



**DD Digest<sup>1</sup>**  
**News Highlights for Developmental Disabilities (DD)**  
**Residential Services Providers**

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**Headlines: Read All About It!**

**DD Hero of the Year Application is Now Available!**

At the American Health Care Association’s 61st Annual Convention and Exposition in Long Beach, CA on October 10-13, 2010, AHCA will announce the 2010 DD Hero of the Year. The Honoree will be a person who has shown commitment and dedication in helping people with developmental disabilities (DD).

Specifically, the award will be presented to a volunteer, family member or member of the larger surrounding community who has touched the lives of individuals with developmental disabilities. A staff person who volunteers additional time is also eligible. Individuals can be nominated by AHCA state affiliates OR individual member facilities. Nominations must be **typed and received** by AHCA by **Friday, June 18, 2010**. Click [here](#) for the nomination form. For questions, contact [Tom Burke](#).

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<sup>1</sup> April 29, 2010

## **Bruce Yarwood: Retiring This Fall**

As you may be aware, Bruce Yarwood will be retiring as President and CEO of AHCA/NCAL at the end 2010. Bruce has represented the 11,000 for- and not-for-profit nursing homes, assisted living residences, and facilities for the care of people with DD that make up the AHCA/NCAL membership for nearly five years. Respected on both sides of the aisle, Bruce previously served as AHCA's chief lobbyist for more than sixteen years. He earned a reputation as a nationally renowned authority on health policy and long term care issues through his work in both the public and private sectors where he managed health organizations, associations, and long term care businesses. Bruce has been an extraordinary leader to our entire community and will certainly be hard to replace.

The AHCA Board of Governors has chosen Russell Reynolds Associates to lead the search for the next AHCA/NCAL President and CEO. We will be sure to keep our membership as up-to-date as possible as details in our search are finalized.

## **2010-2011 AHCA Elections and Solicitation of Candidates**

AHCA is preparing for its 2010-2011 election cycle for AHCA officers, four at-large representatives and a not-for-profit representative to serve on its Board of Governors. The AHCA Elections will take place in October 2010 at the AHCA/NCAL annual convention in Long Beach, CA. In accordance with AHCA bylaws, which can be found on AHCA's [website](#), the AHCA Council of States elects AHCA officers and at-large Board of Governors positions on an annual basis. In advance of the election, the Ethics Committee will conduct the certification process for all candidates seeking AHCA office. All candidates interested in running for the AHCA officer positions, the four at-large positions or the not-for-profit position on the AHCA Board of Governors may obtain the AHCA candidacy materials, including an application, on the AHCA [member's only website](#). All applications for office and vacant board positions must be submitted to [Priscilla Shoemaker](#) no later than close of business **June 1, 2010**. Each candidate will receive an email to confirm receipt of his or her application.

## **On the Hill**

### **AHCA's First DD Fly-in Was a Success!!**

DD residential services providers from all over the U.S. attended our first ever DD Congressional fly-in on Wednesday, April 28 at AHCA. Attendees received a briefing on the following topics before heading to Capitol Hill to visit with legislators:



- The effect of health care reform on DD services providers;
- H.R. 868, “The Direct Support Professional Wage Enhancement Plan” to provide funds to States to increase the wages paid to “targeted direct support professionals (DSPs)” in providing services to “targeted” individuals with disabilities” under the Medicaid program;
- H.R. 1255, to require ICF/MR client/family opt-in for inclusion in a class action lawsuit against an ICF/MR;
- S. 2781, “Rosa’s Law” to change “mental retardation” to “intellectual disability” in federal law; and much more!

After the briefing, fly-in attendees visited their legislators to discuss state-specific issues affecting DD services providers, and AHCA staff plan to meet with staff of Senator Barbara Mikulski (D-MD), sponsor of “Rosa’s Law” to share our thoughts on the impact of the proposed legislation on state ICF/MR eligibility criteria.

We will keep members and the public apprised of future DD fly-in opportunities.

### **AHCA/NCAL’s Health Care Reform Web Site**

AHCA/NCAL has dedicated a page on our website to the recently passed health care



reform legislation. You can access the page here - this is a comprehensive resource with information on all aspects of health care reform. It is being constantly updated with new information and we encourage all AHCA/NCAL members to check back often and review the materials provided.

### **President Issues Memorandum Regarding Finding and Recapturing Improper Payments**

The Obama Administration has issued a memorandum expanding the use of Payment Recapture Audits – also know as recovery audits – to identify improper payments paid to contractors or other entities whereby highly skilled accounting specialists and fraud examiners use tools and technology to examine payment records and uncover problems such as duplicate payments, payments for services not rendered, overpayments, and fictitious vendors.

The memorandum directed executive departments and agencies to expand their use of Payment Recapture Audits, empowering the Director of the Office of Management and Budget (OMB) to develop guidance within 90 days on actions that executive departments and agencies must take to carry out the requirements of this memorandum. The Director of the OMB will also coordinate with the Council for Inspectors General on Integrity and Efficiency to identify an appropriate process for obtaining review by Inspectors General of the effectiveness of agency efforts. Questions? Click to contact Dianne De La Mare.

## CMS News

### **Get CMS Updates on Social Media**

As we have previously announced, CMS is offering timely updates via a number of social media websites. To sign up to receive these updates, you must have an account. There is no charge to have an account on any of these sites.

Questions? Click to contact [Amy Mendoza](#).



- **LinkedIn:** Join the [CMS Group](#)
- **Twitter:** For CMS & Medicare Learning Network updates, visit [www.twitter.com/CMSGov](http://www.twitter.com/CMSGov) (or to search by screen name, enter @CMSGov)
- **YouTube:** To access the official CMS YouTube channel, visit [www.YouTube.com/CMSHHSGov](http://www.YouTube.com/CMSHHSGov). To watch videos, no account is required. To leave a comment on a video, you must have an account.

## Our Sponsor!

### **CareTracker by Resource Systems**



**CareTracker**<sup>®</sup>  
by Resource Systems

CareTracker by Resource Systems is an innovative electronic documentation system proven to save time, improve quality of care, and reduce risk by allowing DD providers to use touch screen computers to track individuals' supportive documentation. For more information on CareTracker, go to [www.discovercaretracker.com](http://www.discovercaretracker.com), or contact Dustin Eubanks at (800) 338-3681 or [deubanks@resourcesystems.net](mailto:deubanks@resourcesystems.net).

## Events

### **Register Now for The AHCA/NCAL 2010 Congressional Briefing**

AHCA/NCAL cordially invites you to attend our 2010 Congressional Briefing, June 8-9, 2010 at the Hyatt Regency Washington, DC on Capitol Hill. As change continues in Congress, we encourage DD services providers to get involved and make your advocacy efforts count. Your presence and your voice make a difference in shaping the direction of long term care. [Register Online Now!](#) For more information on this conference, to register online and make your hotel reservations, please visit the [Congressional Briefing webpage](#).

## **VOR 2010 Annual Convention and Washington Initiative**

Voice of the Retarded (VOR) a national advocacy organization representing individuals with intellectual and developmental disabilities and their families, is hosting its annual conference and initiative in Washington, D.C. on **Saturday, June 5, 2010.**

This year, participants will hear presentations from Tom York, an attorney specializing in disability litigation; Katherine Boo, a well-known reporter and author who will speak to advocates and the (invited) media; Paul Heckt, an estate planning attorney (invited;) and a representative from Capitol Hill who will provide an update on federal disability policy.

VOR greatly values and appreciates AHCA's annual support. VOR invites AHCA provider members to attend the 2010 VOR conference and/or be a sponsor. Several sponsorship levels include a free conference registration and opportunities to showcase your organization/program at the conference.

For details, visit <http://www.vor.net/events>. For questions, please contact Julie Huso, Executive Director at 605-370-4652; or [husoj@sio.midco.net](mailto:husoj@sio.midco.net). To learn about VOR, go to [www.vor.net](http://www.vor.net).

## **Join AHCA/NCAL at the 61st Annual Convention & Expo: DD Track and Not for Profit Opportunities!**

Make your plans now for the AHCA/NCAL 61st Annual Convention and Expo at the Long Beach Convention Center, **October 10-13, 2010.** This four day event is packed with opportunities to learn, network, and ensure your continued success in the long term care profession. Hear Bob Beckel and Cal Thomas as they team up as the thought provoking duo: *Coming Together on Common Ground*, and present *Finding Common Ground in Healthcare* at the Opening General Session.

Attendees will also be energized when they join New York Times best-selling author and recognition consultant Chester Elton, author of the *Carrot Principle*, and the *24-Carrot Manager*, as he presents a lively presentation on the power of maximizing employee satisfaction and performance through recognition at the Closing General Session. Some other features of the Annual meeting include:

### **DD Track**

Every year, AHCA has a DD track specifically designed to meet the educational needs of DD services providers. This year's sessions include:

- Provider Advocacy: Taking Care to a New Level
- DD Legal Update
- Making End of Life Choices for Those Without Capacity

Plus a variety of grassroots, quality, workforce and other amazing educational sessions!

### **Not for Profit (NFP) Board and Leadership Training Seminar**

In addition, AHCA will hold its second annual “NFP Board and Leadership Training Seminar” on Sunday, October 10, 2010, immediately preceding the AHCA/NCAL Annual meeting. This is a great learning opportunity for NFP DD residential services providers. This year, we will have a panel of three speakers to discuss:

- NFP fundraising;
- The difference NFP between governance and management; and
- The effect of health reform on NFPs.

Be sure to check the [AHCA/NCAL 2010 Convention & Expo webpage](#) in April to register and for more exciting details on the Annual meeting.

## **OSHA/Workforce**

### **OSHA Releases New Severe Violator Enforcement Program**

The Occupational Safety and Health Administration’s (OSHA) Severe Violator Enforcement Program (SVEP) “concentrates resources on inspecting employers who have demonstrated indifference to their OSH Act obligations by willful, repeated, or failure-to-abate violations.” Under the program, an inspection of an employer meeting the criteria of an SVEP case may result in enhanced follow-up inspections of the worksite at issue, *nationwide inspections* of the same employer of related worksites, increased “company awareness” of OSHA’s enforcement actions against the company, and enhanced settlement provisions including possible corporate-wide agreements.

The following types of cases are considered SVEP cases under the program:

- A fatality/catastrophe inspection in which OSHA finds one or more willful or repeated violations or failure-to-abate notices based on a serious violation related to a death of an employee or three or more hospitalizations.
- An inspection in which OSHA finds two or more willful or repeated violations or failure-to-abate notices (or any combination of these violations/notices), based on high gravity serious violations related to a “high-emphasis hazard,” defined as a high gravity serious violation of specific standards related to a variety of hazards, including fall and amputation hazards
- An inspection in which OSHA finds three or more willful or repeated violations or failure-to-abate notices (or any combination of these violations/notices), based on high gravity serious violations related to highly hazardous chemicals, as defined in OSHA’s process safety management standard.
- All egregious enforcement actions.

For more information on the SVEP, click [here](#).

## **OSHA Issues Administrative Enhancements to Penalty Policies**

OSHA has also issued a [memorandum](#) to Regional Administrators that administratively enhances OSHA's penalties. OSHA finds in the memorandum that currently "the Agency's penalties are too low to have an adequate deterrent effect." In effect, the memorandum revises OSHA's penalty classification system, as currently outlined in its Field Operations Manual (FOM). Of particular note, OSHA is:

- Expanding the time frame for considering an employer's history of violations (when setting penalties) from three to five years.
- Increasing penalties by 10 percent for employers that have been cited for any high gravity serious, willful, repeat, or failure-to-abate violations within the previous five years.
- Increasing the minimum proposed penalty for a serious violation to \$500.
- Calculating final penalties serially, unlike current practice where all of the penalty reductions are added and then the total percentage is multiplied by the gravity-based penalty to arrive at the proposed penalty. (OSHA's example in the memorandum results in an increase of approximately 50%.)

To view the entire memorandum, click [here](#).

## **USDOL/ETA Has Launched a Web-Based Grant Application Toolkit**

As a result of the *American Recovery and Reinvestment Act of 2009 (ARRA)*, a number of open grant competitions for funds provided through the Department of Labor (DOL) are now available. The U.S. Department of Labor, Employment and Training Administration (USDOL/ETA) has created a [Web-Based Grant Application Toolkit](#) to assist those interested in applying.

ETA has launched [a Web-based toolkit on applying for competitive grants](#). The toolkit is an online suite of resources designed to help prospective grant applicants – in particular, smaller entities such as community-based and faith-based groups, as well as organizations that have not previously applied for Federal funding – understand the process for applying for ETA competitive grants and developing high-quality grant applications. Additionally, a podcast highlighting the toolkit is [now available](#). As ETA develops additional tools for grant applicants, they will be posted to the toolkit [website](#).

General grant Opportunities can also be found at <http://www.grants.gov/>.

## **Reminder: Ensure Compliance With Federal Minimum Wage, Overtime And Child Labor Regulations**

The following U.S. Department of Labor (DOL) fact sheets are available for employers to review on topics such as youth employment, hours worked, and overtime. These fact sheets have been updated with the new federal minimum wage effective July, 2009:

Fact Sheet #52—The Health Care Industry and Youth Employment. This fact sheet reviews the provisions governing employment of minors older than 14 years.

Fact Sheet #53--The Health Care Industry and Hours Worked. This fact sheet reviews how to round hours worked, calculate travel time, training and seminars, and meals and other types of breaks.

Fact Sheet #54—The Health Care Industry and Calculating Overtime Pay. This fact sheet explains calculating overtime in the 8/80 overtime system, bonuses and computation of compensation of 40 hour system.

The National Center for Assisted Living (NCAL) worked with the DOL to develop these worksheets, which include examples pertaining to assisted living and skilled nursing settings.

## **HRSA Releases 2008 National Sample Survey of RNs**

In March, the Health Resources and Services Administration (HRSA) released its 2008 National Sample Survey of Registered Nurses. The report confirms the long-standing opinion that registered nurses (RNs) are among the fastest growing health care profession in the U.S. Between 2004 through 2008, the RN segment of the workforce grew to a high of 3.1 million. The estimated number of RNs with master's or doctorate degrees rose to 404,163 in 2008, an increase of 46.9 percent from 2004. Further, most RNs are actively practicing nursing (84.8 percent of those surveyed) and most are working full time (63.2 percent of those surveyed). Questions? Click to contact Dianne De La Mare.

## **Clinical**

### **AHCA Submits Comments on the APA's Proposed Changes to "Mental Retardation" Diagnosis**

AHCA recently submitted comments to the American Psychological Association's (APA) proposed revision to the Diagnostic and Statistical Manual of Mental Disorders (DSM-5) proposed revisions to the category of "mental retardation" within the "Disorders Usually first Diagnosed in Infancy, Childhood, or Adolescence" category.

In our comments, AHCA expressed concern about the potential effect of DSM-5's proposed replacement of the term "mental retardation" with "intellectual disability", as the specific diagnosis of "mental retardation" is required by several states for an individual to be eligible for ICF/MR and group home services. Therefore, APA's proposal to replace the term "mental retardation" with "intellectual disability" may have significant, unintended consequences on these beneficiaries. Specifically, they may not be deemed eligible to receive ICF/MR or group home services. In addition to state specific issues, there are federal laws and regulations that refer to "mental retardation." Therefore, eliminating "mental retardation" from the DSM may have an adverse effect on beneficiaries at the national level too.

AHCA will monitor APA's progress on this and other proposed diagnostic revisions, and will provide further comment when the proposed "severity" revisions for intellectual disability are posted on APA's web-site. For questions, contact [Melissa Temkin](#).

### **DEA E-Prescribing Final Rule and Hearing on Patient Care**

#### **DEA Issues Interim Final Rule on Electronic Prescriptions for Controlled Substances**

The U.S. Drug Enforcement Administration (DEA) of the U.S. Department of Justice (DOJ) published an Interim Final Rule (IFR) on March 31 in the *Federal Register* revising its regulations to allow physicians the option of prescribing controlled substances electronically. DEA has revised the rule to eliminate the need for the signing and transmission of the e-prescription to occur simultaneously. Specifically affecting long term care is the revised provision which would enable a prescriber (on or off-site) to write an electronic prescription in their clinic system, "lock" the core prescription contents by electronically signing it and then forward it to a facility for review before sending it to the pharmacy.

In its announcement of the IFR, DEA noted that the regulations are in addition to and not a replacement of existing regulations governing prescribing controlled substances; therefore, while the e-prescribing rule may represent a step forward, it is unlikely that this rule will alleviate the delays patients are now experiencing given the current technical impediments to immediately implementing e-prescribing in long term care. AHCA/NCAL is currently reviewing the IFR to assess the impact it may have on long term care facilities and may issue comments on provisions. Comments must be submitted within 60 days of publication: by May 31.

## Senate Special Committee on Aging Hears Testimony on DEA Interference with Patient Care

On March 24, the Senate Special Committee on Aging heard testimony focusing on the DEA's recently increased enforcement of outdated rules and regulations under the *Controlled Substances Act (CSA)*, and the ways in which this enforcement has interfered with long term care providers' ability to control and alleviate patients' acute and chronic pain. AHCA/NCAL praised Senator Herb Kohl (D-WI) and the other members of the Committee for efforts to address delays with dispensing of critical pain medications.

Witnesses included Wisconsin Health Care Association and Wisconsin Center for Assisted Living (WHCA/WICAL) member and Oakridge Gardens Nursing Center Administrator, Michael T. Schanke and AHCA/NCAL member and Vice President of Pharmacy Services for Golden Living Robert R. Warnock, DPh, CGP, FASCP, both of whom explained the difficult, and often heart-wrenching, position many long term care



facilities find themselves in as a consequence of DEA enforcement. The witnesses unanimously expressed the need to amend the CSA to include the nurse as the agent of the prescriber and recognize chart orders as valid prescriptions. Both the DEA and the National Association of Boards of Pharmacy (NABP), in their testimony, expressed a willingness to work with long term care facilities in the future to arrive at an expedient solution to the problem.

In conjunction with the Senate session, the Quality Care Coalition for Patients in Pain (QCCPP), which is comprised of AHCA and other groups and individuals representing health care professionals who care for and treat patients in long term care and hospice settings, released their survey report entitled *Patients in Pain: How U.S. Drug Enforcement Administration Rules Harm Patients in Nursing Facilities*. The survey report details accounts of the nearly 900 physicians, nurses and pharmacists from 46 states that have personally experienced unnecessary delays in treating patients directly related to their efforts to follow DEA's rules.

Questions? Click to contact [Teresa Cagnolatti](#).

### **Resources**

#### **“Impact” Magazine Features Aging and DD**

The Winter 2010 edition of “Impact” Magazine has a feature issue on aging people with intellectual and developmental disabilities. The magazine includes interviews with

individuals with DD as they discuss the joys and challenges in their lives as they age. Stories include individuals' experiences as self advocates, plans for residential changes as parents and caregivers pass away, health and functional challenges, how to support inclusion of individuals with disabilities in community senior programs, and much more. To view the entire issue of "Impact" magazine, click [here](#). "Impact" is published by the University of Minnesota's Institute on Community Integration & Research and the Training Center on Community Living. More information on these entities can be found [here](#).

### **Significantly Reduce Your Cost of Shipping & Receiving**

AHCA/NCAL is pleased to announce an agreement with PartnerShip, a leading third-party freight management provider that will help AHCA/NCAL members substantially reduce shipping costs. The PartnerShip Freight Management Program offers significant discounts on both inbound and outbound shipments. PartnerShip, a new preferred provider of AHCA/NCAL, is the industry leader in developing and managing shipping programs for trade associations and other industry organizations. Relationships with more than 70 national trade associations and more than 16,000 customers allow PartnerShip to pass along deep discounts from carriers to participating organizations and their members.



AHCA/NCAL members enrolled in the program save up to 29 percent on select FedEx Express® services, up to 20 percent on select FedEx Ground® services, up to 10% on select FedEx Home Delivery® services, up to 20 percent on select print and copy services at FedEx OfficeSM stores, and a minimum 70 percent on LTL freight shipments arranged through PartnerShip Select Services. PartnerShip Select Services is a customized LTL freight management program that features a full menu of LTL freight carriers, no cost to use, no minimum shipping requirements, direct billing from PartnerShip, extended payment terms, and dedicated account representatives to serve you. To enroll in the program, please click [here](#).

### **AHCA/NCAL Announce New Member Service Program with Employee Relations, Inc.**

AHCA/NCAL is pleased to announce a new member service program with Employee Relations, Inc., that provides pre-employment and employment related services, background investigations, E-Verify, drug testing/screening, OIG and other federal database exclusion searches as well as employee hotline services. These services individually or collectively serve to strengthen a facility's human resources program. Through this new AHCA/NCAL Member Services Program, Employee Relations, Inc. can also provide an efficient and cost effective way to check professional licenses, education credentials, driving records, OIG searches, drug testing and more.

There are no signup/setup fees and no requirements for minimum or maximum usage of this service. For additional information please visit Employee Relations, Inc.'s [website](#) and click on "healthcare solutions". Be sure to mention that you are an AHCA/NCAL member so you are eligible for the member pricing that we have negotiated on your behalf.

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