



2019 Legislative Session: DD Advocates Achieve Many, But Not All Goals

June 11, 2019

Individuals with developmental disabilities, their families and other advocates tirelessly advocated before and during the 2019 Legislative Session for issues and funding that will improve the quality of life of Louisiana's citizens with developmental disabilities and their families. In many ways, this session was a huge success: funding was appropriated to restore home and community-based provider rates to 2008 levels, a new program to serve "the TEFRA population" is on the horizon for 2020 (pending CMS approval) and two of the human services districts/authorities with the lowest state funding per capita received additional funds to serve their regions.

While advocates celebrated these significant gains, there were issues not addressed by the legislature that disappointed many families. A push to ensure cameras were installed in special education self-contained classrooms upon request by a parent stalled after passing the House and the Senate Education committee. Additional funding for the State Personal Assistance Services program (SPAS) to serve all individuals on the program's waiting list was also left out of the budget.

As we reflect on this past session, one thing is clear – LaCAN advocates in their recognizable yellow shirts have a powerful collective voice with an effective message that resonates with legislators. Advocacy truly does work!

Results for Home and Community-Based Supports

On April 2, 2019, the Louisiana Department of Health (LDH) announced rates for the four home and community-based waivers and support coordination for people with developmental disabilities would be restored to 2008 levels for the remainder of Fiscal Year (FY) 2019. The supplemental appropriations bill for FY19, [HB392](#), went a step further and retroactively restored rates to January 2019. Advocates joined providers to successfully ensure legislators added this rate restoration to the main state budget bill for FY20, [House Bill \(HB\) 105](#), and included rates for the Office of Aging and Adult Services Waivers, Medicaid Long-Term Personal Care Services, and EPSDT Personal Care Services. The \$38.8 million in state funds appropriated for the rate restoration also included a rebase of rates for Intermediate Care Facilities for People with Developmental Disabilities.

The impact of the rate restoration cannot be overstated. Louisiana is experiencing a severe shortage of Direct Support Professionals due to the low provider rates and accompanying low wages. Testimony throughout the session provided examples of individuals' inability to find and keep staff and providers' inability to continue to provide quality services. The Community Provider Association, Supported Living Network, and Arc of Louisiana did an excellent job educating legislators on the issue. Individuals with disabilities and families made the case with their compelling personal stories. And LDH leadership clearly communicated that rate

restoration was a priority! It was a collaborative effort that worked! While the 2008 rates do not account for inflation, this is a HUGE first step in the right direction of ensuring quality services for individuals with disabilities and their families.

In addition to this rate package, HB105 includes:

- Language directing LDH to begin a program to serve the TEFRA population beginning on or before June 1, 2020, pending CMS (federal Medicaid agency) approval; (*more details below*)
- \$1 million in additional state funds for Northwest LA Human Services District; and
- \$1 million in additional state funds for Florida Parishes Human Services Authority.

[HB199](#) by Representative Dodie Horton sailed through both chambers of the legislature unopposed with 48 representatives and 24 senators signing on as co-authors. Known as the TEFRA bill, HB199 requires LDH, pending CMS approval, to begin a program to provide health care services via the state's Medicaid program to children in the TEFRA population no later than June 1, 2020. The bill was amended several times throughout the process, mainly to avoid a fiscal impact in the FY20 budget and to control the fiscal impact in future years.

The creation of this program in statute is also a huge accomplishment. The Council and advocates have advocated for the implementation of TEFRA numerous times over the past 28 years, and while support, and even funding, were provided by the legislature in the past, both of these were withdrawn at the eleventh hour. HB199 finally puts relief within reach of families desperate for Medicaid coverage for their children with developmental disabilities. The final version of HB199 gives LDH the leeway to determine the number of children served and to define the population group. Ongoing advocacy by the Council and parents will be needed to ensure all children with developmental disabilities are included in the plan submitted to CMS.

Results for Education

Parents passionately testified and advocated throughout session for protections for their children who are served in special education self-contained classrooms. [HB283](#) by Representative Mark Wright would have required cameras be placed in these classrooms upon a parent's request. It is well documented that students with disabilities, particularly students who are non-verbal, are at a greater risk of abuse and do not have the communication skills to self-report this abuse. Not only would video and audio surveillance increase student safety, it would also protect educators from false accusations and promote improved training to address student challenging behaviors. Unfortunately, HB283 did not pass the legislature.

However, parents are very happy with the passage of [Act 117 \(HB320\)](#) by Representative Scott Simon. Act 117 amends current law to include Applied Behavior Analysis (ABA) providers in the definition of a behavioral health service provider in order to allow these providers access to students during school hours upon request of the parents. It also requires each public school governing authority to make public its policies regarding behavioral health services being provided to students while at school. [Senate Bill \(SB\) 78](#) by Senator Danny Martiny brought a companion bill to Act 117 that did not pass.

Other Bills of Interest

[Act 57 \(HB143\)](#) by Representative Malinda White, also known as Evie's Law, prohibits discrimination against potential organ transplant recipients based on disability.

[HB160](#) by Representative Joseph Bouie requires the collection and reporting of certain information relative to school safety and discipline including numbers of school resource officers and student suspensions, expulsions, removals to alternative settings, referrals to law enforcement, and school-related arrests. This bill is currently awaiting executive approval by the Governor.

[HB390](#) by Representative Malinda White requires LDH to collect and maintain reliable data regarding disability service provider rates and determine the sufficiency of each rate. It also requires LDH to submit an annual report to various legislative committees that includes any changes to the Medicaid rate methodology for disability services, current Medicaid rates for services, information on past and upcoming rebasing of intermediate care facilities for people with developmental disabilities, funding needed to adjust rates annually based on inflation, and any proposed changes to the current rate methodology. This bill is currently awaiting executive approval by the Governor.

[HB507](#) by Representative Neil Abramson requires a fee be assessed on sales of therapeutic marijuana with the proceeds being deposited into the Community and Family Support System Fund. It also stipulates that no less than 50% of the proceeds be used toward EarlySteps funding. This bill is currently awaiting executive approval by the Governor.

[SB120](#) by Senator John Milkovich threatened to allow any school personnel to remove students from a school campus, allow the use of force and physical restraint, and involve law enforcement in the removal of students from campus in response to student behavioral challenges. This bill failed to make it out of committee.

[SB137](#) by Senator Wesley Bishop sought to rearrange all the laws related to student discipline and behavior to group similar items together. The goal was to improve readability based on a recommendation by the Advisory Council on Student Behavior and Discipline (ACSBD) to rearrange one section of the law (i.e., R.S. 17:416). However, after the ACSBD's Legislative Workgroup reviewed a cross reference of SB137 to existing laws, it was realized SB137 contained some significant language changes to existing statute. Some of the changes identified would be problematic for schools, and due to the massive amount of cross-references, the group could not be certain all differences to law in SB137 were identified. Senator Bishop did not move this bill forward.

[SB151](#) by Senator Jay Luneau authorizes the transfer of the Louisiana Special Education Center from the Special School District to LDH and renames the center the Central Louisiana Supports and Services Center. This bill is currently awaiting executive approval by the Governor.

[SB158](#) by Senator Jack Donahue requires each local public school superintendent and the administrative head of each charter school to establish a special education advisory council to provide advice and feedback regarding special education policies, procedures, and resources and engage in community outreach. It also requires 50% of the advisory council membership be made up of parents of students with an exceptionality other than gifted and talented. This bill is currently awaiting executive approval by the Governor.

[SB173](#) by Senator Fred Mills would only take effect should the Patient Protection and Affordable Care Act (ACA) be ruled unconstitutional. This law would provide standards for open enrollment, rate setting, and coverage for dependent children who are under the age of 26. It also prohibits preexisting condition exclusions and annual and lifetime limits. This bill is

currently awaiting executive approval by the Governor. Other bills similar to this issue did not pass ([HB237](#) by Representative Chad Brown and [SB219](#) by Senator Regina Barrow).

Check out the Council's [website](#) for a full list of the issues and bills monitored by the Council during the 2019 Legislative Session.

Contact Us

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