

The Source of information for providers of community-based services for people with differing abilities.
A member service of NYSRA.

RESHAPING MH & DD - WHAT WILL IT LOOK LIKE

by Jeff Wise, President & CEO

When I first came to NYSRA, the MH field was working on a roll-out of the PROS program. The DD field was embracing NYS OPTS as the way of service delivery.

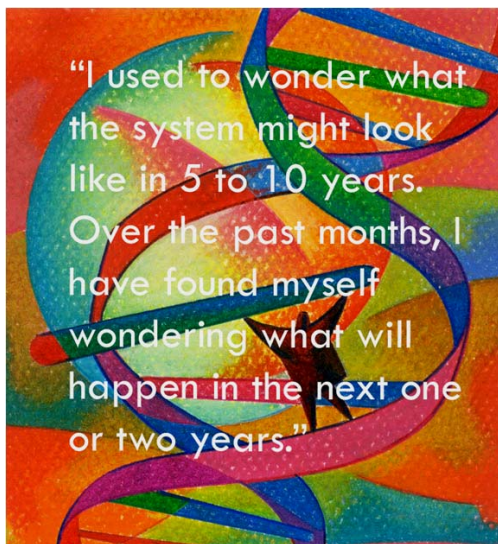
Less than three years later – just three years – it seems like the future of PROS, at least how it will work, is in question. And OPTS is already well out the door as policymakers search for the next big thing.

Not much of a shelf life in a world where it can sometimes take longer than that to reconcile payments and rate appeals.

During the past year or so the changes have started to engender concern. Those who have heard me speak to this over the past months already have likely gotten tired of the message. But it's one that I feel quite strongly about. The world as we know it – have known it – is slipping away, to be replaced by, well, we're just not sure.

And it's slipping faster than I thought. Things like the Deficit Reduction Act, the troublesome regulations that keep coming from Washington veiled in positive language at times but always designed to cut federal financial participation, are strong signs. So are the actions that we see at the state level. New York's governor in January proposed what would have been a \$40 million annual reduction in DD Medicaid dollars. While 80 percent of that money has been restored for now, one hears the concerns of Governor Paterson and others, sees an economy that is very much in trouble, and can only

wonder what next year's budget will be like. Or maybe we need to anticipate something sooner. It's



certainly possible that late this fall, after the November elections, we could see the Legislature back in Albany dealing with the possibility of making new cuts in the current budget, just before it returns in Albany to work on what may be a tougher year in 2009.

I used to wonder what the system might look like in 5 to 10 years. Over the past months, I have found myself wondering what will happen in the next one or two years. Changes are being felt quickly and will be felt in major ways unless things turn around.

Just this week, Florida adopted a budget that cuts \$6 billion from the previous year's state spending. And Florida's budget is only a little more than half of New York's \$120 billion-plus.

We have begun noting for state and federal policymakers that NYSRA is uniquely positioned, as a group that deals with both MH and DD issues, to try to find out what will happen. And to be actively involved in what is happening.

During our June Executive Management Institute in Saratoga Springs, keynote speaker Dennis Dufresne was not reticent about calling what is coming a "tsunami" and he struck the theme that "one can choose to predict the future, or to invent it." Naturally, we at NYSRA think the latter approach is the one more suited to a more acceptable outcome. For some time much of our field has been in a position of stability and that naturally leads to a complacent atmosphere. My view is that this dynamic has to change.

The sailing ahead, quite frankly, does not look all that smooth. But with the assistance we get from your energy, your ideas, your efforts, and your inspiration, we can all work to be sure that the not-for-profit providers in New York don't find themselves falling out of the rocky boat.

We will make every effort to shape the future in your interest, mitigate the adverse impacts, and accentuate the positive ones. But we need you on board to ensure we all get through the tsunami.

So, I ask that you stay tuned for updates. And to please be ready for challenging times. The future seems that it's getting here even faster than we expected.

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GOVERNOR PATERSON AND MAYOR BLOOMBERG SEEK TO ADDRESS MENTAL HEALTH CARE & PUBLIC SAFETY

Governor David A. Paterson and Mayor Michael R. Bloomberg announced plans to implement a comprehensive set of recommendations from the joint New York State (NYS)/New York City (NYC) Mental Health-Criminal Justice Panel that will improve the quality and consistency of care of individuals with serious mental illnesses. Through examination of cases of violent incidents involving individuals with serious mental illnesses, assessment of the current mental health and justice systems and consultation with national experts in mental health and violence, the Panel identified many opportunities to improve mental health service delivery and public safety.

The Panel identified four areas where improvements were needed, and recommended specific measures to address these challenges. These challenges include:

- (1) poor coordination, fragmented oversight and lack of accountability in the mental health system;
- (2) inconsistencies in quality of care within the mental health treatment system;
- (3) limited capacity to share information within and between the mental health and criminal and juvenile justice systems; and
- (4) insufficient training, supports and tools to identify and engage individuals with mental illnesses in the criminal and juvenile justice systems.

“This collaborative effort by officials from State and City mental health and criminal justice agencies has resulted in recommendations for real reforms that will help to improve mental health services and enhance public safety,” said Governor Paterson. “Taking a hard look at what may have gone wrong in particular cases is a necessary first step toward improving the care and treatment of those with serious mental illnesses – both in the mental health care system and when those persons become involved with the criminal justice system – and the State is prepared to move forward in implementing the Panel’s recommendations.”

NYC Mayor Michael Bloomberg said “We took a hard look at the facts and made common sense recommendations that will both improve the quality of care for people with the most serious mental illnesses and also improve public safety. While you can’t predict every violent incident by implementing these recommendations we strengthen our system and offer a coordinated response to those who need it most.”

NYS Office of Mental Health (OMH) Commissioner Michael F. Hogan commented that “For many years, violent acts by people with mental illness have been headline news in New York. After careful study, we find that several aspects of the issue are clearer. First, considering the fact that mental illness touches every extended family, these incidents are surprisingly infrequent. Second, in cases we considered, uncoordinated care in a fragmented system was a factor in tragic outcomes. Our mission – and we have accepted it – is to improve care to improve safety. There are no quick fixes or easy solutions, but we will not accept failure.”

The Panel’s full report, including the entire list of recommendations, is available at www.omh.state.ny.us, www.criminaljustice.state.ny.us, and www.nyc.gov.

NYSRA SOUGHT FOR INPUT ON GOVERNOR’S NEW BILL ABOUT CHILDREN IN RESIDENTIAL SETTINGS

Over the past several days NYSRA has been involved with the development of a new bill, proposed by Governor Paterson, looking to standardize and revise various statutes regarding abuse and neglect of children in residential settings.

Upon the drafting of the bill, NYSRA and other organizations were asked to react to the draft. We drafted formal comments for the Governor’s Counsel’s Office, generally supportive of the premise of the bill and most of its components, but making some minor suggestions to improve the measure. A final version of the bill was completed last week.

Given our participation in the bill, the Governor’s Office contacted NYSRA late last week seeking a comment that could be included in Governor Paterson’s formal press release announcing the initiative. Since we believe that the bill is generally an improvement to the existing laws – and actually refines processes rather than change anything dramatically when it comes to incidents of abuse or standards that trigger reporting – we agreed to publicly support this legislation.

Just two non-government agencies were quoted by the Governor in the press release – NYSRA and the Self-Advocacy Association of New York State. We are pleased to have been involved on this issue for many months and pleased that the Governor’s Office reached out to consult with us.

You can see the formal release, including NYSRA’s quotes, as it appears on the Governor’s website by typing the below link in your web browser.:

http://www.state.ny.us/governor/press/press_0602081.html

We will, of course, keep you apprised of the bill’s progress. Although we don’t believe the measure is perfect, we believe that the bill reflects a common-sense approach to some volatile issues that have arisen in Albany over the past year.

GOVERNOR ANNOUNCES MAJOR STATEWIDE AFFORDABLE HOUSING GRANTS AND FINANCING

Governor David A. Paterson announced \$742 million in grants and financing to build and renovate 2,379 affordable housing units throughout New York State. The funds will be used to finance construction of new housing units and preserve existing units, reinforcing the Governor’s commitment to protecting neighborhoods and promoting affordable housing in the state.

The projects include preservation of four low-income housing developments, including three Mitchell Lama projects, where the owners have agreed to keep rents affordable for the next 40 years in return for financing major capital improvements.

Also approved were the first grants in the State’s innovative “Block-by-Block” program, which was created to help stabilize neighborhoods in the City of Buffalo. AHC approved \$2 million in financing to renovate 74 homes.

Priscilla Almodovar, President and Chief Executive Officer of HFA and AHC, said “The grants and financings we approved today show the wide range of assistance we offer to build and protect New York State’s diverse housing stock. Whether it is home improvement loans, renovations of Mitchell Lama projects or financing 80/20 projects under our new guidelines, we work to provide a diversity of affordable housing opportunities in all regions of the state.”

Additional news available at www.ny.gov/governor/press.

ARTS AND CRAFTS IN REHABILITATION SETTING IS IT EMPLOYMENT OR NOT

As more and more organizations provide day activities in addition to employment services the question often arises as to whether 'consumers' or 'clients' must be paid. It is not always an easy question to answer.

In the regulations governing Section 14 (c) of the Fair Labor Standards Act (29 CFR Part 525.3(g) the definition of an employment relationship is defined as 'to suffer or permit to work'. DOL notes that the determination of an employment relationship does not depend on the productivity level of the individual's work or whether the activity was therapeutic. DOL is primarily concerned with whether the persons produced something of economic value for the person or organization that was directing the activity.

If DOL finds that there was an economic benefit created and the activity involved interstate commerce then they will usually find there was an employment relationship. In normal employment relationships there may be a question of whether the person in an independent contractor, but that will be the subject of another Wage-Hour memo.

DOL does recognize in the regulations that there may be situations where arts and crafts projects are used as a means of providing rehabilitation services or general skill development where employment is not the intended outcome for the individual or the organization. DOL Notes in the regulations that,

'...an individual does not become an employee if engaged in such activities as making craft products where the individual voluntarily participates in such activities and the products become the property of the individual making them, or all of the funds resulting from the sale of the products are divided among the participants in the activity or are used in purchasing additional materials to make craft products.'

DOL often has a dated idea of what types of activities might qualify for this exception. Some DOL investigators refer to activities such as making simple pottery for sale at special occasions as an example. The Field Operations Handbook refers to 'or planting and tending a vegetable garden when the produce belongs to the patient.'

DOL may become concerned when the arts and crafts are being done to raise money for the organization or where it has become a commercial rather than recreational or therapeutic activity for the 'client/consumer'.

To be on the safe side, a rehabilitation program should:

1. Ensure that the activity is voluntary with parental or guardian approval where appropriate.
2. Have only activities that would normally be recognized as true volunteer recreational or therapeutic activities.
3. Use the DOL guidelines from the regulations in using any funds realized from the sale of the arts and crafts, i.e. either divide between the consumer/clients or use to buy more materials for the arts and crafts activities.

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NYSRA AWARDS - CALL FOR NOMINATIONS

As NYSRA embarks upon 30 years of leadership in advocacy for people with disabilities, and our members who support their choices; we are pleased to release our call for nominations for the **Adrian Levy Professional Award, Public Official of the Year Award, Martha Fitzpatrick Citizen Advocate Award, and the Thomas A. Maul Self-Advocacy Award.**

Collectively the awards acknowledges and honors the contributions of dedicated individuals in the rehabilitation field. Distinctively, they recognize strong leadership, public service, humanitarian efforts and self-advocacy.

Award winners will be recognized during NYSRA's Leadership Training Summit on September 16, 2008, at a special dinner celebration where family friends, colleagues and previous award recipients can share in the occasion. To receive a copy of the call for nominations contact Jennifer Ivery at NYSRA via email at Jennifer@nyrehab.org or at (518) 449-2976 x105. Together, let us applaud the efforts of those we know who are making significant strides in the rehabilitation field.

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

2008 AWARDS

Adrian Levy Professional Award
Public Official of the Year Award
Martha Fitzpatrick Citizen Advocate Award
Thomas A. Maul Self-Advocacy Award

CALL FOR NOMINATIONS
Deadline: **June 23, 2008**
FAX BACK TO: (518) 426-4329

DEPARTMENT OF JUSTICE PROPOSES NEW RULES TO IMPLEMENT ADA

The Department of Justice announced its intent to solicit comment on proposed amendments to its regulations implementing Titles II and III of the Americans with Disabilities Act of 1990 (ADA). The proposed regulations will, for the first time, establish specific requirements for the design of accessible public facilities such as courtrooms and an array of recreation facilities including playgrounds, swimming pools, amusement parks, and golf courses, making it easier for individuals with disabilities to travel, enjoy sports and leisure activities, play, and otherwise participate in society.

The proposed amendments are intended to implement revised guidelines published by the Architectural and Transportation Barriers Compliance Board (Access Board), and to adopt changes necessary to address issues that have arisen since the publication of the original regulations in 1991. The amendments, which represent more than 10 years of collaborative efforts with disability groups, the design and construction industry, state and local government entities, and building code organizations, also are intended to provide greater consistency between the ADA Standards and other federal and state accessibility requirements.

Among other provisions, the proposed amendments to the regulations provide:

- accessible swimming pools, miniature golf courses, boating facilities, amusement rides, and other recreational activities;
- accessible playgrounds;
- captioning of emergency announcements in large stadiums;
- identification of accessible hotel room features, and require guaranteed reservations of such rooms to the same extent as the entity guarantees reservations for others;
- the availability of accessible seating in public venues, such as theaters and sports stadiums, for purchase by people with disabilities; and
- the availability of auxiliary aids, such as video interpreting services, to ensure that people who are deaf or have limited hearing can receive and convey vital information in medical and other settings.

Moreover, the amendments reiterate the requirement for covered entities to permit the use of service animals by people with disabilities, and highlight the distinction that a service animal must be a dog or other common domestic animal that is trained to perform specific tasks to assist its owner. The amendments also provide a "safe harbor" for establishments that comply with the current ADA standards, such that retrofitting to meet new accessibility standards is not required unless the building element is being altered or replaced.

Advance text of the proposed amendments are now available on the Department of Justice's web site at www.ada.gov. They will be published in the Federal Register, and the Department will seek public comment on the proposals and on related issues that have been identified in the preambles. In compliance with the time period established in the Federal Register, public comment will be accepted at www.regulations.gov. The Department anticipates holding a public hearing on the proposed regulations in Washington, D.C. in July 2008. <http://www.ada.gov>. More information about the ADA, the proposed regulations, and a public hearing can be obtained on the Department of Justice's ADA home page at www.ada.gov. Information about the ADA is also available the Department's toll-free ADA Information Line at 800-514-0301 or 800-514-0383 (TTY).

RSA MOVES TO REPLACE RCEPs WITH TACE MODEL FOR TA AND CE

On June 5 The Rehabilitation Services Administration (RSA) published final priority for elimination of twenty-one Regional Continuing Education Program (RCEP) for state VR agencies and Community Rehabilitation Programs (CRP) and replacing them with ten Technical Assistance and Continuing Education centers. On January 29, 2008 RSA published a proposal to make this significant change in providing technical assistance and continuing education to rehabilitation professionals in both the public and private sector.

I-NABIR was one of seventy-nine organizations that submitted comments on the proposed changes. I-NABIR was most concerned that private sector providers including CRP's including the organizations that provide Projects with Industries (PWI) services. I-NABIR noted in its comments:

"With RSA emphasis upon serving people with significant and most significant disabilities, and serving youth transitioning from school to careers, many if not most of the services for these special populations will be done by CRPs. Lessening continuing education resources to CRPs would impact these RSAs initiatives.

We feel that the implementation of any new priorities or restructuring should not take place until measures are included that will assure that CRP's will be fully and adequately included and served with quality and relevant continuing education services. For many decades the vocational rehabilitation program has been a cooperative of federal, state, and private non-profit resources working together to provide services needed by persons with disabilities to be full members of our society. Much of the work of the private non-profit sector has been through CRP's. We hope that OSERS will recognize the vital role of this sector and modify the proposed priorities accordingly."

RSA/OSERS did not make the changes as suggested. NYSRA certainly agrees with the comments. However, with regard to services to CRP's RSA said, "...This priority focuses on the needs of State VR agencies and their agency partners. RSA values the contribution of the CRPs in the VR service system and recognizes that CRPs may have TA and CE needs that are different from those of the State VR agency and its other agency partners. RSA expects that the needs of CRPs, along with the needs of other agency partners, will be reflected in the annual needs assessment that will serve as the foundation for each TACE center's work plan." No changes were made. RSA also announced the request for proposal (RFP) for the new TACE centers. They will accept application for the ten regional centers until July 31, 2008. The maximum allowed in the application will vary by region. The figures published in the Federal Register were:

- Region I: \$727,185
- Region II: \$802,710
- Region III: \$796,122
- Region IV: \$969,100
- Region VI: \$832,684
- Region VII: \$728,738
- Region VIII: \$711,421
- Region IX: \$792,405
- Region X: \$718,056

You can be assured that NYSRA/RRTI have been in touch with both Region I and II RRCEP's to discuss future partnerships with these organizations to ensure that training to CRP's does continue in the State of New York.

EMPLOYMENT AT SARATOGA BRIDGES

Assistant Residential Manager: Assists adults with developmental disabilities with daily living skills, personal care and community outings. High School diploma or GED, a valid NYS Drivers License acceptable to Agency insurance standards. Two years of experience working with persons with developmental disabilities. AAS degree in Human Services or related field can be substituted for one year of experience. Satisfactory completion of Agency training program within 6 months of employment.

Bus Drivers: High School Diploma or GED with a valid NYS Commercial Drivers License Class B, with passenger endorsement, acceptable to agency insurance standards and safety policy. Can by reason of experience or training, safely operate a motor vehicle within the provisions of Article 19-A and is physically qualified to do so.

Day Classroom Instructor II: Responsible for the planning and delivery of day habilitation services for individuals enrolled in HCBS day waiver services. BS degree in Human Services, Education, Special Education, Psychology or related field. One year experience in day services preferred. A valid NYS Drivers License acceptable to agency insurance.

Human Resources Clerk: Responsible for performing all clerical and secretarial duties relating to the HR office. HS Diploma w/min. 2 yrs clerical experience. Proficiency in MS Office Suite required. Experience working with a human resource information system preferred.

Individual Support Aides: Works 1-1 with developmental disabilities with daily living skills, personal care, and community outings. HS Diploma or GED a valid NYS Drivers License acceptable to agency insurance standards and satisfactory completion of agency/OMRDD training program within six months of employment. Personal vehicle may be required, depending on individual residential habilitation requirements.

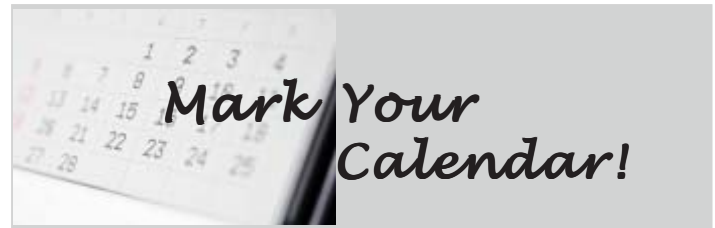
Maintenance Worker: Performs a variety of maintenance duties relative to the buildings and grounds. Experience preferred, NYS Drivers license acceptable to agency standards.

Registered Professional Nurse: Performs a variety of nursing duties as part of interdisciplinary team member. Graduate of an accredited School of Nursing with current NYS license to practice as a Registered Professional Nurse. One year experience working as a RPN in an agency or facility for developmental disabled individuals preferred. Valid NYS Drivers license acceptable to agency insurance standards.

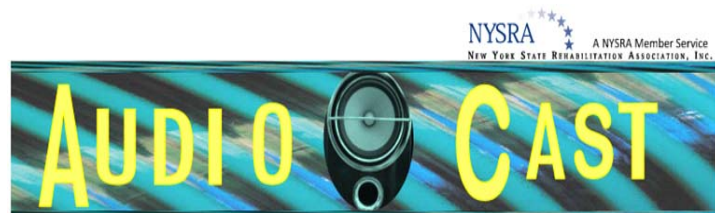
Residential Counselors & Day Hab. Assistants: Assists adults with developmental disabilities with daily living skills, personal care and community outings. HS Diploma or GED, a valid Drivers License acceptable to agency insurance standards and satisfactory completion of agency/OMRDD training program within 6 months of employment.

Supervision Registered Nurse: Responsible for the organization, supervision and scheduling of daily activities of the Nursing Department. Graduate of an accredited nursing program with a current NYS RN license. A minimum of 3 years progressive nursing experience, 1 year must be in a supervisory capacity. One year of practical work experience with persons with MR/DD preferred.

Contact Saratoga Bridges Human Resources at (518) 587-0723 for more information.



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