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May 15, 2019

Chairman Wm. Weston T. Newton  
House Legislative Oversight Committee  
228 Blatt Building  
Columbia, SC 29201

Re: Six month update regarding the Department of Disabilities and Special Needs (DDSN) changes implemented as a result of the House Legislative Oversight Committee (HLOC) process.

Dear Chairman Newton,

Thank you for this opportunity to update you and the HLOC on DDSN's improvement efforts. The 2017 Senate and 2018 House oversight efforts stimulated the agency to critically re-examine its mission, strategies, and processes. It has been challenging, but much needed to move DDSN from pockets of status quo to a mindset of agency-wide continuous improvement.

#### Data Presentation Format

The HLOC's report titled, "A Study of DDSN," dated 11/2/2018, issued 17 recommendations. Recommendation #2 directly pertained to a six month update you recently requested. The most efficient method to present the update is to edit in DDSN's specific actions over the past six months into DDSN's letter to the HLOC, dated 8/28/2018, setting forth DDSN's improvement plans (Attachment A). Your office will then be able to easily compare DDSN's plans with results, which will be highlighted in green (complete), yellow (in-process), or red (not started). DDSN's actions to address individual HLOC's recommendations 1, 3, 4, and 5 will be included in **Attachment A**.

HLOC recommendations 6-17 were directed to the General Assembly to consider new legislation or modifications of existing legislation to support DDSN's mission. DDSN's actions to support these recommendations are contained in **Attachment B**.

## Overarching Leadership Strategies

Attachment A itemizes DDSN's detail plans, but I want to set out in this cover letter my leadership strategies to move the agency forward. DDSN is executing its mission – people are being supported and services provided. However, it has ample opportunities to improve its efficiency by implementing fundamental management practices to be more proactive with emphasis on a system/process improvement approach to problem solving.

DDSN implemented modest organizational structure changes to strengthen fixing accountability for results and internally shifted resources to higher priority matters. The real efficiency improvements will come from each manager focusing on standardizing, simplifying, and clarifying their area of responsibility's workflow processes, as well as squeezing out less important activities drawing on employees' finite time. Organizational improvement is a function of many incremental changes adding up over time from all employees across the agency operating with a disciplined management approach.

A key prerequisite to address DDSN's most significant organizational issue, its community provider "band" payment system, has been delayed due to waiting on the Mercer Healthcare Consultants (Mercer) report. This report, sponsored by SC Department of Health and Human Services, will provide an analysis of DDSN's band system and options for future payment systems, as well as refresh all Medicaid service rates for DDSN's operated waiver services. The report is expected before the end of May 2019.

DDSN has been engaged in a variety of tasks in preparation a payment system change to include:

- Stopped capital improvement grants to the community.
- Examined all non-service costs (i.e., consultants and special community grants) allocated as "delivery system" costs but not included in DDSN overhead costs. The majority of these costs will be eliminated or brought "in-house" to develop DDSN internal capabilities at a much lower cost.
- Examined the 65 DDSN properties operated by community providers to develop both short-term plans and long-term plans for DDSN to "get out of the real estate business" and move toward a market based model emphasizing fairness, equity, and expanded consumer choice from fair market competition.
- Began unwinding the capitated bands by initiating fee-for-service for case management, County Board early intervention, and state funded at-home consumers to be implemented on 7/1/2019.
- Developing a plan to initially bring at-home waiver bands [Band B (IDRD); Band I (CSW)] back to DDSN and have providers bill DDSN direct in fee-for-service model. This will also eliminate boards as financial managers, which is an overly complex activity and lessens the risk for conflict with board case management.
- Freeze on all non-nursing or direct support positions unless approved by the State Director.

- Initiated an internal reorganization plan to support a fee-for-service model, which melds operational policy and finance into a single function to ensure consumer budget liabilities are supported by state fund match.

To bring stakeholder input into DDSN operations, DDSN has established four standing monthly topical committee meetings where stakeholders can attend in-person or via Skype. The committees are case management, finance, early intervention, and quality management. This infuses provider input into DDSN's strategies, processes, and procedures, as well as educates providers on current issues and planning for the future. In addition to improving operations, transparency is the best medicine to heal pockets of distrust between DDSN and the provider community. Additionally, in September 2018, DDSN opted to live stream all Commission meetings with a user-friendly link on the agency's webpage.

To bring operational control to DDSN and aggressively address all real and perceived health, safety & welfare issues for our 5000 consumers in residential settings and Regional Centers, DDSN established a monthly statewide risk management forum. This process integrates key information channels from across the agency and providers into one monthly report. This permits the executive staff to "at a glance" identify what is working (green), not working (red), and discern early indicators of performance issues (yellow). It has been quite a challenge to collect and organize information into suitable formats to really gain deep insight into operations and be meaningful to discern actionable issues. Additionally, the State Director has personally conducted training and implemented process improvements at each Regional Center to ensure an effective Risk Management Program with focus on consumer health and safety.

This enterprise-wide management information system coupled with our start-up management training program will provide the two main ingredients to develop our management staff "on the job." I subscribe to the management theory, *"You can't manage what you don't understand"* and *"if you can't measure it, you can't improve it."*

I would be glad to provide a personal brief to DDSN's detail plans and actions outlined in Attachment A or meet for follow-up questions after your review.

Thank you for your continued support of DDSN's mission.

Sincerely,

Mary Poole  
State Director

ATTACHMENT A

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*Interim State Director*  
**Rufus Britt**  
*Interim Associate State Director*  
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August 28, 2018

Chairwoman Phyllis J. Henderson  
Healthcare and Regulatory Subcommittee, House Legislative Oversight Committee  
522B Blatt Bldg.  
Columbia, South Carolina 29201

Re: Department of Disabilities and Special Needs' (DDSN) Recommendations;  
House Legislative Oversight Committee Performance Evaluation of DDSN

Dear Chairwoman Henderson,

DDSN is effective in accomplishing its mission of serving persons with intellectual disabilities, autism, head & spinal cord injuries, and conditions related to each of these disabilities. DDSN's service delivery system supports 40,339 eligible consumers with 24,622 consumers currently receiving services. However, DDSN is under stress to keep up with service needs, adequacy of provider reimbursement rates, and improve infrastructure efficiencies to support its efforts.

The below recommendations are structured into eight major issues and corresponding recommendations; a ninth issue/recommendation area encompasses 22 individual improvement initiatives; and a tenth area reports on the results of DDSN's five "internal initiatives" set forth in its May 2017 initial interrogatory to the House Legislative Oversight Committee. The ordering of the recommendations below does not infer a priority order inasmuch as all recommendations need to be addressed.

The below recommendations may appear voluminous, but the agency is recovering from a period of management tentativeness from many years of friction with a variety of stakeholders. Friction can be viewed as negative, but it can also stimulate needed positive change. Getting all the issues "on the table" in detail for complete transparency tends to unite; focuses energy on problem solving; and breaks the cycle of ruminating on past friction points and moving forward. Clear targets creates the transparency for high expectations and accountability to support and motivate the agency towards

progress/results. DDSN has opportunities to improve effectiveness primarily through management improving its systems and processes to better support those operating within the service delivery system.

A concern in preparing these DDSN recommendations is the risk of hamstringing incoming State Director Poole's latitude in assessing DDSN's challenges differently, as well as approach to address. In state government, if an agency agrees to do something, it is somehow perceived to be etched in stone forever and must be carried out regardless of the actual changing operational conditions on the ground. I disagree, and I suggest the House Legislative Oversight Committee would as well. Agencies need a plan, but plans are expected to be periodically revisited and nimbly changed as conditions dictate, to include a new leaders' differing views on issues and solution approaches. Agencies just need to be accountable to justify the "why" for the change and move out in the adjusted direction.

As an aside, one of DDSN's issues has been developing high altitude static strategic plans, but management has been reluctant or lethargic to convert substantial portions of these strategic plans into actionable tactical plans from which to be held accountable. There is no reluctance to commit in this memo. A commitment to a specific, transparent, and measurable plan is needed at this time to regain some of the lost confidence and trust from stakeholders.

**ISSUE #1:** DDSN's most significant organizational issue is a deficient capitated payment system supporting community service providers known as the "band system." This payment system causes a multitude of problems to include:

- Lack of transparency in non-actuarially based band payments causes systemic distrust and dissatisfaction by providers, advocates, and consumers.
- Lack of residential service standards for staffing (direct care; nurses; 1<sup>st</sup> line supervisors) prevents establishing appropriate funding levels. Additionally, a lack of a formal/auditable process to establish transparent and accountable staffing levels (mandatory or provider developed) creates a risk of understaffing—proper staffing is the primary factor impacting the health, safety, and welfare of consumers.
- Time consuming and lengthy cost settlement process undermines having recent and reliable data for consideration to adjust the system and justify possible rate increases.
- Does not maximize opportunity for more state funds to obtain Medicaid match.
- Does not incorporate a consumer needs assessment tool to adjust funding to match a consumer's acuity; this is increasingly reducing access for higher needs consumers.
- Undermines DDSN's quality assurance mission by consuming too much time and relationship goodwill with providers on payment issues.
- The band benefits (i.e., vacancy rates, Medicaid ineligible risk, Medicaid billing, capital needs) can be duplicated, if so desired, in a simpler fee-for-service model except for the prospective payment.

**RECOMMENDATION #1:** DDSN will address its current payment system weaknesses through an evidence based process incorporating stakeholder input and industry best practices. In June 2018, Mercer Healthcare Consultants (Mercer) initiated a review of the DDSN payment system, which includes stakeholder input and incorporating national best practices. Mercer will produce a report due in the Fall 2018 recommending future payment system options to meet the needs of the DDSN service delivery system. Equally important, nearly all stakeholders have arrived at the conclusion the DDSN payment system has to be substantially changed, which is critical to support such a system-wide endeavor. Further, Mercer will update all SC DHHS service rates with DDSN via a second formal report in early 2019.

**DDSN ACTION:** Until the Mercer report is finalized by SC DHHS, DDSN can't finalize a payment system change plan with stakeholders, which will require Commission final approval. Report should be released in May 2019, but no exact date has been set.

In the meantime, DDSN has been engaging in a variety of tasks in preparation a payment system change to include:

- Stopped capital improvement grants to the community.
- Examined all non-service costs (i.e., consultants and special community grants) allocated as “delivery system” costs but not included in DDSN overhead costs. The vast majority of these costs will be eliminated or brought “in-house” to develop and maintain DDSN expertise lost over many years of outsourcing.
- Examined the 65 DDSN properties operated by community providers to develop both short-term plans and long-term plans for DDSN to “get out of the real estate business” and move toward a market based model emphasizing fairness, equity, and expanded consumers choice from fair market competition. Short-term option being considered include providing DDSN’s annual funding budget for maintenance expenses on these properties to providers to simplify maintenance for all parties. A long-term option being evaluate is to turn over property ownership to providers in equitable manner for the provider, DDSN, and the state.
- Began unwinding the capitated bands by initiating fee-for-service for case management, board early intervention, and state funded at-home consumers on 7/1/2019 and build the necessary invoicing process to ensure timely payments.
- Developing a plan to initially bring at-home waiver bands (Band B-IDRD; Band I-CSW) back to DDSN and then providers’ bill fee-for-service. This will also eliminate boards as financial managers, which is an overly complex activity and lessens the risk for conflict with board case management.
- Freeze on all positions except direct support personnel & nurses, unless approved by the State Director.
- Building a plan to internally reorganize to support a fee-for-service model with enhance consumer services (i.e., residential, day, respite, individual employment) program management skills.
- Utilize provider monthly work groups to provide input and participate in building new payment system policies and procedures.

**ISSUE #2:** DDSN's most significant operational issue is recruiting/retaining direct care workers at regional centers and in residential community settings. Regional centers wobble between barely manageable to a near crisis as illustrated by currently experiencing a 44% turnover rate. Residential providers' problem has more variability across the state, but turnover still ranges from 20% to 40+%. Adequate staffing levels generally require over-reliance on overtime. This stress on the direct care staff has escalated since 2015. Historically, direct care staffing is challenged during economic upswings and tends to resolve when the economy slows. However, given the hiring pool demographics and the need for direct care workers throughout the healthcare field as baby boomers age, DDSN cannot rely on an economic downturn as a solution. Short-term plans and long-term plans are needed to ensure direct care staffing meets quality staffing level thresholds with sufficient capacity to lower overtime causing burnout and turnover. We have to continue to work the issue as a crisis.

**RECOMMENDATION #2a:** DDSN will continue to pursue direct care wage improvements through the legislative appropriation process sufficient to create a full and stable workforce to meet the needs of consumers.

**DDSN ACTION:** DDSN's FY2020 budget request to increase direct care by \$1/hour has been included in the House and Senate's current budgets.

**RECOMMENDATION #2b:** DDSN will pursue a career track for direct care, to include a tiered wage system to promote professional advancement and retention.

**DDSN ACTION:** The first building block of DSP professional advancement career track is DDSN's joint venture with the Department of Education (SCDOE) to establish a DSP high school curriculum and certification to provide immediate employment into \$13/hour jobs with benefits and create a qualified hiring pool of candidates. A pilot is set to launch in August 2019 at the York County Comprehensive High School (technical school) with Maxibility (York County DSN Board). 24 students are currently enrolled. A second project is being planned for school year 2020/21 with SCDOE for a "DSP Aide" designed for students in special services to be trained to do indirect services, such as laundry and housekeeping.

The tiered wage system was held in abeyance until after the \$13/hour rate has been established for FY 20 as a baseline. Emphasis is on first triaging basic hourly direct support professional (DSP) rates to reduce the crisis condition of having adequate on-board staffing prior to building a longer-term formal pay structure with some differentiation for upward mobility.

**RECOMMENDATION #2c:** DDSN will pursue the use of technology and corresponding policies to support consumers and mitigate the gap in hiring/retaining direct care workers for the foreseeable future.

**DDSN ACTION:** DDSN is drafting an RFP to be released after first absorbing the Mercer report results, which will include reviewing all service definition/standards/quality. This RFP will cover establishing a long-term service array consistent with consumers' needs, consumer/national demographic trends,

and Medicaid projected funding trends. It is anticipated greater access and use of technology will be a key component in future DDSN's future service array. DDSN will hold statewide stakeholder forums in coordination with SCDHHS to determine need for waiver changes focusing on the inclusion of technology.

**RECOMMENDATION #2d:** DDSN will solidify formalized targeted staffing levels in Regional Centers and the future community residential payment system rates should incorporate staffing level requirements based on consumer acuity.

**DDSN ACTION:** Formal DSP & nurse target staffing levels (TSL) have been established in Regional Centers. Nurse staffing is at 85% of TSL. DSP is also at 85%, except there is wide variation among Regional Centers: Pee Dee (94%), Midlands (94%), Coastal (83%); and Whitten (70%). This review also identified unusual overtime requirements which have been addressed by adjusting staffing schedules.

Consumer acuity will play a role community residential rates and staffing expectations, but detailed plans cannot be established until after first receiving the still pending Mercer report.

**RECOMMENDATION #2e:** In conjunction with the development of a new/modified payment system, DDSN will re-examine its portfolio of services and policies with an emphasis on making adjustments consistent with the future likelihood of challenges in hiring/retaining direct care workers.

**DDSN ACTION:** This recommendation has the same solution/action as recommendation #2c above.

**RECOMMENDATION #2f:** DDSN will continue to support, mature, and potentially expand a grass roots direct care professional training program provided through a local technical college.

**DDSN ACTION:** DDSN has established a program with SC Department of Education to strategically place DSP certification curriculum in high schools to increase DSP pool and provide career opportunities for high school students upon graduation. High school technology programs already have a Certified Nursing Assistants (CNA) certification so the DSP certification was a logical extension.

**RECOMMENDATION #2g:** DDSN will examine its policies and practices to proactively identify community setting opportunities to serve Regional Center consumers.

**DDSN ACTION:** DDSN has asked for 36 new high management beds in residential settings in FY2020 budget. The House did not approve this request in its budget, which would have assisted addressing this issue.

DDSN has revamped its Critical Needs List (CNL) process to add standardization, objectivity, and formal placement assessments to ensure



existing finite resources are used in an optimal manner serving those most in need, to include Regional Center consumers entering the community.

**RECOMMENDATION #2h:** DDSN will start contingency planning beyond obtaining additional wage increases for direct care workers to safely staff Regional Centers to meet the needs of consumers if the direct care hiring/retention crisis is not reversed.

**DDSN ACTION:** Both Pee Dee and Midlands have each readied a residential building (18 consumers) for either a triage program or movement of consumers from Whitten. Preliminary assessment of Whitten consumers has taken place to assess impact/disruption on consumers if 18 were moved to another center. A new strategy to use a private staffing vendor (INDEED) has had exceptional results to stimulate increased hiring pools and increased staffing at Coastal and Whitten. Still, absent Whitten increasing and sustaining adequate DSP levels, then DDSN will have to rebalance consumers to centers with the capacity to hire adequate staffing. This issue is monitored monthly in the Statewide Risk Management meeting.

**ISSUE #3:** DDSN management needs to mature its capabilities to be more proactive with emphasis on a system/process improvement approach to problem solving. General business acumen training needs include factoring financial implications into operation and policy decisions; greater use of information to manage; and enhanced involvement in developing internal operating budgets and contributions to the agency's annual legislative budget requests. In short, DDSN tends to have a reactive posture rather than leaning forward towards continuous improvement.

**RECOMMENDATION #3a:** DDSN will establish a formal management training program to develop its management in a structured manner in both management/business acumen skills and a continuous improvement management philosophy. Much of DDSN's real and perceived reactive crisis management style can be traced to a lack of management investment in planning and system/process improvement to prevent problems from occurring.

**DDSN ACTION:** The State Director held strategic change meeting with all Central Office personnel to start the process. DDSN has prepared the management training curriculum and PowerPoint. Training has been announced and started in May for Division Directors and supervisors. The State Director will then meet with individual work units to translate the organizational changes and management training to the impact on each work unit's operations.

Implemented agency-wide personnel management training program and completed implementation/compliance with basic personnel management through the state's Employee Personnel Management System (EPMS). All employees' plans will have the same cycle to simplify administrating and training, which coincides with the agency's fiscal year.

**RECOMMENDATION #3b:** DDSN will redirect audit resources from community contract audits to conduct internal operational audits to provide assurance of effective operations through adequate objectives, process mapping, management information systems, and controls/performance measures.

**DDSN ACTION:** DDSN Internal Audit (IA) staff has been reduced by one auditor during current employee freeze. IA staff have been re-directed to priority internal DDSN issues to include performance reviews of non-service costs; Respite Program; Individual Employment Program; and Medicaid ineligible operational controls. IA has been noticed it will begin recurring operational audits in early calendar year 2020 after operational work units complete process maps along with accurate & reliable performance reporting. Until this occurs, IA does not have an adequate operational framework to conduct internal operational audits.

During the 1st Quarter of FY 2020, DDSN will begin examining its quality management oversight of community providers, which will include IA's financial audit program. This process will shape IA audit role in the community consistent with resources and free up resources for permanent internal DDSN audit capacity.

**ISSUE #4:** There have been legislative hearings, proposed legislation, and public debate as to the proper organizational structure to support DDSN's mission, to include as a cabinet agency, a component of SC DHHS, or remain as a Commission.

**RECOMMENDATION #4:** DDSN recommends continuing its mission in its current structure as an independent Commission. A Commission form of governance permits heightened involvement by the families, stakeholders, and consumers through seven volunteer citizen leaders to ensure DDSN executes its mission with excellence to meet the complex needs of a highly vulnerable population. A single mission agency also creates the needed focus to support our highly vulnerable population.

The Commission recognizes stress in the DDSN delivery system over the past several years has caused some to question the proper organizational structure to support its mission. The Commission believes the stress was natural and needed as a precursor to stimulate deep change in DDSN due to complacency as well as resistance to change and transparency. The Commission's interventions has led to a new State Director being selected along with healthy executive staff turnover, a noticeably calmer operating environment with stakeholders, and management's proactive posture to engage issues backed up in the system as evident by the recommendations in this memo. The Commission believes its form of governance with greater stakeholder and citizen access and responsiveness can more reliably stimulate positive change than a more bureaucratic form of governance.

**DDSN ACTION:** Outside of the recent legislative oversight agency reviews, DDSN has not provided any data or be asked to provide testimony on this topic.

**ISSUE #5:** DDSN does not have a systematic approach to performance management across the agency; some work units lack relevant performance measures or inadequate information to support operational/performance management. DDSN has lost a level of trust and confidence from a variety of stakeholders in the manner it executes its mission, both financially and operationally, as illustrated with legislative oversight questioning the agency's information accuracy.

**RECOMMENDATION #5:** DDSN will operate in a more evidenced based manner through the continued use and maturing of its Enterprise Performance Management process and ensure public performance reporting to demonstrate transparency and accountability with accurate and reliable information to its many stakeholders.

**DDSN ACTION:** DDSN has completed its "1.0" model for an Enterprise Performance Management system (EPM). The purpose of EPM is:

- Performance feedback to work unit supervisor and staff (**most important**);
- "Insight into operations" to sort out the complexity of an operation to ensure staff & supervisor understand how all their activities combine into a tangible result(s) (cost/quantity/quality/time), as well as permits the entire chain of command to understand the key components within key operations & identify early signs of potential issues;
- Work unit accountability and budget justification, as well as a focused tool to simplify maintaining adequate oversight by all levels of management;
- Feeds into monthly Risk Management Report (last Monday of month) for analysis and action as appropriate;
- Maintain due diligence organizational control/oversight of \$700 million and 2000 employees to ensure its strategies are achieving intended results (provide a steering wheel & gauges to inform issues and potential actions);
- Enables Commissioners to robustly fulfill their statutory oversight fiduciary duties to citizens, stakeholders, and taxpayers;
- Enables DDSN to meet its SC statutory legal test to, "*establish objectives to accomplish the mission and **performance measures** that show the degree to which objectives are being met...link program expenditures to **key financial and performance results measures.***" (Annual Accountability Report); and
- Ready reference tool to obtain accurate key operational & performance data needed on a day-to-day basis for internal analysis or external reporting. This reporting negates many ad hoc data requests because the reports will be sufficiently current & accurate to meet the vast majority of issues/questions or at least establish a firm starting point for additional inquiry.

**Monthly reports include:** a) DDSN Eligibility-IDRD, HASCI, EI; b) DDSN Eligibility-Autism; c) Environmental Modifications; d) Waiver Administrative Division; e) Waiver Enrollment; f) HR Personnel On-Board; g) HR Regional Center DSP Recruiting & Hiring; h) Regional Center Budget Execution; i) Regional Center DSP & Nurse Staffing; j) Critical Needs List; k) Residential

Placement & Vacancy; l) FY Year-to-Date Expenditures; m) Risk Management; and o) Service Utilization (Under Development).

Quarterly reports include: a) Abuse, Neglect, and Exploitation; b) Community Provider Performance/Risk Matrix; c) DDSN Eligibility & Consumers Served; d) INFOSEC; e) Facility Management Capital and Maintenance; and f) ICF Risk Matrix from DHEC Reporting (Under Development).

**ISSUE #6:** DDSN does not have a formalized project management process, which has contributed to a pattern of both real and perceived under-performance in implementing major initiatives.

**RECOMMENDATION #6:** DDSN will establish a formal project management process for longer term agency-wide initiatives to ensure proper operational planning, proactive communication plans, and timely execution.

**DDSN ACTION:** DDSN has established a SharePoint site to integrate project management, EPM, and key reference documents. DDSN has established a standard project management template for key long-term projects. DDSN has established a briefing methodology for the entire executive management team more effectively track, monitor, and brief key projects.

**ISSUE #7:** DDSN has experienced an inching up of Abuse, Neglect, & Exploitation (ANE) indicators over the past four years, particularly with providers serving high needs consumers. The uptick of these ANE indicators is not a function of inadequate ANE policies or management deficiencies to keep "predator" employees out of the system. Rather, it is a function of "real world" economic factors eroding direct care professionals' (DSP) capacity & capabilities, while the consumer population's increasing behavioral needs require DSPs with higher skill levels. DDSN's lack of required acuity based direct care staffing standards also contributed to this situation. This is not a crisis, however this capability "gap" is building pressure/stress in the delivery system driving the uptick. This is a national challenge not unique to South Carolina.

**RECOMMENDATION #7a:** DDSN will continue to deploy and refine its Residential Observation Audit technique to make unannounced residential setting visits to 25% of all settings (approximately 350/annually) and provide monthly reporting to the Commission. Of the first 147 residential settings audited, over 200 consumer and 170 staff (370 total) were interviewed; not one interview reported an ANE climate risk or a report of a previously unreported ANE allegation—most importantly, the consumers felt safe.

**DDSN ACTION:** Examining the Quality Management function, to include the Residential Observation (RO) tool, is planned for 1<sup>st</sup> Quarter FY 2020. The RO tool is still operational, but it requires better focusing discrete questions to discrete measurable outcomes with emphasis on ANE given its current climate.

**RECOMMENDATION #7b:** DDSN will continue a robust participation in the National Core Indicators Program (NCI). The NCI has produced annual reports for 20 years and is considered the highest quality measurement tool in the Intellectual Disability service arena. The NCI survey obtains DDSN

consumer input through interviews conducted by independent interviewers on wide variety of service areas. In Fiscal Years 15-17, South Carolina providers distinguished themselves in the area of consumer safety by being consistently rated at or near the top on four key safety questions compared to 32 other states.

**DDSN ACTION:** FY 18 NCI report just released in March 2019. DDSN scored extremely well on the two consumer safety questions, to include the best score in one question (“*Have someone to go to for help if they ever feel scared*”—99% yes).

**RECOMMENDATION #7c:** DDSN will continue to pursue wage enhancements for direct care workers and establish residential staffing standards based on acuity in its anticipated new payment system to address the current direct care capability gap.

**DDSN ACTION:** \$1 direct care worker pay increase requested in the FY2020 budget. The House and Senate have included this increase in its current budget.

**RECOMMENDATION #7d:** DDSN will develop a formal process to collect “lessons learned” from ANE arrests.

**DDSN ACTION:** The State Director has established a monthly risk management meeting pertaining to all risks with emphasis on ANE in the community and Regional Centers. DDSN published its first ANE lesson’s learned document in January 2019 regarding ANE arrests during FY 2018. Quarterly bulletins will flow from the data collected in monthly statewide risk meetings. The information will includes lessons learned and preventative measures to lower the risk of similar incidents.

**RECOMMENDATION #7e:** DDSN will develop statewide policy and awareness training to address direct care workers’ reaction to non-compliant/volatile consumer behaviors which precedes nearly 2/3<sup>rd</sup> of all ANE incidents leading to an arrest.

**DDSN ACTION:** The awareness component of this recommendation was addressed in above Recommendation #7d. Changes to the curriculum are underway but not complete.

**RECOMMENDATION #7f:** DDSN will examine the direct care worker duties and compliance requirements, which have aggregated overtime. These increased duties may be undermining direct care workers’ habitative responsibilities, which, in turn, lessens the direct care workers’ ability to positively impact consumers’ behaviors and prevent situations escalating into ANE incidents.

**DDSN ACTION:** DDSN has reorganized its approach to quality management by creating a Risk Management Department containing its existing Quality Measurement Unit and adding a Quality Improvement Unit. This new unit will take existing measurements indicating deficiencies and translate into aggressive actions to address via training or process improvements. DDSN is re-directing

an existing contract with a USC professor towards this end, specifically including modifying existing DSP duties to create time towards consumer engagement to improve their lives through habilitation and prevent situations that can then escalate into an ANE incident.

**RECOMMENDATION #7g:** DDSN will develop recurring safety bulletins based on lessons learned from ANE incidents, particularly vignettes (without attribution) from actual incidents to stimulate learning and continual awareness.

**DDSN ACTION:** This has been addressed in #7d above.

**RECOMMENDATION #7h:** DDSN will continue to mature its ANE Program data collection through similar enhancements as refining Critical Incident classifications clarifying issues of concern and the provider rating system.

**DDSN ACTION:** A complete review of the Quality Management Program, to include ANE data collection, is planned for the 1st Quarter FY 2019. However, the State Director has already established a standing monthly quality management provider committee to assist in this effort with provider input/vetting. Their initial effort pertains to reviewing quality indicators and developing a residential plan to incorporate behavior training objectives for replacement behavior and a more stringent inclusion of supervision level development & health and wellness issues.

**ISSUE #8:** DDSN has determined 22 existing South Carolina statutes impacting the agency would benefit from revisions or elimination to assist the agency in accomplishing its mission.

**RECOMMENDATION #8:** DDSN requests these 22 SC statutes modifications or eliminations as set forth in Attachment A be adopted by the House Legislative Oversight Committee for legislative action.

**DDSN ACTION:** The 22 SC statute modification or eliminations were proposed to the House Legislative Oversight Committee (HLOC) in the Fall 2017. Based on the HLOC final recommendations in November 2018, all regulatory changes have been started through the legislative notification. All statute changes have been addressed with two in pending bills, nine hand-carried referrals to appropriate legislative committee, and two on how to position DDSN in the state organizational structure not addressed because it is not in DDSN's lane.

DDSN has also conducted a review of its regulatory environment, which determined 94.2% of DDSN's \$672 million FY 17/18 budget pertained to Medicaid contracts through SC DHHS. In addition to the external Medicaid non-negotiable requirements, DDSN needs flexibility to timely change its contract requirements with providers to accommodate the unique and complex needs of our consumers, as well as our provider network, which is inconsistent with the time requirements for promulgating and amending regulations. DDSN identified four discrete areas where regulations were feasible without undermining operational effectiveness. These areas were: Eligibility; Research Protocols; Licenses for Community Based housing for Adults; and Appeals of state funded

services. DDSN has started the process to establish these regulations through a notice to the General Assembly.

**ISSUE #9:** DDSN established a defensive posture for many years based on a variety of factors, which has led to a tentativeness to proactively address issues. Improvement initiatives to address backlogged operational issues include:

**RECOMMENDATION #9a:** DDSN will develop a residential setting building capacity and funding strategy for high needs consumers, as well as timely execution of appropriations to restore legislative confidence. Strategy will include establishing triage beds to address critical cases; enhanced tracking/measuring system capacity, needs, and placement times; and develop a legislative appropriation strategy to better communicate this critical need to justify a consistent future funding stream to keep pace with residential setting needs.

**DDSN ACTION:** DDSN has revamped its Critical Needs List (CNL) process to add standardization, objectivity, and formal placement assessments to ensure existing finite resources are used in an optimal manner serving those most in need. DDSN has built an accurate tracking/measuring system addressing bed capacity and the critical needs list through a monthly report. DDSN requested legislative funding is pending for 12 triage beds with likely approval.

DDSN will need 9-12 months of rigorous CNL assessment of consumers seeking residential services to better understand the objective need and build a long-term residential building strategy to accommodate a growing and aging population of consumers and caregivers.

**RECOMMENDATION #9b:** DDSN will conduct a risk based review of licensing, contract review, residential observations, ANE Program (ANE; CI; Deaths), and other provider contract controls to identify opportunities to lesson or eliminate existing controls and corresponding administrative burden. A critical analysis will yield substantial risk mitigation and administrative cost/burden savings by combining higher quality controls to support the elimination of redundant controls or controls with a low cost/benefit.

**DDSN ACTION:** A complete review of the Quality Management Program, to include ANE data collection, is planned for the 1st Quarter FY 2020 supported by the increased capabilities of the new Quality Improvement Unit to drive provider performance.

**RECOMMENDATION #9c:** DDSN will implement a Waiver enrollment improvement plan to speed enrollment processing times, reduce the waiting list, and restore confidence to legislative appropriators of DDSN's ability to effectively execute budget enhancements.

**DDSN ACTION:** The plan has been favorably vetted through providers and has been sent to the Commission's Policy Committee for review and still pending.

Factors driving this stagnation include receiving a waiver slot without Medicaid eligibility; consumer/family confusion sorting out the DDSN case manager's role

and the Medicaid financial lookback case worker's role; not understanding waivers; holding waiver slots while attempting to secure a service provider, particularly respite; and no process time constraints on holding a waiver slot. **DRAFT** process changes to address these factors in a reasonable and compassionate manner include:

- Upon DDSN eligibility determination, DDSN will engage at multiple points prior to waiver slot award to guide and encourage non-Medicaid eligible consumers to obtain Medicaid. If a consumer is still not Medicaid eligible three months prior to receiving a waiver slot, the consumer will be assigned a Case Manager to assist in Medicaid eligibility, as well as being placed on a Medicaid Processing list until Medicaid eligible prior to receiving a waiver slot.
- Consumers will be contacted by DDSN three months prior to receiving a waiver slot and assigned a Case Manager, as well as be briefed and provided written materials explaining the waiver enrollment process in preparation of receiving a waiver slot.
- Medicaid financial lookback worker's role will be delayed until after the DDSN Case Manager makes initial contact to explain the process, which will prevent confusion.
- Case Manager's level of care will be coordinated to be held until after Medicaid completes its 118A financial lookback form.
- Establish a "soft" 6 month deadline requiring justification approved by the Executive Director of the case management provider to extend in 30 days intervals up to 12 months. Not enrolling based on waiting to secure a service provider will not be an acceptable reason.

**RECOMMENDATION #9d:** DDSN will compare Regional Center requirements and current budgets to assess adequate funding, equity between centers, and basis for legislative budget request for maintenance of effort resources.

**DDSN ACTION:** Nurse staffing levels were at approximately 85% of target staffing level (TSL) needs. As a result, 29 additional LPN nurses are needed in DDSN's Regional Centers at a cost of approximately \$700,000.

An analysis of the direct care staffing shortages at Whitten (26%) and Coastal (28%) would require 71 (\$2.3 million) and 50 (\$1.6 million) direct care worker (\$3.9 million), respectively. Currently, the lack of funding does not need legislative appropriations because, fortunately or unfortunately, Regional Centers have no expectations of sufficient candidates to address these shortages. Midlands and Pee Dee have challenges, but are at the 90+% staffing level.

DDSN maintains maintenance reserves in the form of CIPs to address Regional Centers' maintenance components that have failed or near failure. However, the funding has not kept up with delayed maintenance short of a crisis, particularly in



the interior of the facilities. Delayed maintenance estimate at the four centers is estimated at \$8.6 million with \$5.9 million as a top tier need. The highest priority needs, Tier 1, include such items as electrical grids at Midlands and Coastal, as well as basic interior upkeep such as flooring, furniture, remodeling bathrooms, food service chillers, buses, vans, wheelchairs, hospital beds, blinds, security cameras, campus lighting, gym bleachers, building door/window frames, PT equipment, drainage, and degraded HVACs.

Based on budget analysis, the Regional Centers need rebalancing to provide an equitable starting point for each despite lacking 100% funding for all of its needs. Most importantly, Regional Centers need to have their revenue (ICF Medicaid & client fees) protected from being consumed by other DDSN community delivery system needs via the bands. This will permit the Regional Centers to meet its own needs and avoid creating a guaranteed “one way” settlement with SC DHHS.

**RECOMMENDATION #9e:** DDSN will develop an “at-risk” inspection protocol by subject matter experts for suspected “failed” residential settings based on Alliant residential observations triggering an “at-risk” inspection. The DDSN Quality Management process understands providers’ service levels may fluctuate due to a variety of short-term factors which DDSN can address through traditional audit findings, provider corrective action plans, and technical assistance. However, DDSN does not have a process to address major “failed” residential settings in a manner that both addresses operational deficiencies and addresses provider management’s failure to deter similar situations in the future. Additional emphasis needs to be placed on a strategy to improve residential providers systemically on the low end of performance scores.

**DDSN ACTION:** A complete review of the Quality Management Program, to include ANE data collection, is planned for the 1st Quarter FY 2020. However, DDSN has built a tool to review high risk provider’s ability to operate an effective residential habilitative program, which directly correlates with higher performance and low ANE risk. This tool is being piloted on Mentor, a residential provider currently under a freeze for new admissions due to performance issues. The Risk Management Department will monitor this issue.

**RECOMMENDATION #9f:** DDSN will establish at least a \$2 million annual cost settlement escrow account, which has not been done in the past six years creating a contingent liability likely in excess of \$20 million.

**DDSN ACTION:** DDSN completed its FY 15/16 cost settlement calculation which requires approximately \$1.7 million payback, which is much less than estimated. With five cost settlements pending and using a one-way settlement methodology, DDSN will had additional paybacks, but the \$20 million estimate looks more like a ceiling than an estimated liability. DDSN’s net revenue and costs are currently estimated to be zero during FY 19, but any excess revenue (cash) will be escrowed to reserve for this future known liability.

**RECOMMENDATION #9g:** DDSN will re-engineer its Comprehensive Permanent Improvement Plan (CPIP) capital account funded with ICF consumer fees to minimize excessive capitalization of routine maintenance needs in CPIP preventative maintenance accounts. This prevents unhealthy stockpiling of unused resources; streamlines project prioritization/execution; and improves capacity to execute through delegation of smaller maintenance projects to Regional Centers.

**DDSN ACTION:** DDSN has established a formal quarterly meeting and report to review CPIP projects and Regional Center maintenance needs. This permits a logically winding down of CPIP over-funding through maintenance CPIPs and annual consumer fees for maintenance needs.

DDSN has stopped the practice of establishing maintenance CPIPs. The May 2017 SPIRS balance was approximately \$7.7 million dollars. Since that time, CPIPs have been closed, with the 12/31/2018 Treasury balance of \$2.4 million from closed projects and accumulated interest. The 12/31/2019 SPIRs balance was \$5.3 million, of which \$1.8 million encumbered in pending contracts or obligations. This leaves an available unencumbered balance of \$3.5 million in CPIP funds.

The quarterly meetings requires all Regional Center input. Expenditures in excess of \$25,000 requires both the CFO and ASD Operation approval to ensure funding is targeted at the highest priority needs based on a prioritization list developed through the quarterly reporting/meetings. Delegation of funding has been increased to Regional Centers during the FY. The goal DDSN is moving towards is integrating annual operating funding through internal Regional Center budgets, CPIP funds, and annual consumer fee revenue stream into one system. Then, have one pragmatic master maintenance/capital improvement plan tied to a reasonably projected revenue stream.

**RECOMMENDATION #9h:** As an interim step to whatever future payment system is approved by the Commission, DDSN will conduct a feasibility study to relieve DSN Boards' as fiscal agents for in-home waiver bands (Band B – ID/RD; Band I – CS) with this function being absorbed by the Central Office Accounting Division. If feasible, this will achieve three outcomes: 1) relieve DSN Boards of this increasingly complex administrative function; 2) simplify QPL billing; and 3) convert \$17 million in residual state funds in B & I Bands not generating a Medicaid reimbursable match to be available to provide initial funding of Mercer community rate increases due in early 2019. This \$17 million in state dollars to fund new rates would create a Medicaid match to generate \$40 million additional service dollars in the community residential delivery system.

**DDSN ACTION:** DDSN has initiated a review on this issue. Still waiting for Mercer report before establishing a timeline for final decision and possible implementation.

**RECOMMENDATION #9i:** DDSN will develop a specific program to lower the current average census of 25 consumers at Correct Care (state funded locked facility) through building additional dedicated community residual high needs capacity (Medicaid match). A reasonable goal would be to remove 15 current Correct Care consumers at a total net service savings of \$1.8 million per year, as well as improve the quality of services for these 15 consumers.

**DDSN ACTION:** FY 2019 started with approximately 27 Correct Care consumers and the current census is 17.

**RECOMMENDATION #9j:** DDSN will review all non-service expenses, assess value, and prioritize; appears historical approach has been to renew prior FY's commitment without assessing value and compare to other needs, particularly given limited funds in this area.

**DDSN ACTION:** DDSN staff conducted contract performance reviews in January & February 2019, which resulted in a complete review by the entire executive staff in early March 2019. Of the \$3.2 million review, \$1.3 million will be eliminated and another \$600,000 will be reduced through specific program reforms. Final reduction plan will be submitted to the Commission in June 2019 and the reductions will begin in FY2020.

**RECOMMENDATION #9k:** DDSN will pursue pre-file legislation prior to the next legislative session to address ambiguity in the Adult Health Care Consent Act.

**DDSN ACTION:** Bills have been introduced in both the House and Senate to address the AHCA Act issue.

**RECOMMENDATION #9l:** DDSN will decentralize budget execution from currently residing almost exclusively with the Associate State Director for Administration to other Associate State Directors. Decentralized decision making will make better tradeoffs and more timely decisions when operating within clear resource constraints. This will be particularly beneficial for Central Office and Regional Centers to improve clarity in fixing roles, responsibilities, and accountability to both establish initial FY budget allocations and execution throughout the FY.

**DDSN ACTION:** Budget roles and responsibilities have been clarified between Regional Centers and Central Office. ASD Operations own all four Regional Center budgets with the requirement to operate within the overall budget. Most importantly, a formal budget development process between Regional Centers and Central Office will occur each June prior to the start of each FY to set an equitable, fact-based Regional Center budget prior to the start of the FY.

**RECOMMENDATION #9m:** DDSN will develop a mechanism to improve communications with community providers focusing on standardized format, authority level to send, targeted distribution email lists, and a one webpage repository.

**DDSN ACTION:** In November 2018, DDSN launched a new process (DDSN Executive Memos) to disseminate important information to community providers using a standardized format, authority level to send, targeted distribution email lists, and a one webpage repository.

**RECOMMENDATION #9n:** DDSN will identify all residential consumers Medicaid ineligible for over 12 months to identify issue(s), which will lead to developing policy to minimize this situation and future occurrences; currently 91 non-Medicaid residential consumers create the opportunity cost loss of \$4.5 million in Medicaid match reimbursements annually.

**DDSN ACTION:** This process has started on multiple fronts. First, specific District Office personnel assigned responsibility as a collateral duty. This addressed short-term Medicaid ineligibility but significant progress on long-term state funded consumers was not sufficient. DDSN is recruiting a Medicaid eligibility subject matter expert to take on this program which requires high level skill and knowledge on addressing excess asset/income issues with available trusts or programs (i.e., Able). Second, DDSN is building processes within our information technology framework to quickly identify and address consumers' losing Medicaid eligibility to coordinate with providers to address inasmuch as this will be a high need with any new payment system.

**RECOMMENDATION #9o:** DDSN will review Respite Program delivery; respite is key to serving families, yet access and service availability is still an issue.

**DDSN ACTION:** DDSN Internal Audit and the Respite Program Manager initiated a review of this program in January 2019 which was completed in April 2019. The program has a variety of issues hindering the program's overall effectiveness. Results can generate immediate short-term improvements, but the problems also require consideration for major program changes to simplify, improve access, quality control, and speed to on-board respite workers. Awaiting the Mercer report to discern SC DHHS's respite rate to providers, which will be a key ingredient in any major Respite Program changes.

**RECOMMENDATION #9p:** DDSN will conduct a staffing and capabilities assessment of its financial operations, which have incrementally eroded since the 2010 recession creating a significant organizational risk, particularly with the unique knowledge base required to operate or modify the capitated band system.

**DDSN ACTION:** DDSN has conducted the analysis. A new CFO position was added to permit the executive to focus on financial matters and three additional financial personnel in preparation for entering fee-for-service. The initial CFO selection has since retired and the new CFO is perhaps the most experience CPA with the band system and the entire DDSN financial system. Lack of band payment system knowledge of the entire system and its idiosyncrasies continues to be a high risk, and retaining personnel with this knowledge is a priority.

**RECOMMENDATION #9q:** DDSN will review the individual employment program for opportunities to address current areas of ineffectiveness through training, policies, active monitoring, and authorization controls.

**DDSN ACTION:** Program improvements included establishing a standard activity based reporting system in Therap, formalized performance standards, and training. In FY2020, performance data will be collected by provider to establish statewide benchmarks to target technical assistance and options for contract modification to address low performing providers. The long-term strategy is to develop adequate data to support a fixed fee model to pay for placement results to further strengthen accountability for results.

**RECOMMENDATION #9r:** DDSN will ensure Autism Program's eligibility process benchmarks are solidified and training/consulting resources targeted towards DDSN's core mission. Increase cost effectiveness of Autism residential settings operated by DDSN through filling vacancies or contract with a provider to serve these consumers; if DDSN retains operations, consider moving this function from the Policy Division to the Operations Division.

**DDSN ACTION:** Autism Eligibility process has established performance benchmarks along with monthly performance reports. Autism consultants have been reassigned to Operations to move away from a teaching/awareness mission and redundancy in providing services already on the statewide Medicaid plan. Their new mission will be for direct support of DDSN consumers and Critical Needs List triage/admission. Autism residential settings (6) will also be reassigned to Operations to bring these houses into compliance with community provider standards. The Autisms private office space in Spartanburg is being closed and the few remaining personnel are being relocated to available space at Whitten at a savings of \$60,000/year.

**RECOMMENDATION #9s:** DDSN will revitalize the environmental modification process to reduce backlog from high of 200 in early 2018. Additional system refinements needed to coordinate or simplify operational execution between two divisions.

**DDSN ACTION:** The backlog still persists due to staff turnover and coordination issues between two divisions. Responsibility has been fixed with HASCI Division and staffing increased by two new FTEs with home construction remodeling and CAD drawing system experience. Environmental Modification Program provides a monthly performance report.

**RECOMMENDATION #9t:** DDSN will build infrastructure to support new Commission initiative to review new policy and recurring three-year policy updates on a quarterly basis in an efficient. Policies will be stratified by priorities to ease processing by stakeholders.

**DDSN ACTION:** Chairman has provided specific guidance on the process of addressing the higher volume of policies requiring periodic review and update. There is still some areas to streamline to increase flow of policies requiring review and approval.

**RECOMMENDATION #9u:** DDSN will shift all employees to a universal performance review cycle (July 1 to June 30) to improve accountability, training, quality, and integrate into an annual equitable assessment to consider personnel merit increases.

**DDSN ACTION:** Employees converted to the new Employee Performance Management System with a common review cycle coinciding the DDSN's fiscal year.

**RECOMMENDATION #9v:** DDSN will examine Early Intervention Program to ensure consumers eligible for Medicaid become enrolled to maximize Medicaid reimbursement; in the recent past, Medicaid enrollment has dropped from 80% to currently at 65%.

**DDSN ACTION:** This has been informally reviewed without convincing results. This issue will be rolled into a single person to be responsible for all aspects of maximizing Medicaid eligibility for consumers using reasonable and compassionate approaches to address this serious revenue issue.

The recommendations contained in this letter have been approved by the DDSN Commission.

Thank you in advance for your consideration of DDSN's recommendations. I am available 24/7 to discuss further and provide any clarifications needed.

Sincerely,

Patrick J. Maley  
Interim State Director

## **ATTACHMENT B**

The House Legislative Oversight Committee's (HLOC) report titled, "A Study of DDSN," dated 11/2/2019, issued 17 recommendations. Recommendations 6 - 17 were directed to the General Assembly to consider new legislation or modifications of existing legislation to support DDSN's mission. DDSN's actions to support recommendations 6 – 17 are as follows:

### **#6: Create a Cabinet Agency**

Recommendation #6: *The General Assembly should consider making the Department of Disabilities and Special Needs a cabinet agency. Specifically, the Governor, with the advice and consent of the Senate, should appoint the agency head. In addition, the Commission on Disabilities and Special Needs should continue to exist in an advisory capacity. All responsibilities currently assigned to the Commission, should devolve to the Department.*

DDSN Action #6: Senate Scott introduced bill S. 8, which was referred to the Medical Affairs Committee. No action has been taken. DDSN has not been asked to provide input since the HLOC review of DDSN.

### **#7: Develop Criteria for Commission Membership**

Recommendation #7: *The General Assembly should consider amending S.C. Code Ann. § 44-20-210 to establish knowledge and expertise criteria for membership on the Commission on Disabilities and Special Needs.*

DDSN Action #7: Representative Taylor introduced bill H.3824, which was referred to 3-M Committee. The Social Services, Mental Services, and Children's Affairs Subcommittee held a hearing on March 26, 2019 and an amendment to the bill is being prepared.

### **#8: Redefine Role of County Boards**

Recommendation #8: *The General Assembly should consider amending S.C. Code Ann. § 44-20-30 such that the county disabilities and special needs boards serve in an advisory capacity to the county director. All responsibilities currently assigned to county boards, including hiring of the county director, should devolve to the Department. The county disabilities and special needs board office should become a county office of the Department of Disabilities and Special Needs.*

DDSN Action #8: No action. DDSN has not been asked to provide input since the HLOC review of DDSN.

**#9: Clarify Entities Providing Services -- S.C. Code Ann. § 44-20-370 (A)**

Recommendation #9: *The General Assembly should consider amending S.C. Code Ann. § 44-20-370(A) to reflect that services are offered through private qualified providers as well as county DSN boards. In addition, the Committee recommends the agency develop a definition of “qualified provider,” for inclusion in Title 44, Chapter 20 of the S.C. Code of Laws.*

DDSN Action #9: DDSN provided the HLOC recommendation to its General Assembly oversight committees (Senate Medical Affairs Committee & House Medical, Military, Public and Municipal Affairs Committee) to be considered along with DDSN’s commitment and subject matter expert contacts to support the legislative process.

**#10: Repeal Self Sufficiency Fund -- S.C. Code Ann. § 44-28-10 through § 44-2880**

Recommendation #10: *The General Assembly should consider repealing S.C. Code Ann. § 44-28-10 through § 44-28-80 because the fund was not established and in 2016, the General Assembly established the South Carolina ABLE savings program, which serves the same purpose, and is made possible by the federal Achieving Better Life Experience Act.*

DDSN Action #10: DDSN provided the HLOC recommendation to its General Assembly oversight committees (Senate Medical Affairs Committee & House Medical, Military, Public and Municipal Affairs Committee) to be considered along with DDSN’s commitment and subject matter expert contacts to support the legislative process.

**#11: Repeal Disability Trust Fund -- S.C. Code Ann. § 44-28-310 through § 44-28370**

Recommendation #11: *The General Assembly should consider repealing S.C. Code Ann. § 44-28-310 through § 44-28-370 because the fund was never established and in 2016, the General Assembly established the South Carolina ABLE savings program, which serves the same purpose.*

DDSN Action #11: DDSN provided the HLOC recommendation to its General Assembly oversight committees (Senate Medical Affairs Committee & House Medical, Military, Public and Municipal Affairs Committee) to be considered along with DDSN’s commitment and subject matter expert contacts to support the legislative process.

**#12: Make Definitions of Intellectual Disability Consistent -- S.C. Code Ann. § 44-23-10 (22)**

Recommendation #12: *The General Assembly should consider amending S.C. Code Ann. § 44-23-10(22) so that the definition of intellectual disability is consistent with the definition in S.C. Code Ann. § 44-20-30(12).*



DDSN Action #12: DDSN provided the HLOC recommendation to its General Assembly oversight committees (Senate Medical Affairs Committee & House Medical, Military, Public and Municipal Affairs Committee) to be considered along with DDSN's commitment and subject matter expert contacts to support the legislative process.

**#13: Replace Mental Deficiency with Intellectual Disability -- S.C. Code Ann. § 44-25-20(g)**

Recommendation #13: *The General Assembly should consider amending S.C. Code Ann. § 44-25-20(g), to replace "mental deficiency" and its definition with "intellectual disability" and its definition as stated in S.C. Code Ann § 44-20-30(12). In addition, the Committee recommends that "mental deficiency" be replaced with "intellectual disability" throughout Title 44, Chapter 25.*

DDSN Action #13: DDSN provided the HLOC recommendation to its General Assembly oversight committees (Senate Medical Affairs Committee & House Medical, Military, Public and Municipal Affairs Committee) to be considered along with DDSN's commitment and subject matter expert contacts to support the legislative process.

**#14: Correct Inconsistency with Federal Fair Housing Law -- S.C. Code Ann. §6-29-770**

Recommendation #14: *The General Assembly should consider amending S.C. Code Ann. § 6-29-770 to remove the requirement that notice be given for a home for persons with disabilities, as it violates federal Fair Housing Laws.*

DDSN Action #14: DDSN provided the HLOC recommendation to its General Assembly oversight committees (Senate Medical Affairs Committee & House Medical, Military, Public and Municipal Affairs Committee) to be considered along with DDSN's commitment and subject matter expert contacts to support the legislative process.

**#15: Adjust Priority List of Persons Who Can Make Health Care Decisions -- S.C. Code Ann. §44-66-30(A)**

Recommendation #15: *The General Assembly should consider amending S.C. Code Ann. § 44-66-30(A) to give DDSN last priority in health care decisions for persons unable to consent, as "a person given authority to make health care decisions for the patient by another statutory provision." Section 44-26-40, § 44-26-50, and § 44-26-60(C) should all be amended to refer to the correct priority number in § 44-66-30.*

DDSN Action #15: Representative Taylor introduced bill H3825 to address this issue in the House, and Senator Young introduced bill S. 529 in the Senate. H3825 had a hearing in the 3-M Health and Environmental Affairs Sub-Committee on March 20, 2019. An amendment was being worked on to present to the Sub-Committee. That bill was sent to a House-Senate Conference Committee on May 9, 2019.

**#16: Add Day Program To -- S.C. Code Ann. §43-35-10(4)**

Recommendation #16: *The General Assembly should consider amending S.C. Code Ann. § 43-35-10(4) to include day programs in the definition of “facility” in the Omnibus Adult Protection Act.*

DDSN Action #16: DDSN provided the HLOC recommendation to its General Assembly oversight committees (Senate Medical Affairs Committee & House Medical, Military, Public and Municipal Affairs Committee) to be considered along with DDSN’s commitment and subject matter expert contacts to support the legislative process.

**#17: Definition of Facility Require Sharing of Case Disposition With Agency - S.C. Code Ann. § 43-35-60**

Recommendation #17: *The General Assembly should consider amending S.C. Code Ann. § 43-35-60 to require investigating agencies to share specific abuse, neglect, or exploitation case dispositions with the relevant state agency.*

DDSN Action #17: DDSN provided the HLOC recommendation to its General Assembly oversight committees (Senate Medical Affairs Committee & House Medical, Military, Public and Municipal Affairs Committee) to be considered along with DDSN’s commitment and subject matter expert contacts to support the legislative process.