

Carey offers own plan on retarded care

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ALBANY — Gov. Carey, shunting aside a bill already approved by the Legislature, yesterday made public his own proposal to create a new state agency to care for the mentally retarded and persons with other developmental disabilities.

The governor's plan, which is substantially different from the bill sent to his office by the Senate last week, would set up the new Division of Mental Retardation and Developmental Disabilities within the Department of Mental Hygiene.

The Legislature's proposal, which Carey has indicated he will veto, would create an Office for Mental Retardation within the executive department. Such a move was opposed by Dr. Lawrence C. Kolb, the governor's nominee to head the mental hygiene agency.

In a related development, the Senate Finance Committee yesterday delayed for at least a week consideration of Kolb's nomination after one of the panel's members requested a postponement.

Although committee members were told the delay was sought to await Carey's decision on whether to approve the Legislature's bill before him, one senator raised the possibility that the postponement was actually an attempt to pressure the governor into signing the pending measure.

Carey, in disclosing details of his proposal, said: "This legislation will be another step toward the goal of offering each mentally retarded person the opportunity to realize his or her potential and to lead as normal a life as possible."

He added that his plan would also give the new division clear jurisdiction for the care of persons with disabilities affecting mental develop-

ment, such as cerebral palsy or epilepsy. No one state agency now has such responsibility, the governor said.

Under Carey's proposal, the new agency would be headed by a deputy mental hygiene commissioner — appointed by Kolb — with a number of regional directors serving under the deputy.

The regional directors would be responsible for developing separate programs and budgets, in consultation with local mental hygiene officials and interested groups. The budgets and programs would be subject to approval by the mental hygiene commissioner.

Carey's plan would also provide for the appointment of a 15-member council to work with the deputy commissioner in an advisory capacity. The council would include parents of institutionalized persons, representatives of consumer groups, and experts nominated by the education, health and social services departments.

The chairman of the council, who would be appointed by Carey, would serve as a statewide "ombudsman" with powers to investigate complaints made on behalf of the mentally retarded and those with other disabilities.

"Local and individual problems could be brought directly to the ombudsman, who would guarantee an independent consideration," the governor said.

Carey indicated that funds for the new agency and its regional operations could come from the Department of Mental Hygiene's budget, which is rent fiscal year.

"This legislation would carry out the spirit of the agreement last week to improve conditions for residents at the Willowbrook Developmental Center and similar institutions throughout the state," the governor said in reference to a consent decree

signed last week as a result of a lawsuit over conditions at the Staten Island facility.

"We are entering a new era of cooperation toward a common goal, the improvement of services and opportunities for the retarded and the developmentally disabled," he added.

Unlike the bill approved by the Legislature, Carey's plan would allow the Department of Mental Hygiene to retain control over care for the mentally retarded.

The governor's proposal also eliminates a provision in the Legislature's bill which would have technically defined persons with developmental disorders as mentally retarded. In addition, Carey's plan would take effect immediately, while the other measure would not become effective until next April 1.

Carey's legislative proposal is expected to receive the support of Kolb but a mixed reaction in the Senate and Assembly, where the earlier bill generated often heated debate. Standing committees of each house must conduct hearings on the governor's plan before it reaches the floor.

The Senate approved the bill transferring responsibility for care of the retarded to the executive department Feb. 20, and the Assembly gave overwhelming approval to the measure April 15. After technical corrections by the Senate, the bill was sent to the governor last Friday.

Carey must act by Monday on the bill — sponsored in the Assembly by Speaker Stanley Steingut, D-Brooklyn, and in the upper house by State Sen. William T. Conklin, R-Brooklyn — or else it is automatically vetoed.

It was Conklin, a vocal critic of Kolb's nomination, who yesterday requested the delay

in the Finance Committee's consideration of the commissioner. Kolb must be approved by the committee and the full Senate before officially taking office.

State Sen. John J. Marchi of Staten Island, chairman of the panel, told lawmakers that Conklin had requested the delay because the governor's action on the bill before him would have an effect on questions committee members might ask of Kolb.

But State Sen. Howard C. Nolan Jr., D-Albany, ignored Marchi's explanation and said: "I suspect Sen. Conklin is doing this only to force the governor to sign that bill."

Conklin, who was absent from the Finance Committee meeting, said later that it "didn't make sense" to question Kolb without being certain whether his agency will have responsibility for caring for the retarded.

The senator denied he requested the delay — the second he has been granted within a month — to bring pressure on Carey.

A spokesman for Kolb said the commissioner was not informed of the postponement until an hour before yesterday's meeting, but added that Kolb was asked to appear before the panel at its regular session next Tuesday.

Marchi said he expect Kolb will eventually be confirmed by the committee, despite reservations which have been expressed over the fact that the commissioner holds a \$15,000-a-year part-time teaching job in addition to the \$51,150-a-year post as head of the mental hygiene agency.

Kolb teaches one hour a week at the Columbia University College of Physicians and Surgeons, an arrangement which reportedly was approved by Carey when he made the appointment earlier this year. Kolb is expected to retire from active teaching in June.

"If the governor is satisfied he can do the work, I have no particular hangup with it," Marchi said in reference to the teaching job.