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January 24, 2014



Speaking out for people with  
intellectual & developmental  
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## VOR Weekly News Update

*News and views for VOR Advocates*

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[Registration is now open for VOR's Annual  
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### Calendar Reminders

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Sponsors of VOR's Annual Conference and Initiative provide critical financial support for VOR's pinnacle annual event and, in exchange, benefit from tremendous recognition opportunities.

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### State News

3. **State Advocacy Resource: The Best State Capitol Reporters in America**

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*The Washington Post* \* January 17, 2014

**Editor's Note:** State level advocacy has become more important than ever. According to one resource, "Why consider state and local governments? First, they are responsible for many issues that affect our daily lives. And the ratio of constituents to representatives is much smaller, making it easier for voices to be heard. This white paper outlines the value of advocating at the state and local levels and explains some of the differences you'll need to be aware of when switching from a federal advocacy strategy." (*Salsa, January 21, 2014*)

Last week, we asked for your input to name the best reporters focused on state legislatures, governors and government from around the country. After much reading and consultation, here's our list. One caveat: We only included reporters who have a presence on Twitter.

[Read more, comment and share](#)

4. **Wyoming: Officials are hopeful the Wyoming Life Resource Center will stay in Lander**

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**Lander Journal \* January 22, 2014**

Lawmakers and state employees do not anticipate that the Wyoming Life resource Center (WLRC) will be leaving Lander any time soon.

A recent study by the Wyoming Department of Health called the WLRC a "necessary safety net" in the state. The study, commissioned by the Wyoming Legislature in 2013, does not recommend forcing clients to transition away from the residential facility. WDH Director Tom Forslund and Governor Matt Mead both have said they don't want the facility closed. State Sen. Eli Bebout, R-Riverton, agreed. "We're not going to close down," Bebout said, "at least not under my watch."

[Read more, comment and share](#)

## **5. California: Officials, advocates at odds over handling of caregiver abuse cases**

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**The Center for Investigative Reporting \* January 21, 2014**

SACRAMENTO, Calif. – Officials from the California Department of Public Health and long-term care advocates clashed today at an Assembly oversight hearing over regulators' ability to process complaints of abuse against nursing assistants.

The backlog of investigating complaints is especially problematic, both officials and advocates testified, because as time goes on, substantiating allegations becomes more difficult as staff moves, evidence disappears and those who complain die.

The hearing, held by the Assembly Committee on Health and Committee on Aging and Long-Term Care, comes four months after The Center for Investigative Reporting found state health regulators had routinely conducted

delayed and superficial investigations into complaints of abuse and neglect at the state's long-term care facilities for the elderly and developmentally disabled.

The legislative hearing came about a week after a task force convened by the California Health and Human Services Agency, which oversees the Department of Public Health, released [a report on the future of California's developmental centers.](#)

[Read more, comment and share](#)

## **6. California: Wrongful death lawsuit filed against local group home; alleges staff not properly trained**

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*KGET News 17 \* December 18, 2013*

BAKERSFIELD, CA - A wrongful death lawsuit has been filed against a local group home and Kern Regional Center following the death of a developmentally disabled man this summer.

The suit claims staffers used unreasonable and excessive force to restrain him.

The Kern County coroner ruled the death a homicide, saying Joseph Adam Lynch died from positional asphyxiation.

[Read more, comment and share](#)

## **7. Maryland: Finding a home for Kimberly: Parents of former child ambassador for the United Cerebral Palsy seek help for placing daughter in long-term care facility**

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*The Herald Mail \* December 22, 2013*

When Kimberly Hose was 7 years old, she was chosen to serve as the ambassador for United Cerebral Palsy in Western Maryland.

Her selection in 1987 was an honor for

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Kimberly, her mother, Beverly Hose, said recently from their Hagerstown home.

In the ensuing 26 years, Kimberly has lived at home, cared for by her parents and with assistance from outreach services provided by The Arc of Washington County.

Now, however, her parents say their health is deteriorating, and they have reached the point where it has become difficult for them to take care of their daughter, who is confined to a wheelchair and has difficulty performing simple functions, such as opening doors.

Finding a housing placement the family believes would meet Kimberly's needs has been more difficult than the family expected.

[Read more, comment and share](#)

[Watch related video](#)

### Legal Update

## **8. Rhode Island: Justice Dept. probes RI sheltered workshops**

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*WPRI.Com News \* January 15, 2014*

PROVIDENCE, R.I. (WPRI) – The state of Rhode Island violated the civil rights of thousands of disabled residents who work in “segregated” environments through state-licensed day programs, according to a report released by the U.S. Department of Justice.

The [32-page report](#) noted that more than 2,000 disabled workers remain employed in so-called sheltered workshops and are denied from working in a more integrated setting. The Justice Department's probe is part of national strategy to crack down on states and employers who violated the Americans with Disabilities Act.

According to the report, the Justice Department will continue to monitor the state's Department of Behavioral Healthcare.

Developmental Disabilities and Hospitals as it attempts to work with day program providers to implement alternative employment opportunities for many disabled workers.

[Read more, comment and share](#)

[Read the National Council on Disability's Letter of Support to Attorney General Eric Holder](#)

### **Federal News**

#### **9. Health Law Adds Coverage For Developmental Disability Services**

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*Kaiser Health News* \* January 14, 2014

A little remarked upon requirement in the health law expands treatments for people with cerebral palsy, autism and other developmental disabilities. But some advocates and policy experts are concerned that insurers may find ways to sidestep the new requirement.

The health law requires that individual and small group plans sold on or off the health insurance marketplaces cover 10 essential health benefits, including “rehabilitative and habilitative services and devices.”

[Read more, comment and share](#)

#### **10. CMS Gives States Five Years To Implement Lengthy Community Services For Disability Changes**

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*Inside Washington Publishers* \* January 10, 2014

Disability advocates are cautiously applauding a final CMS rule out Friday (Jan. 10) that provides states flexibility to offer home and community-based services to target specific populations, sets one national definition for home and community-based settings that could

be applied to a HCBS waiver, defines person-centered planning requirements and allows for a five-year transition period. The rule also provides states the option to combine coverage for multiple target populations into one and provides CMS with additional compliance options beyond waiver termination. The rule was long awaited and had four previous iterations that advocates and the community-based service industry worried would provide a too-rigid outline for what services should look like.

The final rule establishes requirements for home and community-based settings in Medicaid HCBS programs, and creates a more outcome-oriented definition of home and community-based settings, rather than one based solely on a setting's location, geography or physical characteristics. The rule includes a provision requiring states offering HCBS under existing state plans or waivers to develop transition plans to ensure that HCBS settings will meet the final rule's requirements, and CMS will give states a maximum of a one-year period to submit a transition plan that provides for the delivery of HCBS services within settings meeting the final rule's requirements. CMS says it may approve transition plans for a period of up to five years, as supported by individual state's circumstances. CMS will issue future guidance to provide the details regarding requirements for transition plans.

Andrea Maresca, director of federal policy at the National Association of State Medicaid Directors, said the proposed version of the rule was quite controversial. Disability advocates and HCBS providers said the proposed definition of a setting did not take into account the variables of people with disabilities and the elderly under Medicaid. For some states, Maresca said, it will not be a simple flip of the

switch to meet the new criteria.

"It's helpful that CMS recognizes that for states it'll be a heavy lift, and that's why we have five years, and I think it'll be difficult to meet expectations even within that five year window," Maresca said.

Sarah Barth, director of long-term services at the Center for Health Care Strategies, said the final rule had been long awaited and that states have worked on waivers allowing Medicaid beneficiaries to remain in communities. The early draft could have displaced 139,000 Medicaid beneficiaries who live in assisted living and residential care communities, according to the National Center for Assisted Living.

"This new flexibility will give states the ability to streamline administration of HCBS waivers by combining coverage for multiple target populations into one waiver," Barth said.

Likewise, Medicaid Health Plans of America President Jeff Myers said the final rule is huge for disabled and elderly Medicaid beneficiaries, and noted that many states are expanding access to home and community-based services through Medicaid managed care plans.

"We are hopeful this guidance will accelerate the expansion of HCBS as an alternative to institutional care and enable those with both physical and mental disabilities to live their lives to the fullest," he told Inside Health Policy, adding that state plans will work with states to implement the requirements and tailor programs and services to meet the needs of special populations.

Barbara Merrill, VP of public policy at the American Network of Community Options and Resources, a trade association of Medicaid-funded services for people with disabilities, said the rule shows that CMS has navigated a difficult terrain and taken out several troubling proposals that were in previous proposed rules.

CMS had proposed to make the provider of housing for people with disabilities separate from the provider of other services, a policy which it pulled. Merrill says that would have created issues for providers such as small group homes where both housing and support services are provided by the same provider.

"I think this is a step forward for CMS. This is not going to be easy, and I'm sure we'll encounter difficulties, and there are some provisions that could prove problematic but we've been impressed in how open CMS has been in reaching out to groups such as ours," Merrill said.

Eric Buehlmann, deputy executive director for public policy at the National Disability Rights Network, said that states should already be implementing many of the things the rule finalizes because of the 1999 Supreme Court decision in *Olmstead v. L.C.*, a ruling that requires states to eliminate unnecessary segregation of persons with disabilities and to ensure that persons with disabilities receive services in the most integrated setting appropriate to their needs. In 2009, President Obama launched the "Year of Community Living," directing the administration to redouble enforcement efforts, including inside HHS.

"It's not like this is just all of a sudden -- we'll have been working on this for 15 years. In 2014 states will be working on implementation plans, so this timeline is a good balance," Buehlmann said. "Would we like things to be perfect and done tomorrow? Yes, but we know that's the not the case. It shouldn't come as a surprise for states because that decision has been around for a while. We think this is a reasonable middle ground."

Still, some states may have a hard road ahead, according to Martha Roherty, executive director of the National Association of States

United for Aging and Disabilities. She said contracts will have to be renegotiated and states will have to work with legislatures to make sure changes go through.

"I think it'll be an aggressive timeline. A lot of this is very laudable and we hope that people can be integrated into the community and stay at home, but what it looks like is up to legislatures and governors," she said. Adding to that is that 36 state governors are up for reelection in the coming two years.

### **Quotable**

*"Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has." ~*

Margaret Mead

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#### **Calendar Reminders:**

**Tuesday, March 25, 2014**

**AHCA/NCAL's fifth annual "ID/DD Residential Services Providers Hill Fly-In."** Questions? Dana Halvorson, [dhalvorson@ahca.org](mailto:dhalvorson@ahca.org).

**June 8, 2014**

**VOR 2014 Annual Conference and Initiative:**

*"Making it Happen: Reforming Policy and Law in Support of Person-Centered Quality and Choice"; Hyatt Regency, Washington, D.C.*

**Register today!**

**Week of June 9, 2013**

**VOR 2014 Congressional Initiative:** Families and advocates visit Capitol Hill.

**Sunday, October 5, 2014**

American Health Care Association's 2014 ID/DD Residential Services Day during AHCA/NCAL's 65th Annual Convention & Expo at the Gaylord National Harbor just outside of Washington.

DC. Registration will open in Spring 2014.

**Archives**

**\*Social Media Strengths: Using Facebook and Twitter to Advance Your Cause (VOR, July 2013).** [Visit VOR's website for a copy of the powerpoint presentation and an audio of the event.](#)

**\* How Congress Works Webinar: [Recorded - Listen Here.](#) Tuesday, April 23, 2013 - 12:00 pm central / 1:00 pm eastern. How Congress Works: The Basics. Hosted by Peter Kinzler and Larry Innis.**

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