



June 26, 2014

## Very Successful 2014 Legislative Session For Individuals with Disabilities and their Families

The tireless advocacy efforts of individuals with developmental disabilities, their families, and advocates both before and during the 2014 Legislative Session reaped huge benefits for children and adults affected by disability. Earlier this week, the Governor signed landmark legislation that will provide a pathway to promotion and graduation for certain students with disabilities. The Governor also signed the budget bill providing funding for waiver and other services that will assist well over a thousand individuals with developmental disabilities to live productive lives in their own homes and communities. Below is a recap of these and many other issues affecting people with developmental disabilities and their families that were addressed by the legislature in what was a very busy session for both legislators and advocates.

### EDUCATION

#### Promotion/Diploma Pathways

While much of the Legislative Session was focused on debating the merits of whether Louisiana should continue with the Common Core State Standards and the assessments that go with them, LaTEACH, the Council, and other advocates of students with disabilities successfully convinced the Legislature to change how performance, including performance on those tests, impacts decisions of grade promotion and graduation for students with disabilities. Legislators overwhelmingly supported passage of **House Bill (HB) 1015 (Act 833)**, by Representative John Schroder and Senator Dan Claitor, to establish alternative pathways for grade promotion and graduation for students with disabilities who have not passed standardized tests. This shift in policy is a monumental departure from Louisiana being among the states with the most stringent and restrictive policies for grade promotion and graduation to Louisiana joining many states in recognizing the role a student's Individualized Education Program (IEP) should have in determining student outcomes.

Legislators were convinced changes were needed after hearing testimony from several advocates including April Dunn. April had a perfect attendance record and earned a 3.0 grade point average in regular education classes during high school. Yet, because she did not score high enough on the standardized tests, April was denied a high school diploma and recognition of other honors. Despite her lack of a diploma, April has shown strong evidence that she was indeed "college ready" by already earning a hundred credit hours and maintaining a 3.0 grade point average in community college. Thanks to April and the hundreds of other advocates, the outcome for most students with disabilities will change significantly – progress on their IEPs will matter.

#### Minimum Foundation Program (MFP)

After the Senate Education Committee initially rejected the MFP (education funding formula) adopted by the Board of Elementary and Secondary Education (BESE), BESE made changes to the formula





and [SCR 55](#) by Senator Conrad Appel was subsequently approved by the legislature. LaTEACH members and the Council have advocated that funding for students with disabilities be based on need and equitable across all school systems. BESE members and legislators indicated they understood this request; however, creating a change of this magnitude would cause major questions and concerns from other stakeholders (i.e., Superintendents, School Boards) that would have likely derailed needed additional funding for schools to serve all children. There have been discussions by policy makers regarding plans to study funding distributions that will ensure an appropriate amount of resources are provided to schools based on the needs of students served.

#### Other Education Issues

**SB 652** by Senator Elbert Guillory would have given teachers authority to have students placed in the custody of law enforcement agencies and eventually have the student moved to an alternative school if the teacher was concerned about the student's behavior causing harm. While it is clear that Senator Guillory was attempting to address school safety, parents of students with disabilities were pleased that Senator Guillory heard their concerns over how his proposed legislation may have unintended consequences for many of their children and withdrew SB 652.

## **HOME AND COMMUNITY BASED SUPPORTS AND EMPLOYMENT**

### Restoration and Expansion of Services for Individuals with Developmental Disabilities and Their Families

The Council and LaCAN members' advocacy efforts resulted in the legislature and the Governor prioritizing supports and services for people with developmental disabilities. Recognizing the need of the thousands waiting, the Governor's Executive Budget (HB 1) initially included funding for much needed waiver slots and the legislature agreed. However, the Executive Budget did not include restoration of funding for several state funded programs that are critical to many of those on the waiver waiting list. Responding to pleas from families for these important programs, Representative John Schroder successfully introduced amendments to HB 1 to include the requested funds. Senator Dan Claitor was also paramount in the restoration of these funds when the bill reached the Senate Floor.

The Executive Budget also included a cut of \$762,000 to La. Rehabilitation Services and the resulting loss of federal matching dollars. In an effort led by advocates on the La. Rehabilitation Council with support from LaCAN, Representative Helena Moreno successfully amended HB 1 to restore this cut.

**HB 1 ([Act 15](#))** by Representative Jim Fannin includes funding for the following:

- To fill a total of approximately 1,000 vacant slots in the New Opportunities Waiver (NOW), Children's Choice Waiver, and Supports Waiver, and 200 additional NOW slots. These waiver slots will bring much needed relief to 1,200 individuals who have been waiting years for these services.
- To increase the availability of Individual and Family Support services in the Capital Area Human Services District (CAHSD), Acadiana Area Human Services Authority (AAHSA), and



Florida Parishes Human Services Authority (FPHSA). The Individual and Family Support Programs in these three regions of the state were woefully underfunded. The additional dollars (\$1.1 Million total) will help decrease the disparity that currently exists in the availability of this program throughout the state.

- To restore \$170,000 that had been cut in the last few years from nine Families Helping Families (FHF) Regional Resource Centers across the state. This restoration of funding will greatly assist the FHF Centers in providing much needed information and referral, education and training, and peer-to-peer support to individuals with disabilities and their families.
- To restore \$762,000 that was cut from La. Rehabilitation Services (LRS). This restoration will allow LRS to continue providing employment supports to individuals with disabilities in “Order of Selection 1” and reopen “Order of Selection 2.”

#### Protecting Critical Supports and Services for Vulnerable Individuals

In times of budget shortfalls, higher education and health care take the brunt of cuts since most other areas of the state budget are protected. The 2013 Legislature passed constitutional amendments that, if approved by voters in November 2014, will provide budget protection for hospitals, nursing homes, intermediate care facilities for people with developmental disabilities (ICFs/DD), and pharmacies.

In the 2014 session, the Council, the Advocacy Center, and AARP led a coalition of twenty-four advocacy and provider groups in an attempt to constitutionally protect funding for home and community-based supports and services for people with disabilities and other vulnerable populations from taking a disproportionate share of budget cuts in the future. Unfortunately, this attempt did not succeed. **Senate Bill (SB) 355** by Senator Fred Mills would have allowed Louisiana voters to decide if these services warranted protection, but the voices of advocates were not heard over the overwhelming opposition from the nursing home industry, and the legislation died on the Senate Floor.

#### Self-Direction

At the request of a Partners in Policymaking graduate, **HB 185 (Act 507)** by Representative Kenny Havard, also known as Bailey’s Law, was filed to exempt direct service workers employed by a waiver recipient in self-direction from the same nurse authorization and training requirements for medication administration that was imposed by the Department of Health and Hospitals (DHH) in December 2013.

The bill passed with amendments stating that direct service workers employed by waiver recipients in self-direction still have to meet some nurse authorization and training requirements to administer medication; however their training will be developed by DHH in conjunction with the LA State Board of Nursing.



### Other Issues Related to Home and Community Based Supports

- **HB 668 (Act 523)** by Representative Scott Simon provides for use of an Electronic Visit Verification System which would electronically verify that service visits by direct support workers actually occur and document the arrival and departure times. The system would improve the quality of care for people with disabilities and is expected to achieve savings by preventing fraud and abuse.
- **SB 498 (Act 493)** by Senator David Heitmeier merges the State Personal Assistance Services (SPAS) Program and the Community and Family Support Supported Living Program. This merger allows funds to be used more flexibly than is currently allowed in SPAS.
- **SB 432 (Act 492)** by Senator Sherri Buffington changes current law to allow the use of service dogs by any person with a disability and provides some protection against discrimination. Current law only authorizes the use of service dogs by people with physical disabilities.
- **HB 833 (Act 93)** by Representative Franklin Foil creates the Achieving a Better Life Experience (ABLE) Program to encourage and assist individuals and families in saving private funds for the purpose of supporting persons with disabilities to maintain health, independence and quality of life. The bill is contingent upon approval of federal legislation.
- **HB 635** by Representative Chris Broadwater would have required changes to the way DHH currently contracts with a fiscal agent used by waiver recipients enrolled in Self Direction. Amid concerns expressed by DHH and families using Self Direction, the bill failed to pass.
- **HB 152** by Representative Joe Harrison sought to abolish the Department of Children and Family Services (DCFS) and merge it with DHH, creating an enormous Department of Health and Social Services. Representative Harrison substituted this bill in committee with **HB 1256** that would have included DCFS as an “office” in DHH. Representative Harrison’s ultimate goal in this legislation was to create an “opening” for another state department – the Department of Elderly Affairs. While these attempts failed to pass, on the very last day of session Representative Harrison did succeed in passing **HB 341 (Act 874)**, a constitutional amendment. If approved by voters in November, this amendment leaves DHH and DCFS alone, but instead would increase the maximum number of state departments from 20 to 21 and allow for the creation of the Department of Elderly Affairs in state government.

### PEOPLE FIRST LANGUAGE

**HB 63 (Act 811)** by Representative Walt Leger revises language in Louisiana’s existing and future laws, policies and publications to reflect what is known as “People First Language,” which emphasizes the person over any condition or characteristic the person may have. The bill replaces the “r-word” with intellectual disability and also deletes other obsolete terms such as “handicapped” and “infirm” that



convey negative or derogatory perceptions of persons with disabilities. People First of LA led this initiative with the Council's support to reshape our language so that people with disabilities are referred to in a respectful and inclusive manner.

## HEALTH

### Medicaid Expansion and Louisiana Health Care Reform

Medicaid Expansion was a hot topic again this session. Ten bills were filed that would allow Louisiana to participate in the program which would have significantly improved health care for Louisianans with disabilities and their family members. **SB 96** by Senator Ben Nevers and **HB 290** by Representative Patricia Smith would have created a constitutional amendment to allow voters to decide if Medicaid Expansion was right for Louisiana. Unfortunately, SB 96, HB 290 and all other attempts to make the expansion available in Louisiana failed.

**SB 107** by Senator Ben Nevers, a Medicaid Expansion bill which would have created the Louisiana Health Care Independence Act, was substituted in committee by Senator Nevers with **SB 682 (Act 783)**. In sum, the bill authorizes DHH to create and implement the Louisiana First, America Next Plan (a local version of Governor Jindal's health care reform plan America Next) to lower health care costs, protect the most vulnerable Louisiana citizens, and provide portability and choice to Louisiana consumers.