

DAVID S. BENTZ
STATE REPRESENTATIVE
18th District



HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901

COMMITTEES
Health & Human Development, Chair
Energy, Vice-Chair
Appropriations
Joint Finance
Labor
Natural Resources

**House Health and Human Development Committee Meeting
6.8.22**

This meeting has been recorded and can be accessed via legis.delaware.gov

Chair Bentz called the meeting to order at 11:01 a.m. Members present included Vice Chair Minor-Brown, Reps. Baumbach, Briggs-King, Collins, Hensley, Kowalko, Lynn, Morrison, Postles, and Shupe. Rep. Griffith, sponsor of HB 432, was also present.

Chair Bentz introduced **HB 442, AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE DELAWARE HEALTH CARE COMMISSION AND STATE OF DELAWARE HEALTH CARE SPENDING AND QUALITY BENCHMARKS.**

Chair Bentz explained the purpose of the bill. A few years ago, the Governor created an Executive Order creating healthcare spending benchmarks. This bill attempts to take that executive order and make it statute. Chair Bentz said providing some amount of transparency on healthcare spending is important for both the State and consumers. The bill does not go beyond the scope of the original executive order.

Chair Bentz opened the meeting to questions from committee members.
Chair Bentz opened the meeting to public comment.

Sarah Stowens, on behalf of Christiana Care, spoke in support of the bill.

Christina Bryan, Director of Communications and Policy for the Delaware Healthcare Association, spoke on the bill. The bill confers no regulatory authority and gives responsibility for maintaining benchmarks to the Delaware Healthcare Commission. The Delaware Healthcare Association does not oppose the bill.

Chair Bentz opened the meeting to remote comment.

Dr. Matthew Burday, President of the Medical Society of Delaware, spoke in support of the bill. The negative impact of increasing healthcare costs on families is well-known.

A motion to release was made by Rep. Baumbach and seconded by Rep. Kowalko to release HB 442. Chair Bentz called the roll for HB 442; Yes = 9 (Baumbach, Bentz, Briggs King, Hensley, Kowalko, Minor-Brown, Morrison, Postles and Shupe), No = 0. Motion carried. The bill was released with a F=2, M=7, U=0 vote.

Chair Bentz introduced **SS1 for SB 222, AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO RATES.**

Chair Bentz explained the purpose of the bill. Last year, the General Assembly passed SB 120 that involved increasing the State's investment into primary care. That bill included provisions to try and recoup costs associated with the added spending in the bill. The bill did not consider the current climate of high inflation. SS1 for SB 222, revisits the spending growth targets to allow for additional growth in the health systems. The bill sets parameters on how to calculate inflation by establishing a 12-month look back period. He will be presenting an amendment to address concerns expressed about the bill.

Chair Bentz opened the meeting to questions from committee members.

Chair Bentz opened the meeting to public comment.

Chris Haas, representing Trinidad Navarro and the Delaware Department of Insurance, spoke on the bill. This bill provides clarity around a provision of prior legislation and codifying this provision is urgent. Health insurance filing deadlines are established at the federal level and are imminent. The bill included a two-year lookback period to calculate the inflation-based price increase maximums. Limiting hospital increases to a reasonable rate, as the law requires, allows insurers to appropriately direct funds to Delaware's healthcare providers who have the lowest professional fees in the nation as a percentage of Medicare. The impacts of inflations on consumers and billion-dollar organizations are vastly different. Hospital revenues are in the billions and have received tax-payer bailouts from the federal government. The reserves of hospitals have increased and now total five-billion dollars. Insurers have strict ratios for their funding and must spend 80% of what they bring in on medical losses insurance claims. Insurers do not have the reserves to contemplate additional price increases and those changes fall onto the consumers. She cannot comment on their position on the amendment at this point in time.

Chair Bentz opened the meeting to remote public comment.

Wayne Smith, President and CEO of the Delaware Healthcare Association, had no objection to the bill moving forward.

A motion to release was made by Rep. Baumbach and seconded by Rep. Minor-Brown to release SS1 for SB 222. Chair Bentz called the roll for SS1 for SB 222; Yes = 9 (Baumbach, Bentz, Briggs King, Hensley, Kowalko, Minor-Brown, Morrison, Postles, and Shupe), No = 0. Motion carried. The bill was released with a F=2, M=7, U=0 vote.

Rep. Briggs King requested additional information on hospital revenues and reserves broken down by hospitals in Delaware. There is a significant disparity between Nanticoke Tidal Healthcare and Christiana Healthcare. Chris Haas, on behalf of Insurance Commissioner Trinidad Navarro, agreed to Rep. Briggs King's request.

Chair Bentz introduced **HB 421, AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO LICENSING AND ACCREDITATION OF RECOVERY HOUSES.**

Rep. Briggs King explained the purpose of the bill on behalf of Rep. Longhurst, the House sponsor of the legislation, who was not able to attend the meeting. The State does not have a policy or system to distinguish between recovery residences that follow the accepted national standards of the National Alliance of Recovery Residences and those that do not. She has had growing concerns throughout the course of the year in Georgetown. It is difficult to find a safe housing environment for those seeking recovery assistance. The bill creates a certification process and a certified recovery house registry to assist in the housing placement process. The legislation ensures that homes advertising as Certified Recovery Houses comply with the national best policies. She remarked that Georgetown is home to 32 places that identify as recovery houses but few of them meet the standards that anyone would consider. She has received phone calls from parents with loved ones in those homes that face severe challenges with a fear of reprisal for reporting complaints. In some cases, these homes are a harbinger for repeated drug activity. According to the bill, recovery homes without a certification may not receive State referrals, may not obtain State funding, and may not advertised that they are a Certified Recovery Home. Homes that already exist and are performing successfully may be grandfathered under some of the registry. The bill also creates a fund that would use fees to help certify homes. Covid displaced some of the challenges the State was already experiences regarding overdoses and substance abuse. She would like to see support in the bill to legitimize recovery homes.

Chair Bentz compared the situation of recovery homes to a wild west situation where homes are established with claims of providing these services but lacking verification about if the work being done was adequate. He said he believes the legislation will allow the State to vet these institutions and ensure they are providing the services they advertise.

Rep. Hensley supports the concept of the bill. He asked for clarity on the difference between a recovery house and what he would consider a sober living home. He referenced the Oxford House. Rep. Briggs King said that would depend on the structure and that Oxford House is structured where there is an agreement that the person in charge of the house is elected by the others. The bill's language states that recovery houses already contracting in Delaware will continue to operate if they are already receiving state assistance. The bill is being named after Matthew Klosowski.

Rep. Postles asked for clarification on licensing and accreditation and if there is a difference between the two. Rep. Briggs King said on line 26 the bill mentions a certification program that follows the national standard for recovery residences. There are about 13 different standards for that certification. Line 38 mentions the Division, with a Secretary, will make rules and regulations that implement setting fees, licensure investigations, creating policies about good neighborhood contact and conduct. There will be a process every few years to make sure the recovery homes are doing what they claim to be doing.

Rep. Briggs King said this is not an isolated issue, but it is a growing situation in Georgetown due to the proximity to the courts, services, treatment centers, and transportation.

Chair Bentz opened the meeting to public comment.

Joe Aronson, of the Division of Substance Abuse and Mental Health, spoke on the bill. He said recover houses generally provide a supportive housing environment and do not provide treatment and therefore fall outside of services that the Division of Substance Abuse and Mental Health can license. He said the Division understands the importance of recovery houses and contracts with available facilities. The Division supports the concepts of this bill but is requesting additional amendments so the program can reach its full potential.

Chair Bentz opened the meeting to remote public comment.

Lincoln Willis, of the League of Local Governments, spoke in full support of the bill.

Marybeth Cichocki, mother of Matthew Klosowski whom the bill is named after, spoke on the bill. Recovery home operators should be educated, certified, and trained. Her son relapsed while living in a recovery home and the operator of that home left him alone at a hotel where he later died. The operator of that recovery home was not certified or experienced in dealing with addiction.

A motion to release was made by Vice Chair Minor-Brown and seconded by Rep. Hensley to release HB 421. Chair Bentz called the roll for HB 421; Yes = 7 (Baumbach, Bentz, Briggs King, Hensley, Kowalko, Minor-Brown, Postles and Shupe), No = 0. Motion carried. The bill was released with a F=8, M=0, U=0 vote.

Chair Bentz introduced **HB 432, AN ACT TO AMEND TITLES 13 AND 16 OF THE DELAWARE CODE RELATING TO VOLUNTARY ACKNOWLEDGMENTS OF PATERNITY.**

Rep. Griffith explained the bill. There are two ways to determine the identity of a child's father; genetic testing and voluntary acknowledgement of paternity. The bill requires that minors are aware they are the father, genetically, of a child. Ted Mermigos, of the Delaware Division of Child Support Services (DCSS), was present to answer questions. He said the bill restricts minors from signing voluntary acknowledgement of paternity forms and allows DCSS to work with the minor and have genetic testing done to determine the paternity of the child. There are no fees associated with the genetic testing because the State would be covering those costs. The current expense for testing a mother, child, and father is \$99.00, two-thirds of which is covered by the Federal government resulting in an expense to the State of \$33.00 per family. From January to May of 2022, only 8 individuals have been impacted. Rep. Griffith stated that at one point she was a Deputy Attorney General handling child support enforcement actions. Voluntary acknowledgements of paternity can be rebutted at a later date, but it is often difficult to do so.

Rep. Briggs King asked if a minor is required to pay child support. Mr. Mermigos said that is at the discretion of a family court. Rep. Briggs King was concerned about financial obligations that are accrued during the time prior to the minor becoming an adult. Mr. Mermigos said that Delaware does not charge interest on child support. Retroactivity of a child support order would only go back to the date on which a petition for child support was filed. The courts would have the final say on the matter.

Rep. Morrison asked for clarity on the bill preventing minors from signing voluntary acknowledgments of paternity, while allowing adults to continue to do so. Mr. Mermigos added that the bill is trying to prevent parents from forcing children to sign the document. Rep. Morrison asked about the process of determining paternity. Mr. Mermigos said the current program relies on the mother disclosing the punitive father and then moving forward with the genetic testing process. Court orders for child support cannot be established without paternity being established. Rep. Griffith explained that the court adjudicates paternity. Rep. Morrison said he thought this was a great bill.

Chair Bentz opened the meeting to public comment.

Chair Bentz opened the meeting to remote comment.

A motion to release was made by Vice Chair Minor-Brown and seconded by Rep. Baumbach to release HB 432. Chair Bentz called the roll for HB 432; Yes =10 (Baumbach, Bentz, Briggs King, Collins, Hensley, Kowalko, Minor-Brown, Morrison, Postles and Shupe), No = 0. Motion carried. The bill was released with a F=1, M=7, U=0 vote.

Chair Bentz deferred action on **HB 424, AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO STAFFING IN NURSING FACILITIES, INTERMEDIATE CARE FACILITIES FOR PERSONS WITH INTELLECTUAL DISABILITIES, ASSISTED LIVING FACILITIES, AND DEMENTIA CARE** at the request of the sponsor.

Rep. Bentz introduced **HB 455, AN ACT TO AMEND TITLES 24, 10, 11, AND 18 RELATING TO THE WOMEN'S REPRODUCTIVE HEALTH.**

Vice Chair Minor-Brown explained that the bill expands access to reproductive health services by expanding the scope of practice for surgical procedures to physician's assistance with a collaborative agreement, an appropriately trained physician, a certified nurse midwife, or certified nurse practitioner who demonstrates knowledge and competency including successful completion of training or certification approved by the board of nursing. The bill has safeguards to protect health care providers from legal and punitive repercussions when they provide care to patients. Vice Chair Minor-Brown initially worked for Planned Parenthood because she experienced trauma as a teen and Planned Parenthood had provided access and assistance to resources that she needed at that time. She recalls an experience where a woman visited Planned Parenthood after being beaten and gang raped by five men. Planned Parenthood was able to put the woman in touch with mental health providers.

Rep. Kowalko sees belligerence towards women's rights in the country currently. States are passing threatening laws that encourage vigilantism. He finds the bill necessary to support the rights of women. We had to pass laws to allow women to vote. Constitutional guarantees have been violated since the moment the Constitution was ratified. He supports the bill.

Rep. Baumbach sees the protection from extradition as one of the important aspects of the bill. He is happy to see the bill brought forward.

Rep. Briggs King had a few technical questions. Line 58 mentions viability and she would like to know where viability is defined. Natalie Woloshin, House attorney, responded that viability is used in Title 24 – Chapter 17, but is not defined in code. She believes it is just defined in case law. Rep. Briggs King sees the lack of definition as a problem and challenge in other bills. Many neonatologists now defined viability, the point at which a fetus can live outside of the womb, as 20-22 weeks. She would like to know how we are determining viability. Mrs. Woloshin believes it is being determined by the physician or medical provider at the time of examination. Rep. Briggs King would like to know how the doctor is determining viability. Ruth Lytle-Barnaby, CEO of Planned Parenthood of Delaware, said the physician determines viability, not a set number of weeks. They will implement ultrasounds, genetic testing, and other tests to assist in the decision of viability. Rep. Briggs King referenced line 88 and the production of reproductive health records and lines 90 and 91 that states information will not be released unless authorized by the patient, the patient's guardian, or legal representative.

Rep. Briggs King would like to know how these lines apply to a minor. Mrs. Woloshin found viability defined in the code under Title 24 as the point in the pregnancy when, in a physician's good faith and medical judgement and based upon the factors of a patient's case, there is a reasonable likelihood of the sustained survival of the fetus outside of the uterus without the application of extraordinary medical measures. Rep. Briggs King is concerned with the word physician in the definition because the current bill delegates that responsibility to someone other than the physician. Mrs. Woloshin said the physician determines viability, but the procedure for viability can be conducted by someone other than the physician. Rep. Briggs King returned to her concern about a minor in lines 88, 90, and 91. Mrs. Lytle-Barnaby said that in Delaware, minors are able to consent to the procedure with parental notification. Parental notification must happen 24 hours before the procedure.

Rep. Briggs King referenced adverse actions in section 157 regarding insurers. Liability insurance for OBGYNs is higher than other medical providers. She wants to know if the language is preventing insurance providers from charging more for a higher liability of risk. Mrs. Woloshin said the purpose of Section 2535 is to prevent an insurer from taking an adverse action, including increasing a premium, solely based on the services being performed.

Chair Bentz asked Dr. Agatha Berger, an officer with the Delaware extension of the American College of Obstetricians and Gynecologists and a faculty position within the Department of Obstetrics and Gynecology at Christiana Health Systems, to speak via remote comment in support of the bill. She supports the two main tenants of the bill: abortion protection and access. Access across the nation continues to be under threat. There is a shortage of abortion providers. The World Health Organization (WHO) and the American Public Health Association have recommended that abortion care be expanded to non-conditioned providers.

Rep. Shupe is thankful for the protections across state lines aspect of the legislation. He said that regardless of where you stand on the issue, we want to protect women when Delaware says there is a law to have a protection. He has questions about sections one and two regarding the expansion of who could conduct the procedure. He wanted to initiate discussion on

the procedure and why expanding access to who could administer it was necessary. Vice Chair Minor-Brown said HB 141, which was passed last session, allowed nurse practitioners and advanced practice registered nurses to work to their full scope of practice with independent authority. These individuals will not be working above and beyond the doctor. Rep. Shupe referenced a line of the bill regarding a certified nurse midwife or certified nurse practitioner and the absence of a doctor during the procedure. Vice Chair Minor-Brown said those individuals already have independent practice authority.

Dr. Pamela Zickafoose, the Executive Director of the Delaware Board of Nursing, was available to answer questions. She said that certified nurse midwives and women's health nurse practitioners currently provide these services already, similar to if a woman comes in for a miscarriage. There are certification courses available. This bill includes Advance Practice Registered Nurses (APRNs) in the language for the Code and that the training and certification will be approved by the board of nursing. The procedure is simple when administered by trained providers. Rep. Shupe asked about the collaborative agreement mentioned in line six of the bill. Dr. Zickafoose said the collaborative agreement is a written agreement with the physician that says the physician will oversee and work with that provider. Ms. Lytle-Barnaby said the agreement is for two years and then the physician assistant can practice independently.

Rep. Shupe asked about sterile environments for the procedure. Patti Davis, Deputy Attorney General and General Counsel to board of licensure and discipline in Delaware, said Title 24 regulates people and Title 16 regulates where they work, including standards of cleanliness and disinfecting. There is a specific section for environments where the procedure is performed.

Rep. Collins asked about lines 148-154 of the bill. Ms. Woloshin said the section refers to someone who doesn't leave the state of Delaware and is engaging in lawful conduct in the state of Delaware but participating in conduct that is deemed unlawful in another state, is not required to be extradited by the Governor to the state in which the behavior is unlawful.

Rep. Collins asked about the age of consent for an abortion. Ms. Lytle-Barnaby said children above the age of 12 may consent for the procedure. Rep. Collins referenced Title 13 with language that says a minor may give consent to any procedure, except abortion, to a licensed physician. Chair Bentz suggested giving the witnesses time to look at the code while another question was asked. Rep. Collins feels sorry for people that support this kind of legislation. Ms. Davis referenced Title 24 that allows that a minor may receive the procedure with parental notification. Rep. Collins again referenced Title 13 which prohibits a minor from receiving an abortion. He wants to know which language is correct. Ms. Davis said Chapter 17 controls that decision because it is more specific. Rep. Morrison asked if the conversation was pertinent to the legislation at hand. Chair Bentz believes it is. Rep. Collins suggested an amendment making it clear that a child between the ages of 12 and 18 get parental permission. Ms. Woloshin said the two portions of the code may appear to be in conflict.

Chair Bentz opened the meeting to public comment.

Matt Bittle, Public Affairs Manager for Planned Parenthood of Delaware, spoke in support of the legislation. He said abortion is more common and safer than most people understand. Abortion is much safer than childbirth. Almost one in four women will have an abortion in her lifetime. Studies show that an abortion doesn't increase a woman's risk of infertility, pregnancy related hypertensive disorders, preterm birth, or incidents of breast cancer. Studies do show that lack of access to abortion services traps women in cycles of poverty. If opponents are interested in lowering the incidents of abortion, then they should fund comprehensive sexual education, readily available contraception, and a generous social safety net to minimize unintended pregnancies.

Javonne Rich, Policy and Advocacy Director of the American Civil Liberties Union (ACLU) of Delaware, spoke in support of the legislation. Delaware is one of thirteen states to protect the right to abortion and may be important if the Supreme Courts overturns or weakens the Roe v. Wade decision. Expanding the list of medical professionals able to administer abortion care will limit the burden placed on physicians.

Dr. Pamela Zickafoose, Executive Director of the Board of Nursing, spoke in support of the legislation. The Advanced Practicing Registered Nurses (APRN) Committee is in full support of the bill.

Melissa Froemming, President of Delaware chapter of the National Organization for Women (NOW), spoke in support of the bill. There is a shortage of female health providers in the State. The right to something is not the same as having access to it. Expanding the pool of authorized abortion providers will ease pressures on the healthcare system.

Caroline Spicer, a 15-year-old resident of Sussex County, expressed support for the bill.

Jeannie Rial, a resident of Sussex County, spoke in support of the bill. Constituents rely on legislators to protect their rights, liberties, and privacy. She asked the committee to protect medical providers in the State.

Nancy Cramer, a resident of Sussex County, expressed support for the legislation.

Lori Chaikin, a resident of Milton, expressed support for the legislation. Access to medical care in Delaware, in general, is difficult.

Sarah Stowens, on behalf of Christiana Care, spoke in favor of the bill. The policy measures in the bill are important, including expanding scope of practice and commensurate legal protections. She thanked the committee for their commitment to health equity, reproductive services, and ensuring adequate safety and legal protections are in place for healthcare providers.

Dr. Nick Beard, of Delaware NOW, spoke in support of the legislation. She was thankful for the qualified nurse practitioner that helped deliver her son and manage the subsequent hemorrhage and respiratory concerns. She believes anyone who could handle her delivery could also provide abortion services.

Chris Haas, speaking on behalf of Trinidad Navarro and the Delaware Department of Insurance, spoke in support of the bill. The department specifically supports Title 18 component that provides protections to providers from having insurance rates changed or policies canceled solely due to providing lawful coverage for services to out-of-state residents. Providers face higher insurance rates, particularly in professions that carry more risk.

Chair Bentz opened the meeting to remote public comment.

Nandi Randolph, of Delaware Family Policy Council, spoke in opposition to the bill. She stated that abortion is not health care.

Dr. Matthew Burday, President of the Medical Society of Delaware, spoke in opposition to the bill.

The bill was released with a F=8, U=0, and U=0 vote.

A motion to adjourn was made by Rep. Morrison and seconded by Rep. Minor-Brown.

Chair Bentz adjourned the meeting at 12:47 p.m.

Respectfully submitted by:
Alexander Makowski