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Speaking out for people with  
intellectual & developmental  
disabilities



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**Reminders:  
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January 23, 2015

## VOR Weekly News Update

*News and views for VOR Advocates*

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**2015  
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Advocating for  
Choice by  
Expanding  
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#### **VOR and YOU**

**1. VOR 2015 ANNUAL CONFERENCE and HOTEL REGISTRATION NOW OPEN**  
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**VOR Annual Conference and Congressional Initiative  
*Advocating for Choice by Expanding Opportunities*  
June 6-10, 2015  
Washington, D.C.**

**REGISTRATION NOW OPEN!**

**[COMPLETE DETAILS, including agenda, conference registration form, links, and hotel reservations](#)**

**[CONFERENCE and INITIATIVE Online Registration](#)**

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## [HOTEL RESERVATIONS](#)

### **2. VOR collaborates on the launching of Disability Advocacy Alliance**

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The all volunteer Disability Advocacy Alliance (DAA) was formed in January 2015 by parents and family members to protect the rights of individuals with intellectual and developmental disabilities in Ohio.

DAA was formed in response to a triple threat:

- [Disability Rights Ohio \(P&A\)](#) has threatened to sue the State if private Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) and workshop settings are not closed.
- A [Strategic Leadership Planning Group](#) has recommended the closure of all state-operated ICFs/IID, the transition of several thousand individuals from private ICFs/IID, a competitive employment goal of 50% (which can only suggest the closure of workshop setting).
- A [proposed CMS Transition Plan](#) that does not adequately account for individual choice and needs in communities of their choice.

DAA's mission is faithful to the U.S. Supreme Court's [Olmstead](#) decision and the Americans with Disabilities Act. *Olmstead* clearly states an individual's desires are paramount in determining residential placement. It is with this legal foundation that DAA asserts that the Ohio Department of Developmental Disabilities must offer a range of residential, habilitation, and employment options to meet the diverse needs of individuals with intellectual and developmental disabilities.

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For more information visit [DAA's website](#). Information is also available on [VOR's website](#).

### **3. VOR Op-Ed: Changing addresses won't help those with profound intellectual disabilities**

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*The CT Mirror* \* by Tamie Hopp, VOR \* January 19, 2015

Familiar myths are leveraged in the Op-Ed “Phase out Southbury Training School and similar institutions” (Jan. 13).

Families whose loved ones are alive today because of the highly specialized care provided at Southbury Training School (STS) and similar state-operated programs have grown weary of this finger pointing.

Their family members have profound intellectual disabilities with multiple physical, medical and/or behavioral challenges. They have expensive needs. Changing addresses will not change that.

Authors Shelagh McClure and Tom Fiorentino get Olmstead all wrong – and they know better.

[Read more, COMMENT and share](#)

[To read the “Phase out Southbury” editorial and COMMENT, click here](#)

### **4. From Jill Barker, VOR Officer and Board Member: Legal Guardians – Home and Community Based Services (HCBS) rule confirms decision-making authority**

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*DDNews Blog* \* December 27, 2014

The federal Home and Community Based Settings (HCB) setting rule places the individual with a disability at the center of a Person Centered Planning process.

This is as it should be, allowing for the reality that many people with intellectual and developmental disabilities are limited in their ability to make or communicate decisions for themselves or to exercise their rights on their own behalf and for whom legal guardianship may be necessary.

With my own sons, who have profound physical and intellectual disabilities this is certainly the case.

The HCB settings rule confirms the authority of court-appointed legal guardians to make decisions authorized by state courts. People with disabilities who do not have legal guardians may choose someone to represent them in the person centered planning process.

[Read more and share](#)

#### **STATE NEWS**

#### **5. OHIO: Disability Advocacy Alliance Releases "Intermediate Care Facility Homes Financially Benefit the Ohio Waiver System"**

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**Disability Advocacy Alliance \* January 21, 2015**

New research shows that Intermediate Care Facility (ICFs/IID) homes provide \$65 Million in financial benefits to the Ohio Home and Community-Based Services (HCBS) Waiver system. Closing ICFs/IID to fund HCBS waiver expansion will not work.

[Read more and SHARE](#)

#### **6. OHIO: Families fight community-care plan**

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***The Columbus Dispatch* \* January 18, 2015**

Sheri Horsley would love to have her 28-year-old son move back home or be able to settle into an apartment in their community. "The emotional side of me wants that," she said.

But past attempts at community living have been

all but disastrous for her son Brandon, who has autism and cannot always control his behavior. He is 6 foot 1 and weighs 230 pounds. Although he is kind and loving much of the time, rage can overtake him quickly.

Brandon has pulled out some of his teeth, up-ended tables in a bowling alley, hit a home-care worker so hard that she went to a hospital. “The six months that my son lived in the community, he was set back years,” the Champaign County woman said.

For the Horsleys and many other families who testified at a state hearing last week, a state plan that could move thousands of people with developmental disabilities out of care facilities and sheltered programs into what are deemed community settings seems both unfair and dangerous.

[Read more, comment and share](#)

## **7. CONNECTICUT: Parents Of Intellectually Disabled Plead For State Funding, Cite Growing Waiting List**

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*Hartford Courant* \* January 16, 2015

Their plea was as simple as it was powerful.

Parents of intellectually disabled children told a legislative panel Thursday that unless funding was increased to the Department of Developmental Services, thousands of families would be marooned on a waiting list for apartments or group homes.

There are at least 2,000 families waiting now, and the number is growing. The only way a family can qualify for residential support for an intellectually disabled child is for the caregiver — the parents, in most cases — to die or become incapacitated.

[Read more, COMMENT, and share](#)

## 8. NEW JERSEY Assembly panel OKs bill concerning developmentally disabled adults living in out-of-state facilities

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*NorthJersey.com* \* January 15, 2015

Some adults with developmental disabilities that face a state-mandated move back to New Jersey from out-of-state facilities would get a reprieve under a bill [Assembly Bill 3975] that was moved out of a state Assembly committee Thursday.

The bill [A3975], approved by the Human Services panel, would require the state to continue paying for out-of-state services for people who meet a series of conditions, including long-term residence in the facility and family members who live within 15 miles.

“We need to make sure our most vulnerable are not sacrificed for savings, especially when it’s minor savings that carry major consequences,” said Valerie Vainieri Huttle, D-Englewood, a sponsor of the bill.

An earlier version of the bill that would have imposed a blanket moratorium on the state plan was vetoed by Governor Christie.

For decades, the state agreed to pay for out-of-state treatment for children with conditions like severe autism, cerebral palsy and other disorders when their families could not find adequate treatment options closer to home.

[Read more, comment and share](#)

[Read VOR's Position in Support of A3975 and S2600](#)

Read related article: [New Jersey: New Bi-Partisan Legislative Initiative Marks a Paradigm Shift in Public Service of Law Makers Toward Those with Disabilities \(New Jersey Newsroom, January 17, 2015\)](#) (“*The controversy over the closing of two State Developmental Centers. along with the*

*transfer of residents with developmental disabilities who are in "out-of-State" residential placements, has not dissipated, although the battle has raged for more than two years.")*

## **FEDERAL UPDATE**

### **9. CMS issues new guidance on HCBS Rule**

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#### ***Administration on Community Living* \* January 9, 2015**

As states and stakeholders across the country assess their Medicaid-funded home and community-based (HCB) settings for compliance with the 2014 regulations, many people with disabilities and their families have asked whether their current services will change immediately, due to the regulation.

In other words, they want to know: If a state determines that a current HCB setting is not compliant with the new regulation, does it have to stop providing services in that setting immediately?

**The answer is NO.**

If a state determines that HCBS are currently being provided in settings that do not provide opportunities for participants to seek employment and work in competitive settings, engage in community life, control personal resources, and access the community to the same degree of access as individuals not receiving Medicaid HCBS, or if individuals receiving HCBS are not residing in settings that meet the HCB settings requirements, the state has until March 2019 to bring its HCBS programs into compliance with the rule, consistent with its State Transition Plan. States can claim for federal matching funds for these services during the transition period.

To access the January 2015 released "HCBS Final Regulations 42 CFR Part 441: Questions and Answers Regarding Home and Community-Based Settings" click [here](#).

For more information about the Medicaid HCBS regulation, including a settings requirements toolkit, please visit this [CMS website](#).

## **SPECIAL EDUCATION NEWS**

### **10. How IDEA Protects You and Your Child**

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***Understood* \* January 19, 2015 \* By Andrew M.I. Lee**

At a Glance:

- The Individuals with Disabilities Education Act (IDEA) is a federal law that requires schools to serve the educational needs of eligible students with disabilities.
- Schools must evaluate students suspected of having disabilities, including learning disabilities.
- Not every child with learning and attention issues qualifies for special education services under IDEA.

[Read more, comment and share](#)

## **LEGAL NEWS**

### **11. Medicaid: Supreme Court to Hear Medicaid Case**

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***The Arc Capitol Insider* \* January 20, 2015**

**[Editor's Note:** *The following reflects the views of The Arc. VOR has not taken a position with regard to the Armstrong v. Exceptional Child Center, Inc. case]*

“Today, the Supreme Court will hear arguments in an important case involving Medicaid. At issue in the case (Armstrong v. Exceptional Child Center, Inc.) is whether there is a judicial process to ensure that Medicaid beneficiaries have equal access to care as required by the law. Specifically, this case involves Medicaid providers suing the state over inadequate reimbursement rates. The

Arc will be following the case closely as judicial action by private parties has been an important advocacy tool in enforcing aspects of the Medicaid law. The Arc is also very concerned that inadequate provider reimbursement rates create barriers to accessing health care and living in the community.”

**12. Fair Labor Standards Act Home Care Rule Struck Down by D.C. District Court**

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**National Senior Citizens Law Center Health Network Alert  
\* January 20, 2015**

A U.S. federal district court has struck down new rules that would have applied Fair Labor Standards Act standards, like payment of minimum wage and overtime, to most Medicaid home care providers. Historically, many personal care providers and other in-home assistants have been exempted from federal labor laws under the “companionship services” exemption.

The US Department of Labor is likely to appeal the decision to the D.C. appellate court, so a final decision on the validity of the expanded FLSA regulations will take some time. In the meantime, however, the new regulations, which were supposed to start on January 1, 2015, will not take effect. Unless a state chooses otherwise, home care providers’ wages and hours will stay same.

**For more details about the court decisions or the rule, visit <http://www.dol.gov/whd/homecare/>.**

**QUOTABLE**

*"Our lives begin to end the day we become silent about things that matter." ~ Martin Luther King, Jr.*

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**Calendar Reminders:**

**Tuesday, March 24, 2015:**

**[American Health Care Association ID/DD  
Washinaton Flv-In](#)**

Congressional speakers are being invited, a legislative update will be provided, and Hill visits will follow in the afternoon. Breakfast and a boxed lunch will be provided to you. [Registration is free but required](#). VOR members are encouraged to attend. **Sunday, June 7, 2015:**

**VOR Annual Conference: ADVOCATING FOR CHOICE BY EXPANDING OPPORTUNITIES.** [Speakers Announced. Registration details coming soon. Check VOR's website often for updates.](#)

**Archives:**

\* Thursday, March 20, 2014

[VOR's "Regional Meetings: The Need for Advocates to Act Global and Local" Webinar.](#)

\* **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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