

The Source of information for providers of community-based services for people with differing abilities.
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NYS LEGISLATIVE SESSION CONCLUDES

by Jeff Wise, NYSRA President & CEO



The Fourth of July approaches, which means that, at least for now, the State Legislature has left Albany and headed home. Members will be campaigning for re-election in the coming weeks and it is not clear when, or if, the Legislature will be back in town. We suspect they will be, but there is no timetable set in stone.

Meanwhile, the US Congress has taken a break for the holiday. During a fairly feverish late June, the Congress finally did come up with a plan to suspend 6 of 7 troublesome regulations promulgated by CMS. Both houses, by large margins, finally passed language – as part of the war supplemental spending legislation – that puts a moratorium on the six regulations until April 2009.

President Bush has signed the legislation.

So, all of our efforts to buy time have worked for the field (the one regulation left out of the moratorium deals with hospitals). But we need to remind ourselves that buying time is all that has been accomplished. That may be valuable since a new White House will be in place next April, but we need to be careful to note that the fiscal constraints at the federal level are largely driving these regulatory actions, and that those constraints will not disappear simply by the swearing-in of a new President next January.

During recent meetings in Washington, the point was made repeatedly that resolution of the issues posed by the regulations will take a great deal of hard work, perhaps a change in the economic climate, and maybe a shift in government thinking that inures to the benefit of health and human services in a greater way than experienced in recent times under the Bush Administration. The suspended regulations – including those dealing with so-called intergovernmental transfers, targeted case management, the state “rehab option,” and provider taxes – all could return to the federal agenda next year.



NYSRA remains in direct contact with Governor Paterson’s Washington, DC, policy staff and has pledged to work with them to try to find solutions to the tension created by limited federal resources versus unmet need.

Back in Albany, we are, for the most part, pleased that we and others in the field have been able to deter the State Legislature from passing measures that impair the operations of providers in the areas of MR/DD and MH.

During recent weeks many bills have been introduced in relation to provider operations, most of them related to the dynamics surrounding Jonathan’s Law, records access, direct-care staff practices and many other similar items. We have been able to hold off the most serious of these proposals. Although a passel of bills were introduced quite late in the session, those most difficult to accept were left un-enacted. Instead, the Legislative Leaders and

the Governor were able to agree on, essentially, a package of four measures. All passed both houses in the final hours and are expected to be signed into law by Governor Paterson. They are:

—A Governor’s program bill realigning various definitions of abuse and neglect, which have differed among state agencies. The bill was publicly supported by NYSRA after we had a chance to comment on the provisions. The final bill version incorporated a change to our greatest concern, which was a technical legal process issue that is no longer in the bill language.

—A bill to form a study group to examine issues of direct-care staff overtime. This was an alternative to a bill introduced recently that would have severely limited OT by direct-care professionals, regardless of whether such OT was voluntary or mandatory. We will make our views known on this issue when the study group, to be chaired by the OMRDD Commissioner, is formed. The group is to report to the Legislature by December 15 of this year.

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—A bill that would codify in statute that individuals in residential programs have a right to a balanced and nutritious diet and are not to be deprived of food. In response to our concerns, the bill was amended late in the process to permit certain variances from regular diets for clinically supported reasons and when such variance is part of a treatment plan. The measure is not unlike a current OMRDD regulation on the issue.

—A bill that reopens the Jonathan’s Law “look-back” provision. This is a provision that had expired at the first of this year, allowing qualified parties to seek access to records for any incidents dating back to 2003. This bill now permits those “old” requests to be made through 2010.

In the final days, we spent considerable time speaking with and writing to staff in the Executive Chamber, the Senate, and the Assembly and are appreciative of all their efforts to resolve difficulties in these areas and reach agreement. We also have worked collaboratively with other organizations, including the Self-Advocacy Association of New York State, on many of these issues in order to present a unified position whenever possible. We were pleased that, on several occasions, legislative and executive staff reached out to NYSRA specifically for comments and input on pending legislation. Their good faith efforts to include our views are greatly appreciated and should be commended.

Of course, the announcement on June 23 by Senator Joe Bruno that he would not seek re-election after 32 years in the Senate has taken much of the attention away from the final days of the Session. Dean Skelos, from Rockville Centre on Long Island, is the new Senate Majority Leader. Senator Thomas Libous of Broome County is Deputy Majority Leader.

It is not clear whether Senator Bruno will actually serve out the rest of his term through the end of this year. There has been much speculation that he will not, but he has not indicated definitively one way or another.

Other bill actions at the end of the session that may be of interest:

—A bill that empowers Surrogate Decision Making Committees established under Article 80 of the Mental Hygiene Law to make end-of-life decisions on behalf of persons with developmental disabilities who do not have a legally appointed guardian or an involved family member.

—Legislation for a demonstration of a simplified advance health care directive form for persons receiving MR/DD services. The form would contain instructions to providers on end-of-life care, as well designation of a health care agent with authority to act immediately upon execution of the proxy.

—A bill that creates a “Task Force on Quality Workers Care” to make recommendations on various aspects of workers serving those individuals served by the mental hygiene system including qualifications for employment, staffing ratios, and the use of overtime, and employee retention, training and whistle blower protections. The Task Force would be chaired by the Commissioner of OMH and would be comprised of the Commissioners of OMRDD, DOL, OCFS, SED and a representative of CQCAPD, provider agencies, advocates and parents or legal guardians. It is a separate measure from the study group on overtime noted above.

—Legislation restricting mandatory overtime hours worked by nurses in state-operated facilities. Changes to the measure removed voluntary mental hygiene programs from its application. It will apply to all Article 28 clinics, however.

—Legislation specifically sought by NYSRA, to extend the NYSRA’s ability to offer capital bonding projects through the New York State Dormitory Authority. The measure extends our program for 5 years, through December 2013.

NYSILC SEEK NEW COUNCIL MEMBERS

The New York State Independent Living Council (NYSILC) is a state council that has the responsibility to jointly develop the Federal 3-year Statewide Plan for Independent Living (SPIL). The council works on public policy, public awareness, technical assistance and training issues that impact Independent Living services and people with disabilities in New York State.

NYSILC is seeking interested candidates to serve as potential appointments to the council. Six openings will occur in the following appointment categories: Center for Independent Living (CIL) (1), Advocate (1), Organization Serving People with Disabilities (2), and Other (2).

The council looks to maintain a diverse geographic, cultural/ethnic, cross-disability, age and gender representation. Interested individuals should send a brief statement of interest and resume to NYSILC at bradw@nysilc.org by July 18, 2008. It is preferred that materials be sent electronically because they are in an accessible format and can be shared during the review process. NYSILC will review the resumes and schedule telephone interviews with the top candidates in August 2008.

Interviews are structured to identify what each individual has to offer the council. NYSILC reviews the final recommendations with VESID by September-October 2008. The NYS Regents make the formal appointments in the fall, which become effective January 2009.

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ADA RESTORATION ACT

“The ADA Restoration Act” passed the House in a 402 - 17 vote. This bill, now referred to as the ADA Amendments Act of 2008 (H.R. 3195) redefines the legal definition of “disabled” under the Americans with Disabilities Act (ADA) from an impairment that “substantially limits” one or more life activities to an impairment that “materially restricts” these activities. Changing this definition broadens it, so more American workers are included in the ADA’s protected class, even those who have disabilities that are not apparent.

The overwhelming support from the House was deemed to be extraordinary by Nancy Zirkin, Executive VP of the Leadership Conference on Civil Rights. “I’ve lobbied on Capitol Hill for 25 years and rarely seen anything like the extraordinary coalition of the civil rights, disability and employer communities that have come together around the Americans with Disabilities Amendments Act.”

H.R. 3195 received bipartisan support in the House as well as backing

from disability advocacy groups, civil rights experts, the U.S. Chamber of Commerce and other business leaders.

From the business community, Jay Timmons, VP of the National Association of Manufacturers, commented that the purpose of the legislation is “improving the Americans with Disabilities Act” and the “right thing to do”

The ADA Amendments Act (H.R. 3195) was led by chief sponsors majority leader Congressman Steny H. Hoyer of Maryland and Congressman F. James Sensenbrenner of Wisconsin.

The proposed legislation now goes to the Senate where it is expected to have bipartisan support led by Sen. Tom Harkin of Iowa. Predictions indicate that it will likely be signed into law before the July 26th anniversary of the ADA.

SAVE THE DATE



NYSRA 30th Anniversary
NEW YORK STATE REHABILITATION ASSOCIATION, INC.

2008 Leadership Training Summit

September 15—17, 2008
Desmond Hotel & Conference Center
Albany, NY

Keynote:



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Plenary Speaker:
William Stillman

Fostering Self-Advocacy Adults with autism have been historically marginalized as incapable of contributing to our communities. This keynote session will explore opportunities to value the gifts and talents of those on the autism spectrum by developing allies and valuing individual passions, so often pathologized as “obsessions.”

In addition to the plenary session, William Stillman will be facilitating an interactive dialogue on Presuming Intellect: 10 Ways to Enrich our Relationships through a Belief in Competence. Participants will have the opportunity to explore and engage in an interactive session on ways for caregivers, employees and individuals with disAbilities to enrich their relationships and profession.

In Cooperation with




Look for a Detailed Brochure and Registration Information Soon!

EMPLOYMENT OPPORTUNITIES

Clinical Administrator: Rehab Programs, Inc. a leading provider of support services for individuals with developmental disabilities seeks a professional with strong leadership skills to oversee a comprehensive psychological evaluation/treatment/residential program for individuals with developmental disabilities who are also in alcohol and drug addiction recovery program.

Waryas House is a small residential IRA housing approximately 13 men with developmental disabilities who also suffer from chemical dependency. We provide OASAS certified treatment for addiction on-site in conjunction with OMRDD certified residential services. Services include: full-day substance abuse clinic, daily group sessions, health management, art therapy, recreation therapy, 12-step meetings, individual psychotherapy, skills for independent living, work training opportunities, case management.

Candidate should have experience in consumer assessment, service development, and knowledge of the psycho-social effect of substance abuse. Must have experience with 12-Step Approach to Recovery. Experience working with individuals and groups using a variety of treatment modalities preferred, in addition to familiarity with the Intellectually/Developmentally disabled population. Bachelor's degree and appropriate licensure required. Masters degree preferred.

M-F, FT includes medical/dental, 20 days paid vacation per year plus more!

Send resume or application to Karen Simon, Human Resources, REHAB Programs, Inc., 70 Overocker Rd., Poughkeepsie NY 12603, fax 845-473-1270. For application, call 485-9803 x 217 or visit our website for an on-line application at www.rehabprograms.org. AA/EOE.



Director of Finance: Community Services for the Developmentally Disabled is seeking an organized, analytical and detail oriented individual with experience developing and maintaining internal controls to serve as the Director of Finance. This position reports to the CEO. Responsibilities include supervising Accounts Receivable, Accounts Payable and Purchasing, preparing reports required by multiple funding and maintaining general ledger and fixed assets records. Provides oversight of payroll (ADP software) and management of client funds. Requirements include exemplary accounting skills, computer competency, and either a relevant Master's Degree with two years of experience or a relevant Bachelor's Degree with four years of experience. Two years supervisory experience also required. Knowledge of OMRDD rules and regulations and CFR reporting experience preferred. Send resume to recruiter@csdd.net or fax to (716) 893-8888.

September 15-17, 2008
Leadership Training Summit
The Desmond
Albany, New York

February 2-3, 2009
NYSRA Legislative Forum
Albany, NY



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Behavior Specialist: Per Diem, Work with DD population; perform behavioral assessments, planning & implementation. BA, 1 yr. behavioral experience. Resume to Phoenix Frontier or email srothberg@phoenixfrontier.org

Direct Care: Work with TBI individuals. PT, days/eve/wknds. HS Diploma/GED & Car req'd. PCA/HHA cert. preferred, but will train. Call (716) 332-5008 x262.

HR Administrative Assistant: Secretarial/Admin duties. Must be professional. HS Diploma, MS office skills. 2+ yrs secretarial experience req'd. Some PR & HR exp. preferred. Resume to Phoenix Frontier - KH.

RN: PT/Per Diem: Residential Program. NYS RN licensed. Responsible for training staff, medical advocate for DD population; liaison to medical staff & services. Resume to Phoenix Froniter or email to srothberg@phoenixfrontier.org.

Residential Specialist: PT, eves, wknds, overnights. Valid/clean NYS drivers license. HS graduate. Experience with DD population preferred. Email ascott@phoenixfrontier.org. Mail resume to Phoenix Frontier Inc. - AS or fax to (716) 833-3343.