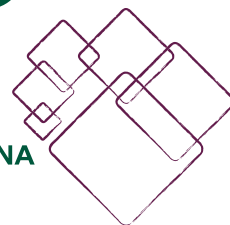


New Directions

DISABILITY RIGHTS
NORTH CAROLINA

Champions for Equality and Justice



Volume 10 • Spring 2011

Breakfast for Champions Kicks Off Pro Bono Legal Services Program



Left to right: Dave Richard, John Rittelmeyer, Adele Foschia and Chris Trottier at the Breakfast for Champions.

Disability Rights NC hosted its second Breakfast for Champions on April 1 at the Sheraton Hotel in Research Triangle Park. Keynote speaker Gene Nichol and Executive Director Vicki Smith inspired and charged the attendees to continue to work to ensure people with disabilities living in North Carolina live full lives in the community.

At the breakfast, Disability Rights NC launched its new pro bono legal services program (*see story on page 4*). Attorneys Adrienne Allison, Jennifer Bills, and Morris McAdoo and Director of Litigation John Rittelmeyer presented workshops on Guardianship and Medicaid Appeals after the breakfast.

See more Breakfast for Champions photos on page 3.

From the Director

It's spring: a season of renewal, a time of growth. The flowers — and, for some of us, the allergies — are blooming, the temperatures warming, the depression brought on by the winter blues lifting. But this year, spring is not a time of gentle change for people with disabilities. There will be no calm transitions. The storm clouds and heat of summer are on the horizon and with them, threats of severe budget cuts.

Our elected officials seem intent on dismantling the fragile and already inadequate structures protecting the capacity of people with disabilities to live independently in the community. It is almost impossible to find words that best describe the impact the economic crisis has had on this already

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“We will uphold our pledge to protect the rights of people with disabilities to live free from harm and in the community of their choice. Will you stand with us?”

From the Director

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fractured system of care. If the system of care for people with disabilities was in crisis before — what is it now? A catastrophe? A disaster? A calamity? And how do we describe what we know to be coming? A tsunami? A tragedy?

It really doesn't matter how we try to describe it. Whatever we call it, people with disabilities will suffer. The cuts that are coming will add further burdens to individuals and to the people who love them. Some of those burdens will be too heavy to carry. And policy makers are ignoring all of the early warning systems.

For months, disability advocates have been talking about the human cost of budget cuts to services, the impact on the lives of those individuals with disabilities who need these services to live. Those appeals have had little impact on the determination of budget writers to cut disability and mental health services last year. And, as we speak, they are doing it again. Once again, people with disabilities will bear the largest impact of the state's revenue shortfall.

How is it that our society can recognize the potentially disastrous political situation in northern Africa or natural disasters across the world and respond by taking out personal and governmental checkbooks, yet ignore the real-time and ongoing disaster facing people with disabilities?

I am not worried about the clients represented by the staff of Disability Rights NC. Our efforts frequently result in victories for our clients. I am worried about the almost 1,000 people each month filing an appeal to fight cuts in their individual services whom we can NOT represent in a Medicaid appeal. Sadly, we do not have the capacity to truly respond to every individual need. For every person we represent, there are ten we cannot. To increase our capacity, Disability Rights NC has launched two important programs: our pro bono legal services program and our DATE project (*see pages 4 and 5 for more information*).

It is the season to plant our feet in the ground and stand firmly for equality and justice. We will uphold our pledge to protect the rights of people with disabilities to live free from harm and in the community of their choice. Will you stand with us?

Vicki Smith
Executive Director

Breakfast for Champions

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Above: Executive Director Vicki Smith, Gene Nichol and Board President Beth Hardy.



Right: Sonya Clark and Louise Jordan.

Below: Kathy Boyd and Greg McGrew.



Many Thanks to Our Breakfast Champions

Gold Champion

Vicki Smith

Silver Champion

Hartzell & Whiteman, L.L.P.

Bronze Champions

Easter Seals UCP North Carolina & Virginia

Garriss Hardy & Associates

Kimberly Taylor

Advocates

Ann Akland

Autism Society of NC

Sadie Brewington Barbour – NC

Commission of Indian Affairs

Kathy Boyd

disAbility Resource Center

Annaliese Dolph

Edelstein & Payne

Mark Ezzell

Adele Foschia

Iris Green

Sarah Johnson

Johnson/Asfoury Group Wells Fargo

Advisors

Louise Jordan

Vera Luck

Greg McGrew

Maureen Morrell

Sylvia Novinsky

McPherson, Rocamora, Nicholson &

Nordgren, PLLC

Janna Shisler

Shera Stewart

Allen Wellons

Elaine Whitford

Friends

Charlie Bernacchio

Irene Zipper

In-Kind Contributors

Fred Astaire Dance Studios – Durham and Raleigh, NC

Move Elders with Ease

Gene Nichol – Center on Poverty, Work and Opportunity at UNC

John Rittelmeyer

New Pro Bono Legal Services Program Launched

We created our pro bono legal services program to better meet the ever-growing need for attorneys to handle the Medicaid Appeal and Guardianship cases. All attorneys interested in accepting a pro bono case will receive training (with CLE credit) and mentoring, as needed, from an attorney at Disability Rights NC. We welcome experienced practitioners as well as new lawyers to volunteer for the program.

Disability Rights NC receives calls every week from people with disabilities seeking to appeal an unfavorable Medicaid decision. Unfortunately, we do not have the capacity to take all of the cases that come to us. In March alone, over 1,000 Medicaid appeals were filed in the NC Office of Administrative Hearings. In addition, guardianship issues are not one of Disability Rights NC's target areas of focus; however, supporting the independence of people with disabilities is at the heart of our mission.

All attorneys licensed to practice in North Carolina who are interested in volunteering for the pro bono program should contact Elaine Whitford, Director of Development, at 919-856-2195 or elaine.whitford@disabilityrightsn.org.

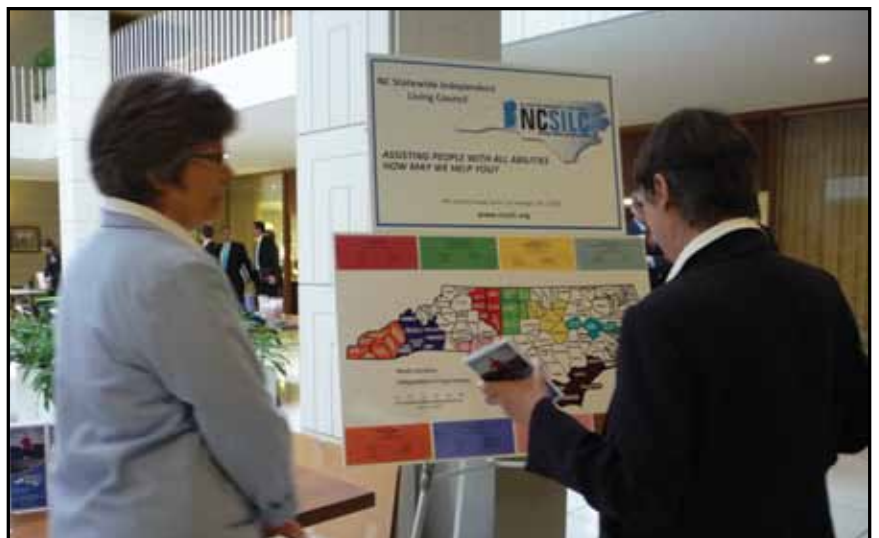
Disability Awareness Day



On March 22, Disability Rights NC co-sponsored Disability Awareness Day at the NC General Assembly with partners NC Disability Action Network and NC Network of Centers for Independent Living. Advocates from across the state shared information and discussed strategies to help policy makers rethink and reframe their ideas about the disability experience.

Disability Awareness Day promoted the importance of independent living for persons with disabilities in integrated, accessible communities. Advocates had the opportunity to discuss current policy and voice their opinions with others in the group as well as with their legislators.

Several consumer organizations set up information tables in one of the lobbies at the legislature building. First in Families, the MS Society, and the NAMI Consumer Council were just a few of the many organizations who came to show their support and educate passersby.



First Group of DATE Volunteers Completes Training

To address the need for more resources in counties across the state, Disability Rights North Carolina created the volunteer program, Disability Advocacy Training Exchange (DATE). Volunteers for DATE learn about self-advocacy skills, communication skills, ethics of client directed advocacy, and how to file a grievance. They use these skills to support the self-advocacy efforts of people with disabilities and their families. Participating clients will be matched with DATE volunteers from their counties.

Before becoming volunteers, participants will attend two training sessions and review a training manual. In Part I of the DATE Training, volunteers examine why their commitment to helping people with disabilities to self-advocate is so necessary today. The training provides an overview of the disability rights movement and obstacles that still exist as well as how Disability Rights NC fits in the disability rights community. It also reviews the grievance process in depth and explains the importance of negotiation and effective communication skills for self-advocacy. In DATE Training Part II, participants use the information they reviewed in the training manual to work through scenarios that reflect the types of clients and cases they will encounter as they participate in the program. Upon completion of the second training, the volunteer is ready to be matched with an individual who needs assistance self-advocating.

On February 28, 2011, Disability Rights NC welcomed its first group of DATE volunteers from Cumberland County. They are Alvin Bess, Jackie Blue, Nicholas Dimery, Marcia Hall, Lillie Henderson, Dorothy Johnson, Roosevelt Odom Jr., Latrea Wyche, and Charles Yates. Each is a passionate advocate for people with disabilities. We are grateful for their time and commitment.



Above: DATE volunteers discuss practical advocacy issues during a training session.

What it means...

CAP/DA is a North Carolina Home and Community-Based Services Waiver that provides a package of services to allow adults (age 18 and older) who qualify for nursing facility care to remain in their private residences.

CAP MR/DD Waiver: Community Alternatives Program for Persons with Mental Retardation/ Developmental Disabilities is a special Medicaid program started in 1983 to serve individuals who would otherwise require care in an intermediate care facility for people with mental retardation/ developmental disabilities (ICF/ MR). It allows these individuals the opportunity to be served in the community instead of residing in an institutional or group home setting. The Medicaid cost for community care must be cost effective in comparison to the cost of more facility based care (ICF/MR) care.

Intensive In-Home Service is a team approach designed to address the identified needs of children and adolescents, who due to serious and chronic symptoms of an emotional, behavioral, and/or substance use disorders, are unable to remain stable in the community without intensive interventions. This service may be provided only to individuals through age 20.

LME: Agencies of local government-- area authorities or county programs-- who are responsible for managing,

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Disability Rights NC Board of Directors

Beth Garriss Hardy, Chair
(Summerfield)

Jeff McCloud, Chair Elect (Kinston)

Kathy Boyd, Treasurer (Wake Forest)

Brett Loftis, Secretary (Charlotte)

Sadie Brewington Barbour (Clinton)

Rusty Bradstock (Greensboro)

Adonis Brown (Durham)

Suzanne Burley (Raleigh)

Pete Clary (Winston-Salem)

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Jennifer Diliberto (Greensboro)

Bart Floyd (Asheville)

Vera Luck (Durham)

Cheryl Mulloy-Villemagne
(Waynesville)

Herb Smith (Dunn)

Kim Taylor (Statesville)

Willis Williams (Jamesville)

Are You Interested in Serving on the Board of Directors?

Applications are available on the website. For more information, contact Janice Willmott at 919-856-2195 or janice.willmott@disabilityrightsn.org.



Left to right: New Board Members Jennifer Diliberto, Suzanne Burley and Sadie Brewington Barbour.

New Members Elected to Disability Rights NC Board

The Board of Directors of Disability Rights North Carolina recently elected Sadie Brewington Barbour, Suzanne Burley and Jennifer Diliberto to serve on the Board.

Sadie Brewington Barbour

Sadie is a member of the Coharie Indian Tribe. As the Program Director of the NC Commission of Indian Affairs Community Services Program, she advocates for services for the elderly and people with disabilities. Sadie is a parent of a child with a developmental disability and is a representative for her adult brother with mental health disabilities. She sits on the Board of the National Indian Parent Information Center. During her term on the board, she wants to bridge the gap in the American Indian tribal communities in our State.

She will focus on ways to encourage Councils on Developmental Disabilities to become more actively involved with the American Indian communities in their states. Barbour has worked to strengthen understanding in the American Indian and other underserved communities.

Suzanne Burley

Suzanne, who is deaf, received her master's and doctorate degrees in Educational Psychology from the University of Minnesota and the University of Nebraska-Lincoln, respectively. She has worked extensively with deaf, hard of hearing, and multihandicapped children and adults for the last 25 years. As a school psychologist, Suzanne has worked in public school programs for deaf children in Minnesota and has contracted with various schools in other states. She was employed for seven years at Boys Town National Research Hospital for Children with Communication Disorders and in the Center for Abused Handicapped Children's program. While working at Mount Sinai Hospital in Chicago, she worked with the families of deaf children from ages 0 to 6, providing practical hands-on educational groups for parents. She also saw children and adults for individual therapy, parent behavior management, parental competence evaluation, and psychological testing. Currently, Suzanne is employed as a licensed psychologist to provide direct and indirect psychological services to Wake County residents, schools, and to those residing in surrounding counties.

Jennifer Diliberto

Jennifer is a special education professor at Greensboro College and an active member of the Council for Exceptional Children. Prior to pursuing her Ph.D. in special education, Jennifer taught students with high incidence disabilities in various academic settings and is dedicated to advocating for the rights of individuals with disabilities. In third grade, Jennifer was diagnosed with dyslexia and learned to advocate for herself over the years. Her experiences of living with dyslexia motivated her to pursue a career in special education. As a teacher, she continued using her advocacy skills by advocating for her students and working with parents on how to advocate for their children. Now, as a professor, she educates teachers on how to advocate for their students. Jennifer believes the work conducted by Disability Rights NC is essential for protecting the rights of individuals with disabilities so they can achieve their highest potential.

We thank Sadie, Suzanne and Jennifer for bringing their expertise to our organization and for their commitment to protecting the rights of people with disabilities living in North Carolina.

“Grant us a common faith that man shall know bread and peace—that he shall know justice and righteousness, freedom and security, an equal opportunity and an equal chance to do his best not only in our own lands, but throughout the world.”

Stephen Vincent Benét

Disability Rights North Carolina is a federally mandated protection and advocacy system with funding from the U.S. Department of Health and Human Services, the U.S. Department of Education, and the Social Security Administration. It is a 501(c)(3) nonprofit organization.

Suit Filed to Gain Access for Client with Service Animal

A.S. and his service dog, Chatham, go everywhere together.



On March 14, 2011, Disability Rights NC filed suit against Catawba County Schools on behalf of A.S., a preschool student seeking to work with his highly trained service dog, Chatham, in school facilities. A.S., who suffers from developmental disabilities that manifest in aggressive and self-injurious behaviors, hyperactivity, lack of impulse control, and elopement, has been paired with Chatham since September 2009, but they have never been allowed to work together during A.S.'s school day at Mountain View Elementary. The lawsuit asks that Catawba County Schools immediately allow A.S. to work with Chatham in school facilities to prevent the further worsening of his behaviors.

Amendments to the Americans with Disabilities Act (ADA) pertaining to service animals took effect on March 15, 2011. The definition of "service animal" was changed to include only dogs and, in certain cases, miniature horses. Under the amended definition, acceptable tasks for service animals include "helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors." Emotional Support Animals are no longer recognized as service animals under the ADA.

If you use a service animal and are denied access to a place of public accommodation, contact Disability Rights NC for assistance at 919-856-2195.

A.S. and others with disabilities derive the right to use a service animal in school facilities from the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. These disability rights laws ensure that people with disabilities and their service animals enjoy equal access to government facilities and places of public accommodation — including places such as a courthouse, post office, doctor's office, mall, or public school. The right of access for service animals is especially important because separating a service animal and its user for any period of time can be harmful for both. The separation of A.S. and Chatham during the school year has taken its toll on both. A.S. has begun regressing behaviorally at home and in the classroom, and Chatham's skills and training are eroding and lessening his effectiveness for A.S. in all other aspects of his life.

Many people are familiar with "seeing-eye dogs," which are service animals that assist people with visual impairments. Chatham has learned different skills and tasks as a service animal; he assists A.S. by redirecting his self-injurious behaviors, providing deep pressure therapy, managing A.S.'s impulsivity, and performing search and rescue operations. And A.S. is just as dependent on Chatham's assistance in mitigating and redirecting his behaviors as someone with visual impairments is on the assistance of a seeing-eye dog for mobility and independence. Through this lawsuit, we hope to raise awareness of the duty to accommodate the use of service animals generally and, in particular, clarify the duty of public schools to educate students who use service animals in the classroom.

Disability Rights NC 2011 Legislative Update

By Annaliese Dolph, Director of Public Policy

Despite new leadership in the State House and Senate, and a sizeable percentage of new members, the NC legislature is proceeding at a dizzying pace. By the time this newsletter arrives in your box, we will be past the bill introduction deadlines in the House and the Senate, and the House version of the 2011-2012 budget will be under consideration.

Although we have a long way to go yet in the session, we are well on our way to some significant victories. Our fight to remove a discriminatory provision from the juror qualifications statute — which currently requires that a juror hear — is nearing its end. As I write this, HB 234 has passed the House and the Senate, and is heading back to the House for concurrence. We thank our sponsors, Reps. Glazier (D-45), Stevens (R-90), Parfitt (D-44) and Samuelson (R-104), and Sen. Clodfelter (D-37).

Another bill on our legislative agenda to conform the North Carolina Persons with Disabilities Act with the Americans with Disabilities Act Amendments Act of 2008 has been introduced in the House and the Senate. The Senate bill, SB 384, has successfully passed through the Senate and is on its way to be heard in the House. We thank our sponsors, Sen. Hartsell (R-36) and Reps. Blackwell (R-86), Brisson (D-22), Earle (D-101) and Hurley (R-70).

We have also sought additional legislation and weigh in on numerous bills and policies affecting the rights of people with disabilities in North Carolina. The legislation we sought to have passed last session to amend the capital procedures for people with severe and persistent mental illness and to exempt such individuals from the death penalty has been filed again, HB 659. With its bipartisan sponsorship and the new leadership in the House and Senate, we are hopeful that we can pass this legislation. We have also worked on legislation to codify the requirements for a Human Rights Committee at each residential school for students who are blind and deaf to ensure safety and student rights; to provide an exception to licensure requirements for MH/DD/SA facilities to allow people with disabilities to live together as roommates in their own home; and to revise legislation regarding penalties to facilities for violations to ensure that resident safety remains of paramount importance. Unfortunately, not all of our time at the legislature is spent advancing our own agenda to promote the rights of people with disabilities — there have been countless bills filed and budget provisions proposed that jeopardize the rights of people with disabilities. We are working to ensure that students with disabilities

Bills to Watch in the NC Legislature

HB 115, North Carolina Health Benefit Exchange Act (Dockham, Brubaker, Wray, Murry Sponsors) — seeks to establish a health insurance marketplace to offer qualified health benefit plans beginning in 2014, and will allow insurers to sit on the very board that will be regulating their offered plans.

HB 127, Expand Capitated Waiver (Insko, Barnhart, Alexander Sponsors), **SB 167 Expand Capitated Waiver** (Hartsell Sponsor), and **HB424** (Barnhart, Ingle and Insko sponsors), **SB 316, Additional Section 1915 Medicaid Waiver Sites** (Hartsell Sponsor) — allows DHHS to expand the 1915(b)/(c) Medicaid waiver to any additional local management entity catchment area.

SB 465, Behavioral Health Management (Hartsell Sponsor) — seeks to allow LMEs that are operating under Medicaid Managed Care waivers (i.e., 1915(b) or 1915(b)/(c) combo waivers like Piedmont Behavioral Health) to organize under Chapter 131E of the General Statutes, Article 2 governing Public Hospitals.

SB 607, Conform Medical Record Laws (Stein) — makes it easier to share currently protected health information; includes a provision seeking to revise exceptions to confidentiality under 122C, which covers MH/DD/SA service providers, that would allow all other providers who receive such information to share it for broad purposes.

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Bills to Watch

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SB669 Dix Property-Mental Health Trust Fund (Atwater) — requires proceeds from any sale of the Dorothea Dix Hospital Property to be placed in the State's Trust Fund for Mental Health.

HB 344, Tax Credits for Children with Disabilities (Stam, Randleman, Jordan and Jones Sponsors) — creates an income tax credit for families of children with disabilities who require special education and are attending a nonpublic school or in a public school at which tuition is charged, and for special education expenses for children who are homeschooled. Also creates a Fund for Special Education and Related Services.

HB 397, DHHS Penalties and Remedies Revision (Lewis Sponsor) — amends facility penalty provisions under 122C, 131D and 131E to split Type A violations into Type A1 (violations that result in result in death or serious physical harm, abuse, neglect, or exploitation) and Type A2 violations (violations that result in substantial risk that death or serious physical harm, abuse, neglect, or exploitation will occur).

HB 509, Exclusions from Licensure: Home Services (Hurley Sponsor) — allows people with disabilities who receive MH/DD/SA services to live together as roommates without their home being considered a facility for licensing purposes.

Intake Symposium

Disability Rights NC hosted an information and referral symposium at its office on March 4. The symposium gave many of the agencies in the disability community an opportunity to exchange new information about their services and staff.

All of the participating agencies serve people with disabilities in our State. During the symposium, representatives from the agencies talked about the various types of assistance that they provide to people with disabilities and outlined the types of referrals they wanted to receive. The information exchange will be helpful in decreasing the incidences of callers getting bounced from one agency to another.

We thank the following agencies for participating in the symposium:

- Advocates for Children's Services
- Alliance of Disability Advocates
- Autism Society of North Carolina
- Brain Injury Association of NC
- Client Assistance Program
- Easter Seals UCP North Carolina & Virginia
- Exceptional Children's Assistance Center
- Family Support Network
- First in Families
- Legal Aid of North Carolina
- Long Term Care Ombudsman
- National Alliance on Mental Illness NC
- National Multiple Sclerosis Society--Eastern NC
- NC Administrative Office of the Courts
- NC Care Link
- NC Department of Health and Human Services
- NC Department of Public Instruction
- NC Guardianship Association
- The Arc of NC
- United Way (211 Line)
- Vocational Rehab

Legislative Update

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will have equal access and opportunities to benefit from expanded charter schools; people with disabilities have equal access to voting, whether they have access to a valid photo ID or not; tenants' protections are not reduced; and Medicaid appeals remain fair and efficient, among other issues.

For weekly updates on legislation at the NC General Assembly, and other policy issues, please follow our policy blog at www.drncpolicy.blogspot.com. Information is also available on the Public Policy page of our website.

Thank you to Marian Hartman



On behalf of the staff and board of Disability Rights NC, we express our deepest appreciation to Marian Hartman, whose term of service on the Board of Directors ended in December 2010.

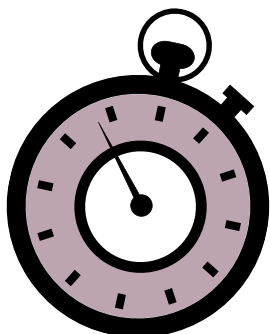
Marian joined the Board of Directors of Carolina Legal Assistance in 2005. Her leadership was invaluable in both the redesignation process and creation of Disability Rights NC as the new nonprofit protection and advocacy

agency in North Carolina. She helped open the doors as Disability Rights NC on July 1, 2007 and served as Board President in 2009 and 2010. Director Vicki Smith applauded her dedication, saying, “Marian was the right person to lead Disability Rights NC during our formative years. She was always available as we struggled to assume our role as the state’s protection and advocacy system.”

Marian was instrumental in reshaping the organization from a regional to a statewide focus and oversaw the first federal program review in 2008. She played an important role in the planning of the first Breakfast for Champions. Fellow board member Greg McGrew said, “Marian is a devoted advocate for the disability community.”

Marian is a disability consultant who worked in state government for over 30 years. She served as the Branch Head for Community Capacity Building at the Division of Mental Health and was responsible for increasing opportunities for community inclusion throughout the State for people with developmental disabilities. Since her retirement in 2003, Marian has worked as a consultant with state and local government entities as well as numerous nonprofit organizations. She volunteers as the Public Policy Director for the Board of the Brain Injury Association of NC.

Thank you, Marian!



Get the News Faster!

You can now receive the Disability Rights NC quarterly newsletter, periodic news updates, calls to action and event information by email. Sign up for eNews on our website: www.disabilityrightsync.org.

What it means...

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coordinating, facilitating and monitoring the provision of mental health, developmental disabilities and substance abuse services in the catchment area served. LME responsibilities include offering consumers 24/7/365 access to services, developing and overseeing providers, and handling consumer complaints and grievances.

Useful Acronyms

DHHS – NC Department of Health Human Services

DHSR – NC Division of Health Service Regulations

DMH/DD/SAS – NC Division of Mental Health Developmental Disabilities Substance Abuse Services

DPI – NC Department of Public Instruction

ICF/MR – Intermediate Care Facility for (people with) Mental Retardation

LMEs – Local Management Entities

PRTF – Psychiatric Residential Treatment Facility

The Community Monitoring Project is a part of Disability Rights NC's existing office-wide monitoring program. Nearly every staff member is assigned to monitor facilities across the state on a monthly basis, including adult care homes, group homes serving people with mental illness and/or developmental disabilities and/or traumatic brain injury, all state-operated facilities, intermediate care facilities for people with mental retardation and facilities which serve children with disabilities. Last year, the staff at Disability Rights NC monitored in more than 90 facilities across the state.

New Community Monitoring Project

The National Disability Rights Network (NDRN) awarded funding to Disability Rights NC to monitor and advocate on behalf of individuals with developmental disabilities transitioning from institutions to community living. The funding was provided by the Administration on Developmental Disabilities to NDRN who then made the award.

“Community monitoring is a cornerstone of our work to ensure the highest quality services are provided in the safest environment,” said NDRN Executive Director Curt Decker. “The breadth of experience and demonstrated commitment of [Disability Rights NC] will help individuals with disabilities living in the community know their rights and be free from abuse and neglect.” Disability Rights NC's previous monitoring and advocacy activities have uncovered instances of abuse and neglect, investigated health and safety standards, provided rights training to residents and staff, and assisted individuals in gaining access to better services and supports to live more fully and independently.

For the next six months, advocates at Disability Rights NC will visit homes and facilities where people with developmental disabilities reside to assess their quality of life and ensure that they are living independently in the community to the maximum extent possible.

www.disabilityrightsnc.org

Advocacy System

North Carolina's Protection and

is available in alternate formats.

Upon request, information

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