



NEW WORLD

For Persons with disAbilities

May 2019

Californians for DisAbility Rights, Inc.

DCAD Edition

PRESIDENT’S MESSAGE

By Kathleen Barajas

The year has proven to be a busy one so far! All of our local board members attended at least one day of the Abilities Expo in Los Angeles. We chose not to have a booth again, due to the rising fees, but did distribute many newsletters and had our newsletters on two tables of disability rights lawyers. I consider Abilities Expos like family reunions, when you get to see friends who you may not see very often, but it's always great to run into them and catch up on what's been happening.

In March, I attended one day of the ARC conference in Sacramento. It was my first time attending, and it is definitely an event that I will attend again. Many consumers and advocates attended from all over the state, and a board member gave an overview of ARC's history. Some time was spent reviewing legislative bills that affect the disability community. Since this is an area that I need to become more knowledgeable in, I was very enthusiastic to learn all that I could. We then went over the proposed State budget for 2019, and discussed those items that affect the disability community. The ABLE Act was also discussed and it was stressed that more individuals need to enroll in this, so that it can remain sustainable. Later in the day, a woman from Hope House shared transition stories of some of her past residents with developmental disabilities who chose to go out to live and work in their community. This was so interesting and enlightening to listen to; the speaker was quite comical and used that in each of the stories. In the end, her message was that whatever disability a person may have, they have needs and wants just like anyone else, and should be treated as such! My message exactly!

In April, I was asked to participate in a focus group for the coming implementation of Electronic Visit Verification. It doesn't seem to be as bad as I understood it to be, and if you are already processing timesheets either on the website or on the telephone

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20 YEARS AND WAITING...TUCKER ET AL V. STATE OF CALIFORNIA PARKS

By Ruthee Goldkorn

If you want to know the particulars of the 14-year-old consent decree in this case, which has us as the institutional plaintiff, please go to our website. It was posted in 2005. If you want the particulars in the case filed in 1998, with a parallel case filed in 1999, you can go to Disability Rights Advocates website or simply do a search and in the search engine enter "Tucker et al v. State of California".

Please understand that most of the current information is still privileged, but you will be given a glimpse into the current status.

In 2005, the State of California agreed to a court-approved consent decree and they were given decades to make the California State Park System and its programs and services compliant, so that everyone, regardless of disability or severity of disability, can enjoy the same rights and privileges going to and staying in a State Park as non-disabled. Why all the attention on May of 2019? Because the State went to court, filed a motion, and said they need until 2038 to comply. Seriously??!!

Court mediation was set for and held May 8, 2019 in San Francisco. The bottom line is as follows:

1. The State cannot truly explain why they need the extra time or that amount of time.
2. The State relied heavily on the standard line: Look what we've done and look at the millions of dollars we've spent. Frankly, we don't care because they are far from done.
3. The State said that there were many barriers to projects because of secondary and tertiary State Agencies with jurisdiction who had to approve, i.e. The Coastal Commission, etc. They were asked why they do not have this lawsuit and the consent decree known to any and all agencies with cross jurisdiction, so that they cannot lag behind in their review and acceptance. The answer was non-committal and sort of like "we cant make them do anything". Yeah, they can and they should.

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NEW WORLD
DCAD 2019 Edition

**Californians for
DisAbility Rights, Inc.**
www.disAbilityrights-cdr.org

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**United We Stand,
Disability Rights are Civil Rights**

CDR's Mission: To improve the quality of life for all persons with any disability through education and training; by working to remove barriers through advocacy and change in public policy.

ELECTRONIC VISIT VERIFICATION UPDATE

By Kathleen Barajas

Last month, I was asked to participate in an EVV Focus Group. As I am on PASC's Registry Review Committee, we were invited, along with their board, to attend the meeting to learn more about EVV and give our input.

All the information I have been hearing over the last year or two about EVV had me very concerned. My provider not only lives with me, she does not use technology whatsoever. I was positive that I would either have to find a different provider who knew something about technology or take on the responsibility of doing the EVV requirements myself. I was also curious how a live-in provider would clock in their hours, given that enough such providers assist their consumers on and off throughout the day.

I will say that all the information given at this meeting was such a relief to me! I walked in with a very negative attitude towards EVV, however I walked out that afternoon knowing that everything was going to be fine; EVV is not the "big brother monster" that we all believe it to be!

If you and your provider have started using either the Electronic Services Portal or Telephone System to process timesheets, you are already halfway there for the EVV requirement. What will be different when EVV is implemented is that your provider will now be required to enter the Start Time, End Time, and Location for each day they provide services to you. Since most live-in providers give services intermittently throughout the day as needed, such providers do not need to keep track of exact times of service. They are only required to put 12:00 AM as the start time and 11:59 PM as the end time each day. For Location, the three options to choose from are Home, Community, or Both.

When using the Telephone System to process timesheets, each day's required information will need to be punched in using the phone's keypad. If an individual's disability prevents them from using the keypad, data can be entered by speaking the information; I believe prior authorization from IHSS needs to be obtained.

Contrary to popular belief, California's EVV system does not involve any electronic devices (other than the ones consumers already use) and no GPS tracking of any kind. Other states' EVV programs may involve dedicated electronic time and GPS tracking devices, California's does not.

The proposed EVV will put additional data entry requirements on the provider, not on the consumer. As providers should already be keeping track of the hours they start and end work, this information should already be on hand. Once the provider enters all their information for the work period, the consumer is alerted that the information is ready for their approval. The consumer then either logs in on the website or call in via telephone to approve their providers' hours.

The EVV pilot is to begin in July 2019, with the rollout schedules being by counties. EVV is to be fully implemented by December 2020. The workshop's presenter also said that the use of "paper timesheets" will be phased out by the end of 2020; they feel that the options of the Electronic Services Portal and the Telephone System should accommodate all IHSS providers and consumers of all abilities.

Certainly no new requirement will be fine for everyone, but I feel that it will be for the vast majority, once they learn more about it. EVV is a

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DISABILITY CIVIL RIGHTS - WHAT DON'T THEY GET?

As written by Laura Williams and published in the New World in 2005.

We've all seen them in our local papers; media articles on "abusive ADA lawsuits, drive-by lawsuits, and vexatious litigants"!

And it was only last May that a central California gentleman declared in a Senate hearing that "it's not like disability is a REAL civil right".

Many CDR members are experiencing negative responses from local business owners and managers - some have been physically assaulted!

Well - let's take a look at some of those terms.

Abusive ADA Lawsuits - I just cannot come to terms with the way the media and business community and chamber have decided that lawsuits filed to gain access are in some way abusing the public wealth. In fact - the pervasive and continuing refusal to meet the barrier removal obligations that have been required in California since 1970 - and under federal law since 1992 should be what violates the good conscience of Americans in every walk of life and of every ability!

Drive-By Lawsuits - I have yet to find a drive-through county clerk; do they perhaps refer to the very REAL violations we can see visibly from a vehicle passing the location? But even then, a person, unless it is a futile effort, must have experienced the discrimination of coming face to face with barriers that keep so many of us out of the local communities, public places, and government facilities- and they must have intent and opportunity to return to the place of business or public accommodations. So when you encounter that term "drive-by lawsuit", challenge the term...it is the equivalent of the "N" word that Jim Crow used so many years ago to keep people of color in their place. Don't let "THEM" define us with slurs and defamation! Access laws, codes, and regulations all have one thing in common - they are primarily enforced through civil litigation. Access is our CIVIL RIGHT and don't let even lawmakers from consecutive districts forget that!

Vexatious Litigant - now there is a real misnomer! Honorable people with disabilities filing in the appropriate court of jurisdiction to get relief from the pervasive non-compliance of access laws! Don't let THEM take the honor out of advocacy! If, in fact, any individual or legal representative does violate the canons of legal procedure - there are appropriate and

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NEW MEMBERS' COLUMN

By Susan Chandler

Lately we have gotten some new members who do not have access to the internet! Unfortunately, in this day and age, it so old fashioned not to be connected to email and the World Wide Web (WWW)!

People don't know what they are missing and, yet again, in some ways they are lucky because they are not bombarded by political ads through Facebook, Twitter or other "social media" applications! I can see why computers and the internet is so confusing, however, if one goes to their local library, they can use the library computer, and get help from the librarian, a volunteer or a young person, so that they can check out the CDR website, www.disabilityrights-cdr.org.

If they are a paid member, they can then email Kathleen at kdbarajas@icloud.com to ask to be added to our Members Xchange list server. This allows you to correspond with other CDR members; research matters of interest on the internet, share information and pictures with family, friends, and much more. It also allows you to get CDR alerts when we ask members to contact their legislators regarding a bill we are supporting or opposing, or to just let legislators (state and local) know you like the job they are doing. So it is useful to get hooked up to the Web...try it you might like it!

Anyway, I have recently gotten some interesting correspondence from new and renewing members who do not have internet that I thought you might like to know.

James Woodrow called me to find out how to rejoin CDR. For 18 years he told me he has been fighting for the civil rights of disabled people and service animals in San Diego and Riverside Counties and courts—getting them to rewrite their access policies to comply with the ADA! He said he knows and has gotten help getting better community access from Ruthee Goldkorn and Tony Goldsmith.

New member Isa-Kane Meksin recently sent me a membership form she picked up at the LA EXPO. When we talked, she said she was 91 years old and has no internet. She used to teach blind and partially-sighted people. She told me that she had just been reappointed to the County Advisory Committee to the Department on Aging, and hopes to bring disability issues of concern to the meetings.

A third new member is Ed Boies, an old friend from Salt Lake City, who told me he was really impressed by the newsletter I had handed him!

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IHSS CORNER

Contributed by Connie Arnold

The following links are helpful for IHSS applicants and for the understanding the IHSS Reassessment process, functional index ranks, and Hourly Task Guidelines (HTGs) for the In-Home Supportive Services program. Based on your Functional Index and Rank in each task that an IHSS Social Worker determines you fit under, will determine the possible range of hours you may be assessed by an IHSS Social Worker, County official, CDSS staff, or staff assigned to authorize your IHSS services or who can document your IHSS Unmet Needs Hours (when the service hours exceed IHSS maximum hours of monthly care need in specific authorized tasks you need).

Importance of documenting unmet needs service task hours is important when cuts happen because, for instance, if IHSS hours for all recipients are to be cut by 7% across the board, it means that the recipient unmet needs hours for services must be cut first. For persons with severe disabilities, this can mean that no cuts in hours will happen if you have extensive unmet needs hours above your maximum allowable In-Home Supportive Services (IHSS) hours. IHSS Social Workers do not like to document unmet needs hours, but if you can get them to document them.

It is important to understand that there are exceptions to the set hours under the Hourly Task Guidelines (HTGs) Functional Index and Rank service hours for those who have severe disabilities.

<http://www.cdss.ca.gov/inforesources/IHSS/Training-Academy>

<http://www.cdss.ca.gov/inforesources/IHSS/Fact-Sheets>

Functional Index Ranks/Hourly Task Guidelines Grid:

<http://www.cdss.ca.gov/Portals/9/IHSS/ITA/IHSS%20101/FI%20Ranks%20HTG%20Grid.pdf?ver=2019-01-17-143040-623>

All California Department of Social Services (CDSS) County Letter 06_34E Corrected Hourly Task Guidelines 2006 (IMPORTANT):

<http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl06/pdf/06-34E.pdf>

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SENIOR AND DISABILITY JUSTICE ACT PASSES SENATE 38-0

As printed in The Arc California's Monday Morning Memo.

Our bill to improve law enforcement agencies' protection of children and adults with disabilities and of senior citizens continued its progress through the Legislature last week.

The Senate passed Senate Bill 338 by Senator Ben Hueso 38-0 and sent it to the Assembly.

The bill calls on law enforcement agencies to take steps amounting to nothing less than a cultural shift in how they protect people with disabilities and seniors.

Here's what the bill does:

For the first time anywhere, the bill lists in one place all California laws protecting seniors and people with disabilities from abuse, sexual assault, domestic violence, human trafficking, hate crimes and homicide.

Every city police department and county sheriff's department that adopts or revises an elder and dependent adult abuse policy will be required to adopt a policy informing officers of these laws and guiding them on how to respond to these crimes. This includes:

Training all officers in handling these cases, with advanced training for specialized officers in each agency investigating every report of these crimes.

Mandatory emergency protective orders and on-the-spot arrests of perpetrators when necessary to protect victims or others.

Outreach to the community to encourage crime prevention and reporting to law enforcement agencies. Locally developed accountability protocols.

The bill also encourages law enforcement cooperation with other agencies such as adult and child protective services, long-term care ombudsman programs and regional centers, but clarifies that law enforcement agencies have exclusive responsibility for criminal investigations.

Disability Capitol and Aging Day

When: Thursday, May 23, 2019 - 10 AM

**Where: Cesar Chavez Plaza
910 I Street
Sacramento, CA 95814**

HOTEL ONLINE RESERVATION SYSTEMS AND THE ADA

By Mark Potter

It's been almost 6 years since the Department of Justice's revised Americans with Disabilities Act ("ADA") regulations went into effect, requiring, among other things, that all hotel online reservation systems be ADA compliant. This, in turn, means that the online reservation experience for individuals with disabilities must now be equivalent to the online reservation experience for individuals who do not have disabilities.

Under the 2012 regulations, hotels must:

- Ensure that individuals with disabilities are able to make reservations for accessible guest rooms during the same hours and in the same manner as individuals who do not need accessible rooms.
- Identify and describe accessible features in the hotels and guest rooms offered through its reservations service in enough detail to reasonably permit individuals with disabilities to assess independently whether a given hotel or guest room meets his or her accessibility needs. Information, including details about the configuration of accessible guest rooms and bathrooms; the availability of accessibility equipment or features such as bath benches, or visual alarm and alert devices for guests who are deaf or hard of hearing; and the accessibility of common spaces such as meeting rooms, lounges, restaurants, swimming pools, or fitness centers must be made available.



- Ensure that accessible guest rooms are held for use by individuals with disabilities until all other guest rooms of that type have been rented and the accessible room requested is the only remaining room of that type.
- Reserve, upon request, accessible guest rooms or specific types of guest rooms and ensure that the

guest rooms requested are blocked and removed from all reservations systems.

- Guarantee that the specific accessible guest room reserved through its reservations service is held for the reserving customer, regardless of whether a specific room is held in response to reservations made by others.



Surprisingly, many hotels still do not comply with these requirements. For example, some hotels post information about their accessible guest rooms in their online reservation system, but require that individuals seeking such rooms make their reservation by phone or in person. Other hotels post no information at all about the accessibility of their guest rooms or facilities. Both of these practices violate the law, and are actionable.

Third Party Travel Agents:

Hotels that use third-party online travel agents like Orbitz or Expedia are required to provide those agents with information concerning the accessible features of its facilities and guest rooms. Failure to do so may violate the ADA. However, if the hotels provide the required information and the third party agent fails to provide that information on its website, the hotel will not be held liable for the third party's failure.

Employee Training:

The ADA's new reservation requirements also require that hotels properly train their staff regarding their new reservation policies, and ensure that they are able to identify which specific features are included in their designated accessible guest rooms.

If you plan to travel in the upcoming months and will be making your reservations online – know your rights! If you encounter a hotel website that violates the law, contact CDA at 800-383-7027 for further assistance. CDA will never charge anything out-of-pocket.

PRESIDENT'S REPORT

(Cont. from page 1)

system, you are already set for EVV, with some additional data input requirements. See my article about EVV on page 2 of this newsletter.

On May 2 in Los Angeles, a hearing was held to discuss Uber's accessible transportation in the county. Currently Uber is beginning to offer accessible transportation here in some areas; I am fortunate to live in one on those areas and reportedly not too far where Uber keeps accessible vans. MV is also partnering with them, sharing some of their accessible vans, but I don't know who owns the other vans that I ride in. Uber has quite a ways to go in offering accessible vehicles in more areas, however, in my opinion, they are making an effort and as long as they continue to make progress, that is what counts in my book!

The upgrade to the CDR website is going slow, due to other commitments, but we are making progress. The platform has already been converted to WordPress, which was not too difficult with the help of our web host provider. Next comes the overall page layout design, especially for the home page, then I will begin inserting the text. If anyone has ideas or suggestions for the new website, please contact me. Just as a FYI, the current website will remain in place until the new site is ready to launch, either this Summer or early Fall.

CDR will again have a table at Disability Capitol and Aging Day in Sacramento on May 24. This year we are sharing a table with ACSED, of which our member Catherine Campisi is a member. A few of our board members will be there, so come by to say hello and grab something newsletters and brochures to pass on to others!

In advocacy always, Kathleen

ELECTRONIC VISIT VERIFICATION UPDATE

(Cont. from page 2)

mandate from the Federal Government, thus if California decides not to comply, the State will lose millions of dollars in funding.

Here is the website we were given regarding EVV, which includes video and information: www.cdss.ca.gov/inforesources/ihss/evv.

20 YEARS AND WAITING...TUCKER ET AL V. STATE OF CALIFORNIA PARKS

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4. The State now admits and agrees that 2038 is rather unreasonable and in the last week, Disability Rights attorneys have been continuing the talks with the State. The court has stated it is available and willing to have status conferences and further discussions in her courtroom to keep this case moving forward.

So good people, this is an ongoing saga and shows you that perseverance, persistence, and intestinal fortitude are required to get to, get at, and obtain the right to go camping, to go skiing, to go swimming, to go kayaking, to...well just GO! This is so old, there is now a new word "glamping". Me, I am the #1 fan of the world's greatest invention, indoor plumbing. If a park has that, I'm going! Will you?!

DISABILITY CIVIL RIGHTS - WHAT DON'T THEY GET?

(Cont. from page 3)

functioning disciplinary measures that will be brought to bear. Don't let the fact that a few activists judges have decided that they are going to defeat access laws from the bench, scare you into thinking that something bad or immoral or dishonorable is occurring! The real dishonorable are wearing black robes instead of white, but the message is the same - don't try to get your civil rights honored here!

We as a community MUST take back the fight! We must decide the terms and words that define us! Make those that would discriminate so openly pay the price as though they had uttered the "N" word in national media. No reasonable American would tolerate such an utterance - and we should make sure that we do not tolerate blatant and pervasive discrimination.

Discrimination - yes - it is as a matter of law that when businesses or persons remain in violation of the laws, codes, and regulations that are designed to provide access - as a matter of law - that is a deliberate act of discrimination. Don't let THEM forget it!

NEW MEMBERS' COLUMN

(Cont. from page 3)

We got recent renewals from three long time members:

1. Josephine Guttaduro, who lives in Palo Alto, has no internet access. When I talked to her, she told me that she used to be an Editor for Stanford professors, but her health is not so good and she is now bed ridden. She had polio at age 15 and has been fighting the bureaucracy all this time for accessible housing and transportation! She was a CAPH Transportation chairman and calls Paratransit "Psuedotransit" a disaster in Santa Clara County.
2. Ronald Artale, from Concord, and when I called him he told me he now had an email address!
3. Rhonda Wolfgang, of Chatsworth, who has no email address or phone number to call her, so I could not talk to her.

IHSS CORNER

(Cont. from page 4)

Notice of Action (know what you need help with and make a list):

<http://www.cdss.ca.gov/Portals/9/IHSS/ITA/IHSS%20101/Notice%20of%20Action.pdf?ver=2019-01-17-101700-787>

The Wrong And The Better Way To Document:

<http://www.cdss.ca.gov/Portals/9/IHSS/ITA/IHSS%20101/Documentation.pdf?ver=2019-01-17-101702-440>

Videos:

- <https://www.youtube.com/watch?v=w8Tzxi6tnw&feature=youtu.be>
- <https://www.youtube.com/watch?v=EBzAJWld0g&feature=youtu.be>
- <https://www.youtube.com/watch?v=CfSwHT3xZY0&feature=youtu.be>
- <https://www.youtube.com/watch?v=j8u3GO3qdic&feature=youtu.be>

Home Visit: DME and Assistive Devices:

<http://www.cdss.ca.gov/Portals/9/IHSS/ITA/IHSS%20101/Interview%20Resources%20and%20Tools.pdf?ver=2019-01-17-102418-637>

Older Hourly Task Guideline Links:

- <http://www.cicaihss.org/sites/default/files/1-fact-sheet-fi-rankings-htg-table-accessible.pdf>
- [http://www.cdss.ca.gov/Portals/9/Documents/IHSS%20Authorized%20Tasks%20final-2.9.17%20\(1\).pdf?ver=2017-03-08-151054-380](http://www.cdss.ca.gov/Portals/9/Documents/IHSS%20Authorized%20Tasks%20final-2.9.17%20(1).pdf?ver=2017-03-08-151054-380)
- <http://www.cdss.ca.gov/Portals/9/Documents/IHSS%20Overview%20FINAL-2.9.17.pdf?ver=2017-03-08-150254-537>
- <http://www.cdss.ca.gov/Portals/9/IHSS/ITA/IHSSProgramServices.pdf?ver=2018-01-08-143635-923>

I hope you find these IHSS links helpful for your individual case. Remember to make a list of every task and service you need help with, so it is tailored to your needs for when you meet with an IHSS Social Worker or are discussing your own needs with public officials. If you need more help, stress what your service and task needs are that you need help with. Maximum IHSS hours are 283 hours per month. For those needing additional help, look up In-Home Operations (IHO) and consider an IHO Waiver (send in the two-page application by certified return receipt mail).

MEMBER ALERT

We are in the process of doing a reconciliation of our Membership Database. We are concerned that some members were removed from our database and mailing list in error.

If you have renewed in the past year or are a lifetime member, you can ignore this notice. If you have not renewed or cannot remember renewing recently, please renew by using the Renewal Form on the back of this newsletter, or by visiting www.disabilityrights-cdr.org/membership/appandfees.html.

Email Kathleen at kdbarajas@icloud.com with any questions you have, or if you need information on your latest renewal.

**Help us continue
the fight in Sacramento!**

Californians for Disability Rights, Inc.
 C/O Kathleen Barajas, President
 1410 Simmons Avenue
 Los Angeles, CA 90022

Return Service Requested

CDR MEMBERSHIP APPLICATION		
FIRST NAME, MIDDLE INITIAL, LAST NAME	<input type="checkbox"/> New or <input type="checkbox"/> Renewal	
STREET ADDRESS, APT. #		
CITY	STATE	ZIP
TELEPHONE (Home/Fax)	E-MAIL ADDRESS (print carefully)	DATE
MEMBERSHIP FEES: <input type="checkbox"/> Regular - \$25.00 <input type="checkbox"/> Family (2 people) - \$40.00 <input type="checkbox"/> Student/Low Income - \$10.00 <input type="checkbox"/> Lifetime - \$200.00		AMOUNT ENCLOSED
<input type="checkbox"/> Please put me on the CDR Members Exchange via Yahoo Groups *must supply e-mail address		
INSTRUCTIONS: Check the web site for more membership info: www.disabilityrights-cdr.org Print out this form, complete all entries, and mail it with a check for amount due, payable to: <div style="text-align: center;"> Californians for Disability Rights, Inc. C/O Susan Chandler 1193 17th Street Los Osos, CA 93402-1425 </div>		