	Tuesday, January 2, 2007	
Last day for House Public Bill Introduction	Thursday, February 15	
Last Day for Senate Public Bill Introduction	Thursday, February 15 (Updated)	
Winter Recess	February 16 - 26	
Reconvene	Tuesday, February 27	
Last Day for House Committee Consideration of House Bills	Thursday, April 12	
Last Day for Senate Committee Consideration of Senate Bills	Thursday, April 12	
Spring Recess	April 13 - 23	
Reconvene	Tuesday, April 24	

	<b>Items to be Enacted during the 2008 session:</b>	<b>Person responsible:</b>	<b>Deadline:</b>
<b>1.</b>	<b>Extend governmental tort liability to members of state boards and commissions when acting in their official capacity and legal representation</b>		
	a. Draft bill	Bob Cooper	completed
	b. Ask sponsors to reintroduce	Bob Cooper	1/25/08
	c. Identify potential “witnesses”	Tim Flynn	1/31/08
	d. Prepare testimony with the “witnesses”		2/7/08
	e. Track bill(s)	GCD Fellow	continuously
	f. Arrange testimony		
<b>2.</b>	<b>Ensure families of children with severe impairments who have coverage from both Medicaid &amp; commercial health care insurance, get quick resolution of their claims, rather than be bounced back and forth between Medicaid and the insurer (Public Law 2006 Chapter 246 Article 34 Section 5 Insurance -- Mandated Benefits / Children's health account)</b>		
	a. Determine status of the implementation of the law	Elaina Goldstein & Jeanne Behie	1/31/08
	b. Prepare testimony with the “witnesses”		2/7/08
	c. Track Budget Hearing(s) for	GCD Fellow	continuously
	d. Arrange testimony		
<b>3.</b>	<b>Ensure implementation of the crisis intervention services for abused non-elderly adults (18-64) with severe impaired (Public Law 2006 Chapter 275 Assault on persons with severe impairments or mentally disabled - penalties - services for adult victims with severe impairments of abuse, neglect and/or exploitation)</b>		
	a. Determine status of the implementation of the law	Ray Bandusky & Gwen Reeve	1/31/08
	b. Prepare testimony with the “witnesses”		2/7/08
	c. Track Budget Hearing(s) for MHRH	GCD Fellow	continuously
	d. Arrange testimony		
<b>4.</b>	<b>Refocus Medicaid from institutional care to home &amp; community based services so people can remain living in their community (Public Law 2006, Chapter 263 / RIGL 40-8.9 Medical Assistance - Long-Term Care Service And Finance Reform)</b>		

	a. Represent GCD on DHS “Long-Term Care Service” Working Group on Finance	Ask John Treat, with Ken P.	1/31/08
	b. Prepare testimony with the “witnesses”		2/7/08
	c. Track Budget Hearing(s) for DHS	GCD Fellow	continuously
	d. Arrange testimony		
<b>5.</b>	<b>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)</b>		
	a. Draft bill	Bob Cooper	completed
	b. Identify sponsors (1 Representative & 1 Senator)	Arthur will check & Bill Inlow	1/25/08
	c. Identify potential “witnesses”		1/31/08
	d. Prepare testimony with the “witnesses”		2/7/08
	e. Track bill(s)	GCD Fellow	continuously
	f. Arrange testimony		
<b>6.</b>	<b>Restoration of DCYF services to children 18-21</b>		
	a. Identify potential “witnesses” or Commission’s participation in larger children’s advocacy efforts	Ken P. & Jeanne Behie – get info. Check with Karen Lyons	1/31/08
	b. Prepare testimony with the “witnesses”		2/7/08
	c. Track Budget Hearing(s) for DCYF	GCD Fellow	continuously
	d. Arrange testimony		
<b>4. Announcements and Scheduling of Meetings</b>		<b>Chairperson</b>	<b>5 min.</b>
Mondays 3 – 4:30 PM: 01/14; 02/11; 03/10; 04/14; 05/12; 06/16; 07/07; 09/15; 10/20; and 12/08. The public forums on the concerns of people with disabilities will be during the week of July 21 – 25, 2008 celebrating the anniversary of the signing of the Americans with Disabilities Act (ADA) on July 26, 1990.			
Next meeting will be on:	Monday January 14, 2008	Starting at: 3 PM	
Adjournment:	Chairperson adjourned the meeting at 4:40 PM		
Resource persons:	Bob Cooper, Committee Staff		