



**Summary of
DMH 2017 Legislative Proposals for 99th General Assembly
Due September 12, 2016**

Proposal #1: Involuntary Medication.

The Department proposes to amend Section 552.020 to expressly state that counsel for the Department has standing to challenge an involuntary medication order in cases of patients committed to the Department for competency restoration. Under this proposal, the Department would just be eliminating the argument that it cannot challenge involuntary medication orders. The public defender, as well as any private attorney, would retain all of his/her existing authority to oppose the need for the medication.

DMH proposed this legislation in 2016 as SB 1055 and it was voted out of Senate Judiciary Committee. Our 2017 submission includes updated verbiage due to a 3/1/16 court ruling. For section 552.020.10, RSMo, says that DMH has authority to file a motion to proceed. A public defender argued since the statute did not say DMH could be heard, that we could only file the motion and could not be heard on the motion; the court agreed with the public defender. Given this circuit court ruling (3/1/16—the same day SB1055 was heard in Senate Judiciary Committee) we supplied clarifying language on 3/2 and worked with the Senator's office to find judiciary procedural legislation to amend onto with no such vehicle available. Here is link to SB1055 from 2016.

http://www.senate.mo.gov/16info/BTS_Web/Bill.aspx?SessionType=R&BillID=27968222.

Proposal #2: Inspection of Residential Facility Procedures and Timelines

This proposal clarifies and updates processes and deadlines for documenting inspection and reinspection of Residential Care Facilities. DMH proposes to update language to reflect modern communication options and realistic timelines as follows:

Removes the requirement in **630.745 1** that documentation be sent to the "head of" the facility as another professional on site may be the preferred and more effective contact. Also removes requirement for "certified mail, return receipt" as communication can be delivered electronically almost instantaneously.

In **630.745 3** Increasing the process deadline by 5 days, from 55 days to 60 days, aligns the timeframe with other standard deadlines for consistency.

Proposal #3: Rights for persons receiving services from DMH Division of DD

In March 2014, the Center for Medicaid and Medicare Services (CMS) published the final rule regarding changes to Home and Community Based Waiver Services (HCBS Waiver) which defines a home and community based setting and person-centered planning requirements in Medicaid HCBS Waiver programs. The purpose of this legislative change is to ensure that

individuals receive Medicaid HCBS in settings that are integrated in and support full access to the greater community. This includes opportunities to seek employment and work in competitive and integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree as individuals who do not receive Home and Community Based Services.

Called the HCBS Settings Rule, this affects all 1915 (c) waiver programs. A 1915(c) waiver is a program that uses Medicaid dollars to provide services to a target group of people who would otherwise require services in an institution. The Missouri DMH 1915(c) waivers are:

DMH Waivers:

- o Autism Waiver
- o Comprehensive Waiver
- o Missouri Children with Developmental Disabilities Waiver
- o Partnership for Hope Waiver
- o Community Support Waiver

As the DMH Division of Developmental Disabilities moved forward on compliance with the HCBS Waiver, Missouri Statutes were reviewed. DMH believes this CMS rule includes guarantees for individual rights and due process for persons receiving DD services. The DMH General Counsel advised adding this proposed new section 633.060 for clarity and to address due process for our DD consumers

633.060 1. No individual receiving services from the Division of Developmental Disabilities shall have limitations imposed on rights as established under RSMo 630.110 without due process. Due process is the legal right to be informed, to be heard, and to be assisted through external advocacy. Due process shall include the right to be informed of actions the individual may take and time line for restoration of rights.