

MAINSTREAM

A Disability and Elder Rights Advocacy News Magazine



DISABILITY LAW
COLORADO™

Colorado's Protection & Advocacy System

Disability Law Colorado protects and promotes the rights of individuals with disabilities and older people in Colorado.

Summer 2018

OLDER AMERICANS ACT PROGRAMS

Celebrating 30 Years Together

Disability Law Colorado is celebrating three decades of protecting and promoting the rights of elders through our Older Americans Act programs in partnership with our state's 16 Area Agencies on Aging.

"Our work to protect the rights of long-term care residents and PACE participants is critical to improving quality of care and quality of life. I am committed to providing ombudsmen with the tools they need to achieve success for those we serve."

Anne Meier
State Long-Term Care Ombudsman

The Older Americans Act (OAA) was passed in 1965 as part of President Johnson's "Great Society" with the goals of protecting and enhancing the autonomy, dignity, financial security, health, and rights of older Americans. Area Agencies on Aging (AAAs) were added to the Act in 1973 to be the "on-the-ground" connection for vulnerable older adults, and in 1975, Colorado began to partner with the federal government on implementing the programs.

In 1988, Disability Law Colorado was awarded the contract for the Colorado Long-Term Care Ombudsman and Legal Assistance Developer programs, and for 30 years we have worked with the AAAs and the Colorado Department of Human Services, Division of Aging and Adult Services, to improve life for elders, whether they live in long-term care facilities, with family, or in their own homes.

We are required to present a report to the Colorado General Assembly each year, and in preparation for the 30th anniversary, we looked back at the issues and trends across three decades. There have been many changes over the years, and while there is still a long way to go, Disability Law Colorado is proud of the progress that has been made in improving quality of life for elders in our state.

"We remain steadfast in our commitment to protect the legal rights of elders throughout Colorado."

Kelsey Lesco, Esq.
Legal Assistance Developer for Elders

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Celebrate our Colfax Marathon success and discover why we were awarded 2018's Best Charity Partner Tent from over 230 Charity Partners.



Celebrating 30 Years | Page 8

An insightful story by Mary Anne Harvey reflecting on 30 years of State Long-Term Care Ombudsman and Legal Assistance Developer for Elders work.



Legislative Report | Page 10

The 71st General Assembly of the Colorado Legislature featured bills focused on mental health and eldercare. See what bills we supported and opposed.



Red Rocks Success | Page 11

A settlement was reached in the Red Rocks Amphitheater case which paves the way for accessible seating for people with disabilities.



Annual Open House | Page 12

Save the Date for our Annual Open House on Thursday, November 15. Come discover more about our work and enjoy great food, drinks and fellowship.



PROTECTING DISABILITY AND ELDER RIGHTS IS HARD WORK



Dear Friends,

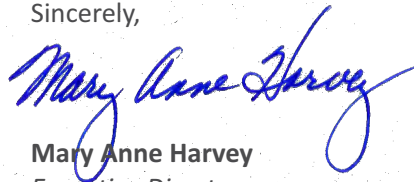
Welcome to the Summer Issue of Mainstream. We are proud to share stories of our work, our history and our accomplishments.

The mission of Disability Law Colorado is to protect and promote the rights of people with disabilities and elders through direct legal representation, advocacy, education and legislative analysis. That mission has been clear and focused since the organization was founded in 1976. We consistently use it as a touchstone in making programmatic and organizational development decisions. Our advocacy is informed by our sense of history about the disability, civil rights and elder rights movements which shaped our values and visions for people. As legislation and case law have developed over the years, we have helped create this history.

Our staff is comprised of advocates and leaders in every position within the organization. They are competent and creative in their ability to help our clients solve problems in their lives. Their compassion is evident in their approach which is at once legal and practical. They are extraordinary in their resourcefulness to help others see the abilities and strengths of those we serve. It is a privilege to work with them every day.

As always, we are grateful for the support of our Board members, volunteers and donors who help us carry out our mission and sustain our organization. I hope you will be informed and inspired by the content of this newsletter.

Sincerely,



Mary Anne Harvey
Executive Director

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Denver Office

455 Sherman St., Suite 130
Denver, CO 80203
303.722.0300 TEL

Grand Junction Office

322 North 8th St.
Grand Junction, CO 81501
970.241.6371 TEL

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Disability Law Colorado
Attn: *Mainstream Editors*
455 Sherman Street | Suite 130
Denver, CO 80203

Editors:

Mary Anne Harvey

Mandy M. Rigg

Mike Robbins

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Get an Inside Look at Disability Law Colorado

Have you “liked” us on Facebook? “Followed” us on Twitter, LinkedIn or Instagram? Subscribed to our YouTube channel? Disability Law Colorado fully embraces the opportunity to engage with current stakeholders and emerging audiences by utilizing social media platforms.

Get an inside look at Disability Law Colorado through our social media posts as we use pictures and articles to help tell the story of our work. Help us grow our social media presence by encouraging your friends, family and co-workers to “like” and “follow” us today!



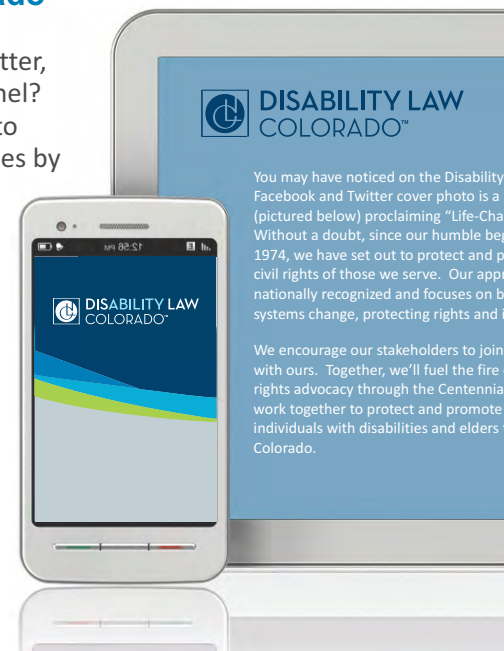
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You may have noticed on the Disability Facebook and Twitter cover photo is a (pictured below) proclaiming “Life-Cha Without a doubt, since our humble beg 1974, we have set out to protect and p civil rights of those we serve. Our app nationally recognized and focuses on b systems change, protecting rights and d

We encourage our stakeholders to join with ours. Together, we’ll fuel the fire rights advocacy through the Centennia work together to protect and promote individuals with disabilities and elders Colorado.

NATIONWIDE CHILDCARE SETTLEMENT

Disability Law Colorado Plays Role in DOJ Settlement

In 2012, Disability Law Colorado was contacted by the mother of a three-year-old girl who had just been diagnosed with type 1 juvenile diabetes and required glucose testing and insulin on a daily basis. The child was attending La Petite Academy day care center in Lafayette, while her mother worked and pursued college studies. La Petite refused to allow staff to administer her insulin, making it extremely unsafe for her to attend the center. We assisted the family in filing a complaint with the Department of Justice (DOJ) for discrimination and failure, under the Americans with Disabilities Act, to reasonably accommodate the young girl's disability.



The DOJ and US Attorneys' Office investigated the complaint, including travelling to Denver to meet with our advocates and the child's mother to discuss the situation. The DOJ conducted similar interviews across the country, and discovered that Learning Care Group (LCG), the company that runs La Petite Academy, along with over 900 other child care facilities across the country, was systemically discriminating against insulin dependent students in their care.



"It is reprehensible that 28 years after the passage of the ADA children with disabilities are still facing discrimination in the most important of settings – child care facilities. We are thrilled with the outcome of this case for children across the country," said Alison Butler, Esq., Director of Legal Services at Disability Law Colorado. In March 2018, the DOJ announced that it had reached a settlement agreement with Learning Care

Group (LCG). Under the agreement, LCG agreed to pay \$10,000 in compensatory damages to each of the eight families involved in the case. As our client had to give up her job and studies to stay home with her daughter, this hardly comes close to recompensing her for lost income, but the decision will make a huge difference for working parents of children with disabilities across the country.

"Given the critical role that dependable child care plays in a parent's ability to work or go to school, we are proud that this settlement will ease the struggle to find quality child care for families of children with disabilities," said United States Attorney Matthew Schneider. "The United States Attorney's Office will continue to work to ensure the equal rights of individuals with disabilities in our community."

LCG also agreed to evaluate future requests for accommodation using objective evidence and current medical standards, and to train child care staff members to assist with routine diabetes care tasks, including the administration of insulin by pen, syringe, or pump.

At Disability Law Colorado, we are encouraged by the result of the settlement and pleased that it provides relief for some of the families affected, including the family we represented. We agree with Acting Assistant Attorney General John M. Gore of the Civil Rights Division, who emphasized that "The ADA guarantees all children, including those with insulin-dependent diabetes, equal access to child care centers."



STORY OF IMPACT

Jack Splitt's Journey

Disability Law Colorado worked with a student with significant intellectual/developmental disabilities. Jack Splitt was an outgoing, gregarious youngman who had spent his time in school mainstreamed with his peers, receiving special education supports and services in the classroom. Unfortunately, during middle school, Jack's medical needs increased and he was hospitalized.

Though the law requires that children receiving special education services under an



Individualized Education Program (IEP) be educated in whatever setting they find themselves, including a hospital, the school district failed to provide services to Jack while he was in the hospital for almost a year.

Jack's parents contacted Disability Law Colorado, at which time DLC immediately intervened and filed a complaint with the Colorado Department of Education. In response, the school district arranged for Jack to have all his services – both academic and therapeutic – provided to him in the hospital. When Jack left the hospital, DLC also ensured that his services in his local school were appropriate.

COLFAX MARATHON SHINES BRIGHT

Disability Law Colorado Wins Best Charity Partner Tent Award!

This year marked the 8th year Disability Law Colorado participated in the Colfax Marathon. We were honored to be one of only eight Legacy Charity Partners due to our longstanding participation, and thrilled to receive the 2018 Best Charity Partner Tent award from over 230 Charity Partners! We kicked off our Colfax Marathon weekend at a fun and festive Happy Hour & Pep Rally at Blue Bonnet Café on May 17 with 50 friends and race participants attending. The Colfax Marathon 5K on Saturday, May 19 was a bit soggy, but our superhero-themed Charity Partner tent was filled with spirited staff and volunteers engaging the community in conversations about our work. On Sunday, May 20 the crowd was enormous as 10,000 marathon runners gathered with friends and family to root them on to the finish line. Consider joining us for next year's Colfax Marathon, May 18-19 by choosing to run, walk or roll for Disability Law Colorado. Plus we're "in it to win it" so help us win Best Charity Partner Tent again next year!



Together We're Stronger



What if giving from the heart helped change the lives of individuals with disabilities, older adults and their families in Colorado? Rest assured that your donation to Disability Law Colorado will impact lives throughout the Centennial state – up and down the Front Range, to rural communities on the Eastern Plains and across the Mountain Frontier and Western Slope.

Your gift will help fuel the fire of disability and elder rights advocacy as we work to promote systems change, protect rights and improve lives. But we cannot accomplish this alone. Please partner with us and join your voice with ours by making a donation.

WAYS to GIVE

Return the enclosed remittance envelope along with your tax-deductible donation.

Donate online at: DisabilityLawCO.org/donate



THANK YOU COLFAX SPONSORS

Strong Support from Stakeholders for Colfax Marathon Event

We appreciate the corporate and individual sponsors of our 2018 Colfax Marathon Charity Partner event. You helped make our Colfax efforts a wonderful success!

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SUPERHERO

PROTECTING DISABILITY AND ELDERCARE RIGHTS



DISABILITY LAW
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ELDER LAW SUPERHERO

Legal Assistance Developer Kelsey Lesco coordinates the statewide network of legal providers who provide free legal services to older people with the greatest social and economic need. Legal assistance can include: Representing homeowners who are facing foreclosure, or other housing issues; guardianships and conservatorships; consumer issues; financial exploitation, including misuse of a power of attorney by a family member or friend; denials, reductions and terminations of needed public benefits; and preparing advance directives, deeds and wills.

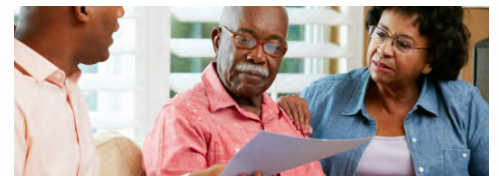


Kelsey Lesco pictured with her daughter, Riley, in her superhero outfit at Jeffco's Senior Law Day.



NEW P&A PROGRAM Representative Payee Initiative

Legislation passed by the U.S. Senate last Fall will increase oversight and protection for some of our nation's most vulnerable citizens. The bill, called the Strengthening Protections for Social Security Beneficiaries Act (H.R. 4547), will increase independent oversight of the Social Security Administration's Representative Payee Program.



A representative payee is a person who acts as the receiver of Social Security Disability or Supplemental Security Income for a person who is not fully capable of managing their own benefits. Unfortunately, multiple investigations have uncovered representative payees who have stolen or misused funds, exploited, neglected, and even abused the people with disabilities they were supposed to be helping.

Beginning this August, Disability Law Colorado will take on this new federally-mandated program to monitor and investigate how representative payees are administering Social Security funds.

"Congress has recognized the critical role P&As have played for 40 years in keeping our nation's most vulnerable citizens safe from abuse and neglect in institutions and the community," said Mary Anne Harvey, Executive Director. "We have the experience, capacity and determination to provide this needed oversight of the representative payee program."

CULTURE CHANGE IN LONG-TERM CARE

Trends Shift Over 30 Years of Work to Improve Quality of Life

In the 1980s, most long-term care facilities were designed around the “medical model” with hospital-style impersonal rooms (easier to keep clean), meals on a schedule with no menu choices (simpler for kitchen staff), and a strict prohibition against animals (pets can be noisy, smelly, and unpredictable). Many vulnerable residents, especially those with dementia, were kept in restraints “for their own safety.”

Ombudsmen were not initially made welcome in nursing homes and assisted living residences. Jayla Sanchez-Warren, now director of the Denver Regional Council of Governments' Area Agency on Aging, was a newly minted part-time ombudsman in 1987. In our 2005 report she recalled: “It wasn't easy in those days. Staff were not used to having an ombudsman in the facility. Some would try and deny access, others would follow me around, and some facilities would have codes to announce our presence. One facility would announce “Code Yellow” (our badges were yellow then) over the loud speaker when I arrived.”



Leah McMahon (left) discussing the PACE program with Julie Reiskin, Executive Director of the Colorado Cross-Disability Coalition.

Most residents were either unaware of their rights or were afraid to advocate for what they desired or needed. Even with the support of ombudsmen and legal assistance providers, residents were frequently intimidated by staff and administrators. In 1990, as part of an effort to educate elders and diffuse the adversarial relationship between facility staff and ombudsmen, State Long-Term Care Ombudsman Virginia Fraser created Residents' Rights BINGO! The game was an immediate success with both residents and staff. Its unique approach took a potentially confrontational issue and made it both fun and effective. Updated in 2011, the new edition of the game openly addressed more controversial issues such as residents' right to a sex life, something most elders had thought had to end when they entered a nursing home or were simply too embarrassed to talk about.



By 2000, the movement to improve the culture of long-term care was gathering steam and in 2002 the Colorado Coalition for Culture Change was founded to promote environments “where both older adults and their caregivers are able to express choice and practice self-determination in meaningful ways at every level of daily life.” Our 2004 annual report celebrated changes at the Pueblo Extended Care Center that now welcomed pets, allowed residents to determine their own meal times, and offered privacy for couples.

MAJOR SHIFTS IN ELDERCARE LAW

When the Law is Not on the Side of the Angels

While much of the work of ombudsmen and legal assistance providers has always involved advocating for small, but very welcome changes in the quality of life for elders, they are also called upon to deal with impact of major shifts in national law. In 2004, Congress passed sweeping immigration legislation that included an end to Medicaid coverage for legal residents. Throughout that year, seniors rushed to exchange their green cards for an American passport, but many were too old and frail, or unable to speak English well enough to pass the citizenship test.

With a December 31 deadline looming, ombudsmen spent the summer and fall struggling to identify residents affected by the law and then to find ways to ensure their safety and wellbeing. Local ombudsmen advocated with individual facilities to keep residents for the first few months of 2005, hoping that a legislative solution might be found. In February 2005 Governor Owens signed a bill from the Legislature that continued Medicaid coverage for legal immigrants needing long-term care.

2017 ANNUAL REPORT



The 2017 Annual Report reflecting the work of the Colorado Long-Term Care Ombudsman and Legal Assistance Developer programs is available online and in hard copy. The report shares stories of impact and service metrics and can be found online at:

DisabilityLawCO.org/Colorado-Long-Term-Care-Ombudsman



A new Colorado Long-Term Care Ombudsman program logo has been designed and will begin to appear in publications and collateral. Special thanks to Jennifer Reeves (Region 3A) for coming up with the logo concept.

A COLLABORATIVE APPROACH

Ombudsmen and Legal Assistance Providers Work Together

In June 2008, Mary Catherine Rabbitt joined Disability Law Colorado as Legal Assistance Developer, and immediately began a vigorous campaign to develop, promote and pass some critical pieces of legislation that have made a huge difference in the wellbeing of our state's seniors. A willing partner in this campaign was Shelley Hitt, who the previous month had signed on as the new Colorado Long-Term Care Ombudsman. In addition to partnering on legislative advances for seniors, together they introduced a new approach at



the AAAs, encouraging local ombudsmen and legal assistance providers to collaborate on issues impacting elders in their region, making for a much stronger network of support.

Among many of the pieces of legislation benefiting seniors passed in the last decade, Mary Catherine's

hand can be seen in these three critical advances, all of which involved unprecedented levels of collaboration between ombudsmen and legal assistance providers:

Simplifying end-of-life directives - "MOST," the Medical Order for Life-Sustaining Treatment, was a revolutionary single, two-sided, bright green document signed by the patient and the doctor. With the passage of this legislation in 2010, for the first time, all end-of-life wishes could be clarified in one simple form.

Mandatory reporting of abuse of at-risk elders - Mandatory reporting became law in 2014. In its first year, this law brought to light substantiated losses of nearly \$57 million to elders age 70 and older, with the average loss (due to misuse of a power of attorney, theft, identity theft or scams) being approximately \$145,000.

Public Guardianship - in 2017, legislation to establish an Office of Public Guardianship Pilot program passed the General Assembly and was signed into law by Governor Hickenlooper. Previously, vulnerable elders who needed someone to act for them, but had no friends, family, or the means to pay for a guardian could fall through the safety net as no one agency was responsible for their welfare. In the year before she retired, Mary Catherine worked closely with our current Legal Assistance Developer, Kelsey Lesco, who has now been appointed to the Office of Public Guardianship Commission by the Chief Justice of the Colorado Supreme Court.



SERVICE TO ELDERS

Preparing for a Fourth Decade

Disability Law Colorado continues to expand programs for vulnerable older adults to meet the growing need, while also deepening the collaboration between the Legal Assistance Developer and State Long-Term Care Ombudsman. In 2016, both spent long hours at the

Colorado Legislature to ensure protection for elders when the state's largest PACE



(Program of All-Inclusive Care for the Elderly), Innovage, changed its status from nonprofit to for-profit. PACE is designed to promote independent living and provide all-inclusive services in the home, community and PACE centers. PACE programs serve people 55 and older who qualify for Medicare and/or



Medicaid, although the average age of participants is 75, and most are frail with multiple health concerns.

Legislators created the Colorado PACE Ombudsman Program to protect the rights of participants receiving services throughout all the PACE organizations in Colorado and Disability Law Colorado was honored to be chosen as the home for this vital new program. The partnership between the Colorado Long-Term Care Ombudsman, Legal Assistance Developer, and now the State PACE Ombudsman continues to improve the quality of life for Colorado's elders at both the individual and systems-change levels.



State Long-Term Care Ombudsman Anne Meier (front row left) supports the network of ombudsmen who serve more than 43,000 elders in long-term care. Ombudsmen strive to resolve complaints that range from simple quality of care issues, such as a resident's preferred time for breakfast, to very serious, sometimes life-threatening, concerns involving abuse and neglect.

CELEBRATING 30 YEARS OF OLDER AMERICANS PROGRAMS

DLC's Executive Director, Mary Anne Harvey, Shares Historical Perspective

[The text below is based on remarks by Mary Anne Harvey to welcome participants to the National Association of State Long-Term Care Ombudsman Programs Conference held in Denver on April 24, 2018.]

This year marks the 30th Anniversary for Colorado's Long-Term Care Ombudsman and Legal Assistance Developer Programs to be part of Disability Law Colorado, the Protection and Advocacy System in our state. From the very beginning of the Ombudsman Program in 1978, there was legislative direction that the State Unit on Aging should contract the program to a private nonprofit agency outside of state government. This was based on recommendations from advocates and an interim legislative committee that the Ombudsman Program should not be part of the same state agency that administered Medicaid.



Under the leadership of Colorado's first State Long-Term Care Ombudsman, Virginia (Ginny) Fraser, the program was first with the Colorado Congress of Senior Organizations, a statewide advocacy organization, and subsequently with the Colorado Foundation for Medical Care and Research. Several advocates encouraged us to compete for the contract in 1987, and we were notified on December 27 that the program would come to our organization on January 2, 1988. I can testify that was a chaotic period for our organization. Because of procurement rules, we could not do the kind of advance planning we would ordinarily do to welcome new programs.

But Ginny Fraser was a force, and with her she brought Pat Tunnell, an assistant, and Ina Katich, the Legal Assistance Developer. Throughout the history of Colorado's Ombudsman Program, there has been a close alliance with the Legal Assistance Developer. The Legal Assistance Developer provides legal support to the Ombudsman Program as well as fulfilling other duties to oversee the statewide network of legal providers.

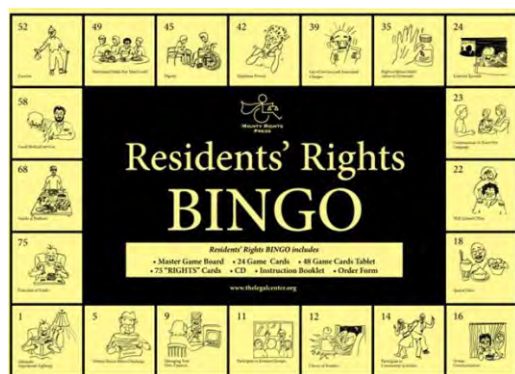
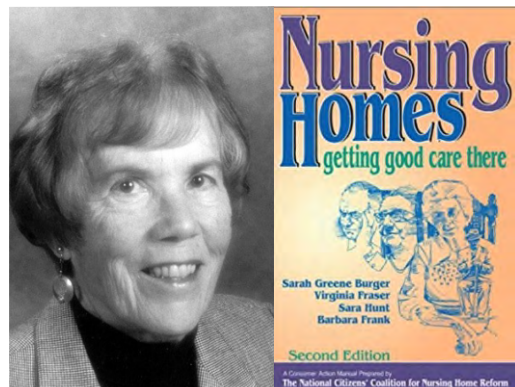
Ginny had a fierce commitment to nursing home reform. In 1984 she was part of a team that developed a policy concerning the principles and philosophy around what quality of life in a nursing home would look like for the Colorado Department of Health. The team included Jeff Jerebker, a close friend of hers. Here is what they came up with:

- *To promote strength and wellness through holistic and traditional therapies in an environment which is responsive to the natural aging process.*
- *The nursing home community fosters a sense of aliveness, through planned and spontaneous interaction both within the facility and with the community at large.*
- *Important elements of this interaction are intergenerational activities, laughter, love and self-expression with an integration of past, present and future life experiences and a respect for individual choice.*

Ginny was also highly creative and came up with the idea for the Residents' Rights Bingo game which would meet the Medicaid requirement for training residents and staff of nursing homes about residents' rights. Anne Meier, an advocate in our mental health program at the time, helped field test the game when she was working on her master's degree in social work. Shelley Hitt helped get funding to update the game in 2012. The game has been sold in every state and territory since 1990.

We have been the beneficiary of amazing long-term care ombudsmen: first, Ginny, then Pat Tunnell who job shared for a time with Janet Meyers, Shelley Hitt and now Anne Meier—a force in her own right. Part of our outstanding Older Americans team at Disability Law Colorado also includes State PACE Ombudsman Leah McMahon, Ombudsman Program Specialist Vinni Ferrara, and Legal Assistance Developer Kelsey Lesco.

I think the work the ombudsmen do is sometimes the hardest possible work—when the lives of very vulnerable people are at stake. I toast their many accomplishments in protecting the lives and rights of thousands of people in long-term care. I appreciate the commitment and grit it takes to do this work, and I am very proud that Disability Law Colorado is the home of these programs.



MOTION TO REOPEN “JAIL WAIT” CASE

2016 Settlement Violations Necessitate Further Litigation

In June, Disability Law Colorado filed a motion to reopen a federal lawsuit against the Colorado Department of Human Services (“the Department”) to enforce the parties' settlement agreement and ensure people with mental illness receive their court-ordered evaluations and treatment in accordance with the United States Constitution.

In 2011, DLC filed suit against the Department alleging that chronic delays in the system providing for court-ordered evaluations and restorative treatment led to individuals with mental illness languishing in jail for months without proper mental health treatment. These individuals had been charged, though not convicted, of various crimes, including low-level non-violent misdemeanors. The Department's failure to timely assess and treat these individuals delayed their ability to participate in their criminal proceedings.

The parties settled the suit in 2012, with the Department agreeing to admit individuals to the Colorado Mental Health Institute at Pueblo (“CMHIP”) within 28 days from the date they are “ready for admission” for evaluation or treatment. Three years later, the Department was again failing to timely evaluate and treat these individuals, this time in violation of the parties' settlement agreement. Disability Law Colorado re-opened the lawsuit and the parties again settled the case in 2016, this time with an Independent Consultant required to monitor the State's performance under the settlement agreement.

In 2017, the State indicated it was unable to keep pace with its obligations. This has left hundreds of people waiting in jail an average of four to five months from the “ready for admission” date to be provided proper treatment, and nine months to a year from the date of arrest. The individuals waiting are suffering greatly under the inadequate ability of our county jails to properly treat and manage individuals with serious mental health impairments. As negotiations to remedy the problem failed, DLC felt there was no option but to reopen the lawsuit once again. Disability Law Colorado is asking the District Court of Colorado to order the State to comply with the specific terms of the previous settlement agreement.

As noted above, DLC is also working proactively with other stakeholders in Colorado to find solutions to the problem of inadequate mental health treatment in jails and criminalization of mental health impairments. Disability Law Colorado believes strongly that the solution must include improving the delivery of mental health services in the community.



Disability Law Colorado is represented by Iris Eytan of Eytan Nielsen LLC, Caleb Durling of Fox Rothschild LLP, and Ellie Lockwood of Snell and Wilmer LLP. Other members of the Jail Wait Litigation Team include Scott Llewellyn of Morrison & Foerster LLP, Timothy Scalo of Snell and Wilmer LLP and Mark Ivandick and Jennifer Purrington of Disability Law Colorado. In 2017, the team was honored with the Colorado Lawyers Committee's 2017 “Team of the Year” award (see photo at left).

“One would think that a federal lawsuit would be a sufficient motivator for the Department to fix its decade old problem, but it has failed to develop an innovative and constitutionally appropriate program that keeps pace with the demand trends of which it is well aware,” said Mark Ivandick, Managing Attorney for DLC. “As a result, the problem has worsened, and the time for action is now. Without this lawsuit, thousands of individuals with mental illness will continue to be warehoused in jails without court ordered treatment. We are seeking the federal court's assistance to enforce the agreement in hopes that this vulnerable and often poor population are not warehoused and forgotten about indefinitely.”

ADVOCACY AND PUBLIC POLICY



As we continue our commitment to protect and promote disability rights, elder rights and quality long-term services in Colorado, you'll find Disability Law Colorado:

In the conversation: Informing and shaping the debate on disability rights, elder rights and long-term care; providing perspective to the media, partner groups, opponents, and thought leaders.

At the ballot: Our advocacy efforts put important policies on the ballot, giving Coloradans the power to advocate for disability and elder rights with their votes.

At the legislature: Elected leaders rely on Disability Law Colorado's expertise and unique insights on disability rights, elder rights and long-term care, often looking to us to better understand their communities' needs. We advance legislation and assist coalition partners with their goals.

In the community: Disability Law Colorado connects with local leaders and residents from communities across Colorado through outreach events and educational meetings, and also builds strong coalitions to elevate issues.

LEGISLATIVE EFFORTS GARNER GAINS

2018 Legislative Session Centers on Mental Health, Service Provision and Eldercare



Disability Law Colorado was very active in the state legislative session. Staff members provided information to legislators, participated in stakeholder meetings and testified before legislative committees on issues ranging from ensuring equal access to voting for people with disabilities, to protecting attorney-client privilege for attorneys working with elderly clients, and safeguarding the rights of individuals in the criminal justice system who experience serious mental illness. Here is more information on some of our legislative efforts:

SB18-249, 250, 251 and 252 Concerning Mental Health Treatment for Individuals in the Criminal Justice System - DLC staff worked diligently with various stakeholders to address the problem of individuals languishing in jails awaiting appropriate mental health treatment. As background, in 2011, Disability Law Colorado sued the Colorado Department of Human Services (“the Department”) for failing to timely evaluate and treat detained individuals who were incompetent to stand trial. A criminal defendant must be competent (able to understand the proceedings and assist in their defense) before criminal prosecution against them may proceed. The case resulted in a settlement (see “Jail Wait” story on page 9), but the Department has consistently failed to timely treat this vulnerable population. As a result, the Department proposed four bills this legislative session. DLC strongly supported three of the bills, all of which passed, and opposed one bill, which died.

Senate Bills 249, 250 and 251 create and enforce laws to divert low-level criminal defendants away from jail and into community mental health treatment (SB18-249), require appropriate mental health treatment in jails (SB18-250), and provide community mental health liaisons to the criminal court system. Together these bills work to ensure that individuals with mental health issues who are involved in the criminal justice system will be screened and provided necessary mental health treatment in the least restrictive setting appropriate to the circumstances. Disability Law Colorado applauds these efforts and looks forward to continuing to work with the Department and other stakeholders on successfully implementing these programs.

Unfortunately, though SB-252 had positive aspects, including outlining best practices in competency evaluation reporting and requiring valuable training for those working in the criminal justice system, it allowed individuals who had been charged with a crime, but not convicted, who had been deemed incompetent to proceed to trial to sit for months in jail without receiving proper mental health treatment in a therapeutic setting. Instead, the bill would have made Colorado the first state in the nation to codify, in perpetuity, the unconstitutional policy of providing competency restoration in a jail's general population setting. DLC staff worked until the eleventh hour trying to negotiate a compromise for the bill, but were unsuccessful. The bill died on the last day of the session. We are now working with key stakeholders to find a solution to this pressing issue.

HB18-1104 Family Preservation for Parents with Disability – Disability Law Colorado worked with stakeholders in the family law community to help pass this law establishing protections for parents or prospective parents with disabilities in domestic law situations, including divorce and custody, adoptions, foster care and guardianships. Specifically, the law requires that a court consider supportive parenting services and other necessary reasonable accommodations.

HB18-1405 Providers of Legal Services Reporting Exception – Under current law, those working for Area Agencies on Aging are considered “mandatory reporters” if they know of or suspect mistreatment of an at-risk elder or an at-risk adult with an intellectual/developmental disability. Disability Law Colorado strongly supported this bill, which creates an exception to the “mandatory reporter” provision for attorneys and their staff who provide legal assistance under contract with an Area Agency on Aging, thereby protecting the attorney-client privilege.

HB18-1211 Medicaid Fraud Control Unit – The Medicaid Fraud Control Unit has been working for years investigating and prosecuting Medicaid fraud and waste, as well as patient abuse, neglect and exploitation. This bill formalizes the unit in the Department of Law and requires the Department of Health Care Policy and Financing to include information about the unit in any correspondence regarding explanation of benefits it sends to Medicaid beneficiaries.

SB 18-015 Protecting Homeowners and Deployed Military - Disability Law Colorado initially strongly opposed this bill, which created an exception to current landlord-tenant law and allowed homeowners to evict “unauthorized” tenants with just a few hours' notice through an informal process rather than using the judicial system. DLC was concerned tenants with disabilities requiring the limited available accessible housing could be unlawfully removed from their residence with little to no legal recourse. Responding to DLC's concerns, legislators revised the bill to include a judicial process, allowing DLC to withdraw its opposition.



Anne Meier, State Long-Term Care Ombudsman (left) testifies at the Colorado State Legislature on legislation that would have created consumer protection within binding arbitration.

RED ROCKS AMPHITHEATER SETTLEMENT

Concertgoers with Disabilities Can Now Enjoy Music at Red Rocks

Concertgoers with disabilities can look forward to easier access to Red Rocks amphitheater this summer. As we reported in the fall newsletter, our Access Team partnered with the Civil Rights Education and Enforcement Center and the Colorado Cross-Disability Coalition in filing a class action lawsuit in federal court against the City of Denver for failing to make accommodations to allow people who use wheelchairs or other mobility devices to access the park, and (if they did manage to gain entry) to be able to sit in a location where they could actually see and hear the performance. Following negotiations with the City, a settlement was reached in November and finalized by the court in June 2018. Under the settlement, the City agreed to:



- Make changes to its ticketing and seating policies so that accessible seats are available only for purchase by individuals with disabilities who use wheelchairs or other mobility devices.
- Ensure that tickets for the first four rows of the venue (which includes accessible and limited mobility seating) will be non-transferable – purchasers will be required to present a government-issued photo ID.
- Publicize the new policies at Red Rocks and on their website, and require purchasers of accessible seats to acknowledge the new policies at the time of purchase and attest to the need for accessible seating at the time of entry to the venue.
- Continue to provide accessible shuttle service, including providing transportation for two wheelchairs at one time.



This was an important victory for Disability Law Colorado. Our advocates spend so much time fighting grim battles to help people with disabilities secure basic needs such as a home, a job, or an education. We defend the rights of children to attend school free of the fear of unlawful seclusion and restraint, and we uphold the human rights of people in prisons and jails. We believe it is also important to stand up for the rights of people with disabilities to have fun—to have access to the same opportunities for recreation and enjoyment that non-disabled people do. Our goals are centered on increasing opportunities for people with disabilities to live and work in the community, enjoying

independent and productive lives – and sometimes that involves watching a concert underneath the stars.

WELCOME NEW DLC STAFF MEMBER

Recent Staff Hire Provides Administrative Support



Elizabeth Nares, Administrative Assistant | Elizabeth was born in Texas and raised all over the U.S. and overseas. Her family was a part of the U.S. Navy family for over 25+ years. She has a Bachelor of Science in Criminal Justice, Master of Arts in Human Resource Development and a Master of Arts in Management and Leadership. She has worked in public service positions for the State of Texas, City of Denver and for attorneys in criminal, family and probate law. She takes great pride in helping others and contributing to their personal and professional success. She hopes to make a difference in the lives of people with disabilities of all ages, genders, races and religions.

DISABILITY LAW COLORADO STAFF

Mary Anne Harvey | Executive Director

Alison L. Butler, Esq. | Director of Legal Services

Mark Ivandick, Esq. | Denver Office Managing Attorney

David Monroe, Esq. | Grand Junction Office Managing Attorney

Kaytie Angeli | Administrative Assistant and Intake Specialist

Meghan Baker, Esq. | Facilities Attorney

Julie Z. Busby | Office Manager

Anna Dubnikov | Accounting Assistant

Vinni Ferrara | Older Americans Program Specialist

Anna French | Program Coordinator, Rights Advocate

Angela Garberding | Senior Intake Specialist

J. Patrick Hackney, Esq. | Community Integration Team Leader, Attorney

Emily Harvey, Esq. | Intake Team Leader, Attorney

Kelsey Lesco, Esq. | Legal Assistance Developer for the Elderly

Jennifer Levin, Esq. | Education Team Leader, Attorney

Shannon MacKenzie, Esq. | Access Attorney

Jim McBride | Director of Administrative Services

Leah McMahon | State PACE Ombudsman

Anne Meier | State Long-Term Care Ombudsman

Elizabeth Nares | Administrative Assistant

Olivia Pilcher | Grand Junction Rights Advocate

Jennifer Purrington, Esq. | Access Team Leader, Attorney

Mike Robbins | Director of Development and Marketing

Dolly Tarachand | Administrative Assistant

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MIGHTY RIGHTS PRESS EMPOWERS Equipping Advocates with Tools to Know Their Rights!

Mighty Rights Press, the publications division of Disability Law Colorado, was created with a two-fold goal of reaching more people with disabilities and older adults with the tools they need to advocate for their rights, and as a way to generate unrestricted income for our organization. The name “Mighty Rights Press” was chosen to emphasize the powerful rights of the people we serve. Mighty Rights Press remains steadfast and committed to providing powerful tools to advocate for elder and disability rights.



MIGHTY RIGHTS PRESS

Are you looking for advocacy tools? Do you know your rights? A variety of disability and elder rights resources are available for purchase at www.mightyrightspress.org to include:

- **Residents' Rights BINGO** - a fun interactive game that meets the Medicaid requirement to teach residents and staff their rights.
- **But I Don't Want Eldercare** - a book that examines eldercare rights and family support services.
- **The Everyday Guide to Special Education Law (Third Edition)** - a handbook for parents, teachers and other professionals.
- **Preventing Litigation in Special Education Workbook** - a supplement to The Everyday Guide to Special Education Law.
- **Guía de la Ley de Educación Especial** - the Spanish translation of The Everyday Guide to Special Education Law.

SAVE THE DATE Annual Open House Nov. 15

Join us for our Annual Open House on Thursday, November 15th from 4:30 pm to 6:30 pm. Come discover more about our work to protect disability and elder rights throughout the Centennial state. Our open house will feature great food, drinks, live entertainment and wonderful fellowship.

