OCID
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Before the House Finance Committee

Testimony on House Bill 483

May 3, 2016

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Good afternoon, Chairman Smith, Ranking Member Driehaus, members of the committee.

My name is Peter Van Runkle. I am Executive Director of the Ohio Centers for Intellectual Disabilities. OCID is the part of the Ohio Health Care Association that represents providers of services to people with intellectual and developmental disabilities. Our members operate intermediate care facilities for individuals with intellectual disabilities, or ICFs/IID, and many of our members also provide other services and supports to this population, including under Medicaid waivers.

We are proponents of House Bill 483, but we have five suggestions for improvement.

1. "Clawback." HB 483 creates a requirement that the Director of Developmental Disabilities recoup, or claw back, certain portions of an ICF/IID's Medicaid reimbursement if the provider does not complete a project to reduce the size of the ICF (commonly called "downsizing") by the statutory deadline of June 30, 2018. We suggest adding language allowing the Director to waive the clawback if the provider satisfies the Director that they couldn't complete the project for reasons beyond their control and that they will complete it within a reasonable period of time after June 30, 2018. This change would encourage the provider to continue with the downsizing instead of abandoning it.
2. Bed-hold days. Under statute, ICFs/IID are paid to hold an individual's bed for a period of time if they are absent from the facility for certain specified reasons, one of which is therapeutic leave. We suggest clarifying that therapeutic leave includes visiting a potential new living setting. This change addresses a current problem that has

surfaced when a provider opens a new ICF, usually as a result of downsizing. At least one individual must live in the new ICF before the Health Department will certify it for Medicaid payment. That means the provider must operate for at least 30 days, and often significantly longer, without payment. Bed-hold days solve this problem – and encourage downsizing - by continuing to pay the ICF being downsized while one or more of its residents are visiting new, smaller ICFs that are awaiting certification.

3. Three-month cost reports. One of the current incentives for downsizing and converting ICF beds to waiver services is the three-month cost report. This mechanism increases the now-smaller ICF's rate to recognize that its fixed costs will be spread over a smaller number of beds. HB 483 includes a provision that hurts this downsizing incentive by basing the ICF's rate for the following fiscal year on a full-year cost report that uses, in part, the facility's old, larger bed configuration. We suggest revising this provision to use only the portion of the year after the downsizing to calculate the rate, while still allowing DODD to obtain data for the entire year.

4. Delegated nursing. Delegated nursing has been utilized since 1999in many settings serving people with intellectual and developmental disabilities, including ICFs/IID with 16 or fewer beds. In addition, starting in 2005, certified medication aides (CMAs) have administered medications, subject to limitations and under nurse delegation, in skilled nursing centers and assisted living communities. HB 483 contains language expanding delegated nursing in several ways, which we support. We suggest adding provisions allowing delegated nursing in ICFs with 17 or more beds – where it currently is permitted only for outings – and by allowing CMAs to be used in ICFs.

These changes would build on tried and true approaches that have been used for years without any negative impact on health and safety and that assist providers in staffing efficiently in the face of serious workforce shortages. The exact same training and regulatory requirements that currently exist to ensure the proper functioning of delegated nursing and CMAs would continue to apply to the new settings.

5. IAF. The Individual Assessment Form or IAF is an instrument used by ICFs/IID and DODD to categorize the needs of individuals for purposes of Medicaid reimbursement. The way the IAF is interpreted and applied is critically important in determining providers' payment rates. When the IAF was created, a careful time study supported how the activities and services listed on the form tie to reimbursement. Recently, DODD has sought to apply some new interpretations of the IAF. We support adding language to HB 483 to ensure that any such changes that affect how DODD pays providers are consistent with the original work on the IAF, are developed with provider input, are published to all ICFs, and are not applied retroactively. Any finding by the department that a provider failed to follow an interpretation not adopted in this manner would be rejected. This clarification ensures fundamental fairness in an area that can have a large financial impact on individual providers.

We encourage the committee to give favorable consideration to these enhancements of HB 483.

Thank you for the opportunity to testify. I would be happy to answer any questions you may have.