



Colorado's Protection & Advocacy System

MAINSTREAM

Helping individuals with disabilities live and work in the community, enjoying independent and productive lives.

The Legal Center's intervention persuades college to accommodate two deaf students

The Legal Center is excited by recent developments acknowledging that all people should have equal opportunities to pursue their educational and career goals. For over a year, The Legal Center has been working with two students attending Metropolitan State College of Denver. The students, who are deaf, are both working toward their degrees in education, hoping to become special education teachers here in Colorado. Surprisingly, however, last year the students were told that because they are deaf, the college could not recommend them for teacher licensure - a necessary step in Colorado to become a special education teacher. The college believed that the students' inability to hear made them unable to pass the standards set for teachers by the Colorado Department of Education. The students were heartbroken as they both wanted to work with children who have disabili-

ties. In their frustration, they turned to The Legal Center for help.

With a collaboration of several employees including Alison Butler Daniels, Jennifer Pfau (who is deaf) and volunteer/intern Jacque Phillips, The Legal Center got involved. At first, we tried to informally convince the college that it must provide the students accommodations while they were in school and that it could not assume that the students' disabilities would make them ineligible for teacher licensure. After months of negotiation, however, the college remained steadfast in its position.

The Legal Center filed a complaint of disability discrimination with the U.S. Department of Education Office for Civil Rights seeking an order to direct the college to implement reasonable accommodations and not discriminate against people with disabilities. That

complaint is still pending. The college and The Legal Center also contacted the Attorney General's office who represents the Colorado Department of Education. We asked the Attorney General whether a college needs to make reasonable accommodations in its standards for licensing or if they can maintain that the standards are set in stone and cannot be altered for people with disabilities. The Legal Center argued that the teacher licensing standards, like all the colleges' rules and policies, are subject to the Americans with Disabilities Act, which requires that agencies make reasonable accommodations as needed for a person with a disability, as long as the accommodations do not cause a fundamental alteration of the program or an undue financial burden.

The Attorney General's Office agreed

with The Legal Center. In a letter to the college, an assistant attorney general instructed the college that the Colorado Department of Education's teacher licensing standards are not meant for strict interpretation, but rather must be allowed flexibility if needed as a reasonable accommodation of a student's disability. The letter also confirmed that the college must make reasonable accommodations in coursework as well, if necessary for the students.

As a result of the letter, the college has now agreed to make all accommodations necessary for the students to complete their degrees and, if they are successful in school, be recommended for teacher licensure. The students are elated, and look forward to pursuing a career in special education working with children who have disabilities. ■

Fighting for the rights of people with mental illness

The Legal Center's Protection and Advocacy Program for Individuals with Mental Illness (PAIMI) works to protect the rights of individuals with mental illness and to effect long-term change in the system that often denies those rights.

One of the most challenging aspects of PAIMI's work is the acute shortage of community placements for those individuals whose mental health professionals recommend a secure environment. PAIMI is advocating for an alternative to the locked nursing home ward that would be more highly structured than assisted living residences and less institutional than a nursing home. However, as we continue to meet with state officials on ways to develop suitable community accommodations, we are also vigorously advocating for the rights of each and every individual whom we believe is being locked away unnecessarily.

In November 2008, PAIMI received information indicating that there were 64 individuals at the Colorado Mental Health Institute in Fort Logan whose discharges were delayed because there were no appropriate placement options in the community. PAIMI's coordinator, Managing Attorney Mark Ivandick, wrote to the executive directors of the Department of Human Services (DHS) and the Department of Health Care Policy and Financing (HCPF) to inform them of our concerns about *undue institutionalization of individuals with mental illness*.

The Legal Center's letters requested an urgent response from both state agencies. The letters also cited the Supreme Court's 1999 decision in *Olmstead v. L.C.*, which held that undue institutionalization of persons with mental disabilities qualifies as "discrimination" under the Americans with Disabilities Act of 1990.

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The Legal Center is a nonprofit organization protecting the human, civil and legal rights of people with disabilities and older people. As Colorado's Protection and Advocacy System, The Legal Center has authority under federal law to gain access to facilities and records in order to investigate allegations of abuse and neglect. The organization also helps people obtain state and federally funded services, such as special education, mental health services, developmental disabilities services, and vocational rehabilitation. The Legal Center specializes in civil rights and discrimination issues.

The Legal Center promotes systemic change to sustain or improve the quality of life for children and adults with disabilities and senior citizens. The Legal Center provides direct legal representation, education, advocacy, and legislative analysis to promote the independence, self-determination, empowerment and community participation of its clients. Similar organizations exist in every state and territory as part of a national protection and advocacy network.

The Legal Center has played a pivotal role in advancing disability law in Colorado and nationally. We are proud of our success in breaking new legal ground. However, we usually resolve our clients' objectives without litigation. Some of our most satisfying legal advances have come through empowering people to advocate for themselves. ■

School is Not Supposed to Hurt: A shocking report on seclusion and restraint

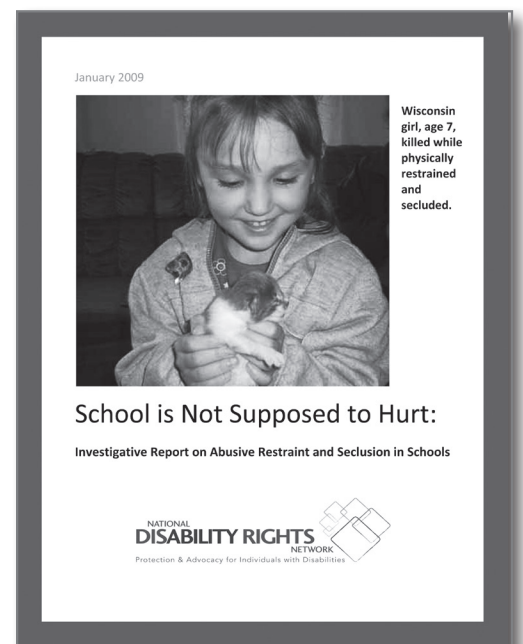
By Randy Chapman, Director of Legal Services

On Tuesday January 13, the National Disability Rights Network (NDRN) issued *School is Not Supposed to Hurt*, a disturbing report on seclusion and restraint in U.S. schools. According to the press release: "The report shows an unsettling use of seclusion and restraint tactics, which resulted in physical and emotional injuries as well as deaths, in schools affecting students from grades K-12."

At the news conference announcing the release of the report, Curt Decker, executive director of NDRN, said:

"This report documents dozens of seclusion and prone restraint cases that have resulted in injuries and even death. We feel that these numbers represent just the tip of the iceberg as there is no national reporting structure or official tracking of such incidents."

The report provides specific examples, state by state, of the improper use of seclusion and restraint in schools as identified by investigations conducted by the Protection and Advocacy systems within those states. NDRN is a national network whose members



Continued page 2

The Legal Center to host April 30 open house in Grand Junction

The Legal Center will be hosting an open house on April 30 from 4:30 p.m. - 7:00 p.m. at 322 North 8th Street, Grand Junction. Reservations are requested, but not required. Please contact Jennifer Shook at (970) 241-6371, 1-800-531-2105 or email jshook@thelegalcenter.org.

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Protecting the right to medical care

Barbara was severely injured in a car crash, leaving her with a significant orthopedic impairment that requires extensive medical interventions. In addition to regular chiropractic care and massage therapy, she also needs ergonomic equipment and assistive technology to use a computer. Despite these difficulties, Barbara has been actively pursuing an online accounting program through her local community college with the goal of obtaining an associate degree and a paying job.

Barbara receives Social Security Disability Insurance (SSDI) and until recently she had a very positive relationship with her counselor at the Department of Vocational Rehabilitation (DVR). When a new counselor was assigned to Barbara's case, things changed. Her Individual Plan for Employment (IPE) lapsed and rather than amend the IPE her counselor discontinued all services including school and medical payments.

When Barbara called The Legal Center, she was in great distress and said that the new counselor "changes the rules every month." Our advocate called the counselor and was told that services had been cut off because Barbara was "abusing the system." The Legal Center advocate advised Barbara to let the counselor know that the decision to terminate services would be appealed and that DVR was expected to continue to provide services until the appeal was resolved.

Next, our advocate contacted the DVR supervisor and was told that the counselor was writing a new IPE to replace the one that had lapsed, but that they were going to reduce her services due to the number of medical and therapeutic services Barbara received. These included chiropractic care, acupuncture and massage, with most of the services provided weekly. The supervisor said that this was too much for DVR to fund. The supervisor said she was also concerned that there was no treatment plan for all these services. Our advocate responded that several treatment plans had been submitted. The supervisor explained that DVR does not "recognize" chiropractors as being able to make treatment recommendations. Our advocate suggested that Barbara get a letter from her medical doctor, and the supervisor agreed that would be acceptable.

Barbara's doctor wrote a letter to DVR recommending the types and frequency of the services she needed. He also noted that the massage and chiropractic care allows Barbara to reduce her pain medications, which in turn improves her mental functioning. DVR agreed to provide the necessary services and Barbara was able to resume her education, and receive the chiropractic and medical care she needs for daily living. She hopes to put her accounting skills to work very soon.

Note: To protect her privacy, "Barbara" has been substituted for her real name. ■

VOTE! celebrates five years

VOTE!, The Legal Center's program to protect and promote the voting rights of people with disabilities, was founded in 2004. Just five years later, VOTE! is recognized throughout Colorado as a determined, persistent and effective advocate on election reform issues.

VOTE! staff and volunteers were kept busy throughout last year's historic election season:

1. VOTE! Coordinator Faith Gross played a leadership role on the steering committee of Just Vote Colorado, the coalition that worked to ensure that every eligible voter who wanted to vote could, and that every vote was counted accurately. VOTE! recruited and trained volunteers, and provided consultation and technical assistance on voting access for citizens with disabilities throughout the state.
2. VOTE!'s work began in 2007 when then Secretary of State Mike Coffman decertified nearly all of Colorado's voting equipment, including more than 75 percent of the accessible voting machines mandated under federal and Colorado laws. VOTE! staff testified numerous times in support of full and equal access for voters with disabilities. Ultimately, the secretary of state recertified all of the equipment, and every Colorado polling place in 2008 had at least one accessible voting system.
3. VOTE! educated members of the 2008 Colorado Legislature about the adverse impact on people

with disabilities if government-issued photo identification and proof of citizenship were to be added to the requirements for voter registration and voting. Bills requiring these new barriers to voter engagement failed to pass.

4. VOTE! partnered with The League of Women Voters on a straightforward explanation of the 14 statewide ballot issues, and we conducted 30 voter registration events and 36 voter education sessions for people with disabilities. Included in our outreach efforts were residents of long-term care facilities, Colorado Mental Health Institute at Ft. Logan, apartment buildings for people with disabilities and older adults, and people receiving services from community centered boards.
5. VOTE! worked with the Secretary of State's Office and the county clerks on improving polling place accessibility. We conducted accessibility audits in 28 Colorado counties and recruited volunteers from the independent living community to conduct audits in another 10 counties.

VOTE! priorities for 2009 are focused on continued advocacy for fully accessible elections. We continue to work with legislators and state and county election officials on improving and protecting accessibility advances gained over the first five years of The Legal Center's newest protection and advocacy program. ■

Shocking report

Continued from front page

are Protection and Advocacy systems (P&A) and Client Assistance Programs (CAP) within each state and territory. The Legal Center is a member.

The report calls on the Obama administration and the 111th Congress to act to ban the use of prone restraints. Additionally, the report provides a specific list of recommendations for state legislatures, boards of education, and local school districts. Included in those recommendations:

For the Obama Administration

- Direct the secretaries of education and health and human services to convene a national summit to devise plans to implement the bans on prone restraint and to encourage the use of evidence based positive behavioral supports and other best practices.
- Request increased federal funding for P&A programs to investigate allegations of abuse or neglect in schools.

For State Legislatures and Boards of Education

- Require teacher, school administrator, counselor, and para-professional certification standards to require extensive education and training in the use of positive behavioral supports, crisis reduction and management, de-escalation techniques, and other best practices.
- Require extensive training in the use of positive behavioral supports, crisis reduction and management, de-escalation techniques, and other best practices for other individuals, including school resource officers with contact with children in a school setting.

For Local School Districts

Require the use of evidence based positive behavioral supports and other best practices.

- Implement reporting of the use of restraint or seclusion to parent/guardians, state boards of education, the local Protection & Advocacy System, and the U. S. Department of Education.
- Establish extensive training programs in the use of positive behavioral supports, crisis reduction and management, de-escalation techniques, and other best practices for all individuals, including school resource officers, with contact with children in a school setting.

In recent years, The Legal Center for People with Disabilities and Older People, as Colorado's Protection and Advocacy System, has investigated numerous instances of the improper use of seclusion or restraint in Colorado schools. Some of those investigations and our findings are included in this report. For examples of The Legal Center's investigations please visit our website at www.thelegalcenter.org/Services/Investigation. The Legal Center has seen first hand that this is a serious issue in our schools. We applaud the efforts of NDRN and our fellow P&As to bring attention to this issue and we endorse the recommendations in this report. We urge you to take the time to read the full report which can be found on the NDRN website at www.ndrn.org. ■

Protection & Advocacy for Individuals Rights Program takes on employment cases

With change comes opportunity. Although we were saddened when Andrea Faley left The Legal Center early last year, we made the most of the change. In May 2008, Senior Attorney Alison Butler Daniels became program coordinator of the PAIR (Protection and Advocacy for Individual Rights) program, bringing with her a background of work on employment discrimination issues. As a result, PAIR is now working with people on employment and disability issues.

Specifically, the PAIR program is now accepting cases in which a person with a disability has been terminated from a non-governmental job and the termination was related to the person's disability. The Legal Center can only provide direct legal representation in a few cases a year and will be limited to those cases in which the individual is unable to retain private counsel. In other cases, PAIR program staff will discuss the facts and applicable law with a potential client and make appropriate referrals to other agencies or attorneys. To determine if you may have a potential employment disability case for The Legal Center, read on.

The ADAAA

The Americans with Disabilities Act, which was amended effective January 1, 2009 to become the ADA Amendments Act (ADAAA), prohibits employment discrimination based on disability. It applies to private employers with more than 15 employees. (The Colorado Anti-Discrimination Act (CADA) covers basically the same discriminatory conduct in employers with two or more employees). In order to be protected, you must show that you have a disability. Until the recent amendments to the ADA, this was often a difficult obstacle. With the new amendments, however, the burden has been significantly reduced.

Under both the ADA and the new amendments, individuals must show that they either: 1) have a physical or mental impairment that substantially limits a major life activity; or 2) have a record of a physical or mental impairment that substantially limits a major life activity; or 3) are regarded as having a physical or mental impairment that substantially limits a major life activity. The amendments prohibit employers from considering the effects of mitigating measures, such as hearing aids, medication, or prosthetic devices, when determining whether an individual has a disability. Additionally, the amendments expand the list of "major life activities". Finally, the amendments clarify that the ADA protects employees whose employers discriminate against them based on a perception that the individual is impaired, regardless of whether the employee has a disability.

Once you are determined to be a person with a disability, the next question is whether you can perform the essential functions of your job with, or without, a reasonable accommodation. That means that you need to be able to do the main duties in your job with or without some assistance, such as an interpreter, accessible work space, modified schedule, etc. However, it is important to note that an accommodation is not considered "reasonable" if it fundamentally alters the nature of the job or eliminates an essential job function. For example, an individual who is blind and unable to drive could not apply for a job as a bus driver and ask for an accommodation to allow him not to drive – that would not be considered reasonable.

Assuming you have met the above criteria, the next issue is whether you have a case. Have you suffered an

adverse employment action? Was it based on your disability? That means you must show you were fired, demoted, or negatively affected in some other way and that it was because of your disability. If you meet all of these criteria, then you may have a case of employment discrimination based on disability.

The FMLA

Another common question concerns the Family Medical Leave Act (FMLA). Generally, the FMLA protects employees of companies with 50 or more employees in a 75 mile radius of your work site who need to take time off to care for their own serious illness or that of an immediate family member. This includes taking time off to deal with medical issues stemming from an already known disability. The FMLA only applies to employees who have worked for their employer for a year or longer and have worked at least 1,250 hours during the prior twelve months.

If you are eligible for protection under the FMLA, you may take off up to twelve weeks of leave. Your employer does not have to pay you for the leave, but you may use accrued vacation or sick time at the same time as your FMLA leave. You can take the leave all at once, in separate periods of time, or intermittently. You are required to give your employer at least 30 days notice, whenever possible. An employer is permitted to request medical documentation to verify the need for FMLA leave. Finally, when an employee returns to work after taking FMLA leave, the employee must be restored to the same job or an equivalent job with equivalent pay and benefits that the employee held at the time the leave began.

If you have taken FMLA leave or attempted to do so and your employer has fired, demoted or otherwise negatively affected your work or interfered with your ability to take leave, you may have a claim.

Examples of cases

Since undertaking employment cases, PAIR staff members have consulted with numerous individuals about their work situations. In several cases, we have helped individuals to request reasonable accommodations from their employer or, when that is not successful, to file claims of discrimination with either the U.S. Equal Employment Opportunity Commission (EEOC) or the Colorado Civil Rights Division (CCRD). In other cases, individuals have been referred to private attorneys and in others, PAIR staff has been successful at negotiating private settlements on behalf of clients. Each case is unique and results will vary based on the specific facts of a case.

PAIR continues other work

The PAIR program continues to accept cases and provide information and referral services for individuals with disabilities in housing discrimination and eviction matters, public accommodations, accommodations and discrimination in higher education, and the HIV Legal Project.

The information contained in this article is not meant to be exhaustive, but rather to give a brief introduction into some employment discrimination laws based on disability. For more information on employment discrimination based on disability, please call our office or contact the EEOC (1-800-669-4000, www.eeoc.gov/denver), the CCRD (303-894-2997, www.dora.state.co.us/civil-rights/) or, for FMLA questions, the U.S. Department of Labor (866-4USWAGE, www.dol.gov/esa/whd/fmla/). ■

Mainstream

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Randy Chapman, Esq.

Mary Anne Harvey

Editors

Denver Office

455 Sherman Street, Suite 130

Denver, CO 80203-4403

303.722.0300

303.722.3619 TTY

303.722.0720 FAX

Toll Free 1.800.288.1376

Grand Junction Office

322 North 8th Street

Grand Junction, CO 81501-3406

970.241.6371 Voice/TTY

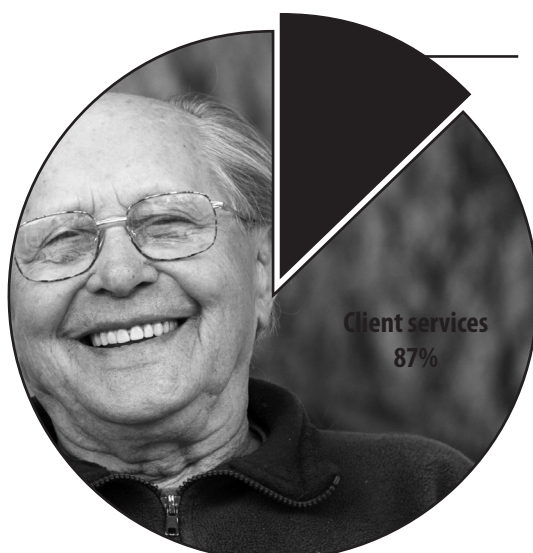
970.241.5324 FAX

Toll Free 1.800.531.2105 Voice/TTY

Email tlcmail@thelegalcenter.org

www.thelegalcenter.org

Financial Summary FY 2008



Total Revenue: \$2,025,753

Total Expenses: \$1,975,283

Ending Net Assets: \$525,019

Figures taken from Audited Financial Statements for FY Ended September 30, 2008.

For complete financial information visit our website at www.thelegalcenter.org and click on the link "Financial Information and 990s". ■

The Legal Center's Grand Junction office defends the right to safe housing

The Legal Center has been defending the right to clean, safe, accessible, and affordable housing for more than 30 years. Sadly, in so many of the cases we handle, the issues are less related to the cost of making accommodations for people with disabilities, than to a distinct lack of respect for their health and wellbeing. Last December, The Legal Center's Grand Junction office handled a case involving an elderly man with severe disabilities and an obdurate landlord who remained quite unmoved by the spirit of kindness and generosity that generally accompanies the holiday season. Fortunately, while we cannot compel landlords to be considerate, we can insist that they obey the law. In this case, our intervention, in cooperation with other local agencies, ensured that Mr. Johnson enjoyed the Christmas holiday in comfort and safety—at his landlord's expense.

Mr. Johnson is 69 years old, and has severe disabilities. In addition to serious respiratory, heart and circulatory illnesses, he has difficulty in walking more than a few steps. Mr. Johnson's apartment developed a leak in the bathroom wall that required demolition and extensive repairs. During demolition, the bathroom was com-

pletely unusable, and the contractors also found a bad case of black mold.

Mr. Johnson had quite reasonably expected his landlord to find him alternative accommodation while his bathroom was out of commission. Instead, the apartment manager suggested: "you can just pee in a bottle." The mold and construction dust made Mr. Johnson's respiratory condition much worse than usual, and his health was rapidly deteriorating. The apartment manager informed Mr. Johnson that if he considered his apartment uninhabitable, then he could stay at a hotel at his own cost.

A few days before Christmas, Mr. Johnson turned to The Legal Center's Grand Junction office for help. On December 23, we hand-delivered a letter to the manager advising that Mr. Johnson's premises were "uninhabitable, unfit for human habitation, materially dangerous and hazardous to Mr. Johnson's life, health and safety, in breach of the warrant of habitability" as set forth in Colorado law. The letter requested that Mr. Johnson's apartment be repaired as soon as possible, and that the expense of his temporary inconvenience while residing at a hotel be paid by the

landlord. Alternatively, we suggested a move into a comparable apartment at the landlord's expense. The landlord agreed to pay for the cost of a hotel through the end of the month.

While Mr. Johnson was settling into his hotel—a much more comfortable place to spend the holidays—we also contacted the Grand Junction Housing Authority (GJHA) and the Center for Independence, the local independent living center. Mr. Johnson is enrolled in the U.S. Department of Housing and Urban Development's Section 8 Rental Voucher Program that subsidizes the cost of private rental housing for people with very low incomes. The local housing authority (in this case, GJHA) assists people in finding suitable accommodations for their Section 8 HUD voucher and ensures that the housing meets minimum conditions. An inspection of Mr. Johnson's apartment was done by the GJHA and found to be out of compliance with HUD regulations. The landlord was given 10 days to comply. An advocate at Center for Independence began assisting Mr. Johnson in finding another apartment.

Another letter from The Legal Center

was hand-delivered to the manager on December 30, requesting continued financial support for Mr. Johnson's hotel stay. We also requested professional cleaning of the apartment prior to Mr. Johnson's return, to remove the mold and construction dust that would have adversely affected his health. As a permanent solution, The Legal Center advocated with GJHA to use Mr. Johnson's voucher to move him into a brand new apartment that would have no mold, dust or other contaminants likely to have an adverse effect on his disabilities.

Mr. Johnson stayed at his hotel at the landlord's expense until his renovated and professionally cleaned apartment was ready on January 5. In early February, GJHA moved Mr. Johnson into a brand new apartment complex to accommodate his continued respiratory health difficulties.

Last year, The Legal Center provided direct legal assistance on housing issues to 43 individuals throughout the state. Another 87 callers received assistance in being their own advocates.

Note: To protect his privacy, "Mr. Johnson" has been substituted for his real name. ■

BOOKSHELF

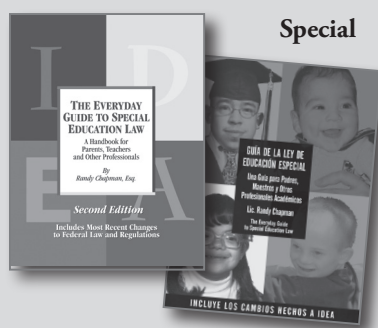
The Everyday Guide to Education Law, Second Edition By Randy Chapman, Esq.

This publication has been updated to include the most recent changes in federal law including:

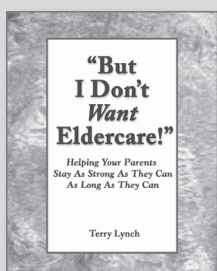
- the IDEA requirements for services plans for children placed in private schools
- how to file complaints with State Education Agencies for violations of the IDEA including obtaining compensatory services
- timelines for resolving disputes under the IDEA and how to use "mediation" and the new "resolution process"
- the evaluation process and response-to-intervention (RTI)

The Everyday Guide to Special Education Law costs \$24.95 and can be ordered at www.thelegalcenter.org or by calling The Legal Center at (303) 722-0300 or 1-800-288-1376.

Also available: *Guía de la Ley de Educación Especial*, the Spanish translation of *The Everyday Guide to Special Education Law*. The Spanish and English texts are included side-by-side on every page. \$29.95



"But I Don't Want Eldercare!" Helping Your Parents Stay As Strong As They Can As Long As They Can By Terry Lynch



This is the guide the author wishes he'd had before his mother's medical crises changed each of their lives. Terry Lynch draws on extraordinary personal experience in this eye-opening guide to the future, from his work with the White House Conference on individuals with disabilities to a decade as his mother's caregiver. While he assisted other families, Terry helped

his mother remain at home in spite of significant medical problems and a life-changing memory disorder. *"But I Don't Want Eldercare!"* costs just \$17.95 and can be ordered at www.thelegalcenter.org or by calling The Legal Center at (303) 722-0300 or 1-800-288-1376. ■

Fighting for rights

Continued from front page

The regulations implementing the ADA mandate that states administer services, programs, and activities in the most integrated setting appropriate to the needs of individuals with disabilities.

Within the week, DHS responded that as a result of meetings with the Colorado Behavioral Healthcare Council and several community mental health centers, plans had been developed to facilitate the individuals' discharge to appropriate community placements. DHS offered to meet with PAIMI to discuss the discharge issues and its plan to meet the needs of the Fort Logan residents.

In February, PAIMI staff met with DHS officials and we expressed concern both with the delays in discharging individuals, and the possibility that they would be sent to locked wards of nursing homes. PAIMI staff requested the names of the 64 individuals so that we could contact them to determine their wishes and assist them in discharge planning. As a Protection and Advocacy program, PAIMI is authorized to have access to the names of these residents for this purpose, but we are required to keep their personally identifying information confidential. At first DHS refused, offering instead a list with redacted information. However, after reviewing The Legal Center's favorable 10th Circuit record access decision in the *Hammons* case, DHS agreed to release the individuals' names under the provisions of a record access agreement.

The Legal Center acknowledged DHS's efforts at intensified discharge planning, but we also told the department that the policies and procedures for patient discharge were insufficient to withstand an *Olmstead* challenge. It is our belief that there has been inadequate strategic planning at the state level to provide community placements for those individuals with mental illness who need a highly structured environment. As a consequence, those individuals are either not discharged or discharged to locked wards of nursing homes. It was agreed that both DHS and HCPF would meet with PAIMI staff to engage in strategic planning to find placements that fill the gap between assisted living and locked wards of nursing homes.

In late February, PAIMI received the names of 36 individuals who were ready for discharge and 26 individuals who had already been discharged. Fort Logan is working with The Legal Center and community mental health center staff to discuss each patient's disposition and identify the actions needed to speed the person's appropriate discharge to a community placement. PAIMI staff are arranging meetings with all the individuals who request our involvement in their individual discharge planning process. We are also pursuing meetings with HCPF, DHS and other stakeholders to develop new placement options for people with mental illness who have high needs for structure and support. One possibility is a new Medicaid "waiver," that will provide the financial support for individuals to receive long-term care and mental health services in highly structured environments such as supportive housing. In addition, PAIMI is examining the current contractual obligations of the behavioral health organizations (BHOs) to provide residential treatment.

People with disabilities are just like everybody else. They want a space of their own where they can make their own decisions, and enjoy activities of their own choosing. They want a life! At The Legal Center, we believe that they have that

Continued back page

Thank you to our donors!

Legacy Society

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When people call The Legal Center they are about to lose something valuable. For example, they may be being evicted from their home, seeking rehabilitation and training, facing life in an institution, or experiencing abuse.

We invite you to become a donor. Your gift in any amount will help The Legal Center provide direct legal assistance to more than 1,800 people this year. Make a secure gift on line at www.thelegalcenter.org OR call Diane Carabello at 303.722.0300 to receive help in directing your gift or pledge to a particular need. Diane can also give you information about giving to the Fellow Travelers' Fund for people with mental disabilities, organically or otherwise caused.

Remembering The Legal Center

The Legal Center's Legacy Society honors our donors who have included The Legal Center in their estate plan. This inclusion may be in their will through bequests, trusts, gifts of life insurance policies, beneficiary designations on retirement accounts, or through other estate planning documents.

If you have remembered The Legal Center with a bequest, that means you have prepared your will—and that's a good thing. If you die without a will, the state steps in with its own administrator to distribute your assets according to specific state laws. When you have a will, you can be assured that your most important and personal lifetime decisions will be recognized and honored after your death.

As a member of The Legal Center Legacy Society, you become part of a group whose shared commitment ensures a future in which the protection of the law is available to people with disabilities and older people. For our Legacy Society brochure or for information on how to include The Legal Center as part of your plans, please call or email Diane Carabello, director of development, at 303-722-0300 or 1-800-288-1376 or dianec@thelegalcenter.org. ■

The Legal Center Changes Lives

The mission of The Legal Center is to protect and promote the rights of people with disabilities and older people in Colorado through direct legal representation, advocacy, education and legislative analysis.

In Fiscal Year 2008, The Legal Center provided legal assistance and advocacy to help 1,379 individuals with disabilities live and work in the community, enjoying independent and productive lives. Our advocates secured successful outcomes in 89 percent of the cases.

Housing The Legal Center has worked for three decades to help people with disabilities leave or avoid institutions and live independently. We fight eviction notices, represent clients in housing discrimination cases and least restrictive setting cases, and request reasonable accommodations from landlords. We represented 43 individuals in cases involving a wide range of housing issues. Another 87 callers received advocacy over the phone and referral information.

Employment People with disabilities want to work like everyone else. Sadly, private employers and even the government agencies set up to serve them often ignore the laws on disability rights. In 2008, we provided legal assistance that enabled 84 people to retain or move toward employment and helped 64 people to obtain vocational rehabilitation services.

Education The Legal Center believes that everyone in the community benefits when children with disabilities are educated alongside their peers in neighborhood schools. The Individuals with Disabilities Education Act (IDEA) guarantees a free, appropriate and inclusive education. Last year, we provided direct assistance to 54 parents seeking to obtain an inclusive education for their children and extensive telephone support to an additional 353 families. Hundreds more served as their own advocates using *The Everyday Guide to Special Education Law* and the Spanish/English version, *Guía De La Ley De Educación Especial*.

Quality of Life The Legal Center operates Colorado's "Protection and Advocacy System," ensuring the safety, well-being, and dignity of people with disabilities in group homes, people with disabilities in jail or prison, people confined in mental health facilities, and elderly people in long-term care. We investigated 138 complaints of abuse and neglect and resolved 110 rights violations of individuals living in facilities. (These figures do not include the work of The Long-term Care Ombudsman Program.)

Since its founding in 1976, The Legal Center has directly represented more than 17,000 people with disabilities, provided technical assistance and self-advocacy support to thousands more, and reached another 60,000 through education and training. Some of our greatest victories have come through empowering people with disabilities and their families to advocate for their own cause. ■

The Colorado Long-Term Care Ombudsman and the Legal Assistance Developer Programs Annual Report

This report, released in January, marks the first time that The Legal Center has issued a combined report on its two key programs for Colorado's older adults. The Colorado Long-Term Care Ombudsman, Shelley Hitt, and the Legal Assistance Developer, Mary Catherine Rabbitt:

- provide leadership, support, training and technical assistance to the local ombudsmen and legal providers on the front lines of service
- evaluate their respective programs at the 16 Area Agencies on Aging
- stay abreast of current legislation and new regulations
- research and analyze critical issues and monitor changing trends
- work together on public policy initiatives to expand resources on elder law and to improve long-term care
- direct public education programming on resources for older adults and their families
- provide training and support to volunteers and professionals in local organizations
- serve as the voice of older people to policymakers, regulators and government officials
- advocate for improvements in legislation, policies, and funding

affecting long-term care and elder rights and

- represent Colorado's long-term care and legal service needs at the national level

In Colorado, ombudsman and legal programs are coordinated through a partnership between The Legal Center and the 16 Area Agencies on Aging. While this year's report documents ongoing problems within the system, such as elder abuse, financial exploitation, inadequate care and lack of resources, it also celebrates the progress we are making toward building a better life for Colorado's aging population. The two programs complement each other and, by sharing resources, they are often able to resolve problems quickly. Examples cited in the report include:

- Misuse of power of attorney by a son who failed to pay for his mother's care at a nursing home, resulting in a notice of discharge. The local ombudsman and paralegal from the Area Agency on Aging intervened to secure payment by the son and rescind the discharge notice.
- A resident who needed significant accommodations to meet his physical needs was issued a discharge notice by his nursing home in violation of the Fair Housing Act and the Americans with Disabilities Act. The om-

budsman sought legal help and the nursing home agreed to make the necessary changes.

- A resident of an assisted living residence who opted to move to public housing but was turned down due to concerns about her need for services. With the help of a legal services attorney, the client filed a grievance with the housing authority under the Fair Housing Act and the Americans with Disabilities Act and was allowed to move in with supportive services.

Overall, the number of complaints was lower than the previous year, including complaints about abuse and gross neglect, which we believe is due to the sustained efforts of local ombudsmen together with a change in public attitudes that there is zero tolerance for abuse of older people. Despite the general improvement, financial exploitation of older people remains a serious concern that the current decline in the economy appears to be exacerbating.

Full details of the complaint data, The Legal Center's recommendations to the Legislature, and individual reports



The Legal Center's combined report on its two key programs for Colorado's older adults: The Colorado Long-Term Care Ombudsman, and the Legal Assistance Developer

from the 16 Area Agencies on Aging, can be obtained by requesting a copy of the report from The Legal Center.

Our thanks to the many people who work tirelessly on behalf of Colorado's aging population—local ombudsmen, contract and pro bono attorneys and paralegals, nursing home and assisted living staff, advocates for change, and loving relatives who provide ongoing care and support. ■

Fighting for rights

Continued from page 4

right, and we take action to protect it. Even when people have very severe mental disabilities and need extensive or structured care, we advocate for that care to be provided in the "least restrictive setting" possible as guaranteed by law in the ADA and confirmed by the Supreme Court in its *Olmstead* decision.

The Legal Center works case-by-case, while also seizing opportunities to work on ground-breaking issues that change systems and improve communities. We will continue to advocate for the Fort Logan patients until we are able to ensure a suitable placement for each person. We will continue to press for the development of supportive community housing for people with mental illness until such placements become the accepted—and readily available—discharge option. ■

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455 Sherman Street, Suite 130
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Colorado's Protection & Advocacy System