by John A. Hamilton

Remember 1977? It was the year the World Trade Center was completed, Reggie Jackson hit three home runs in a World Series game, Seattle Slew won horse racing’s triple crown, Rapid City native and WNBA star Becky Hammon was born, Star Wars hit theaters, Roots hit television, and Elvis left the building. It was also the year an individual by the name of Robert J. Kean agreed to move to Pierre to start-up this new protection and advocacy program that had been recently created within the Developmental Disabilities Act. His work began on February 1, 1977, and on August 25, 1977, Governor Richard Kneip designated South Dakota Advocacy Project as South Dakota’s protection and advocacy agency.

While some things change constantly, other things never change. Robert J. Kean has been Executive Director of South Dakota Advocacy Services throughout its 35-plus years of advocating on behalf of South Dakotans with disabilities. Robert is one of only two of the original executive directors left in the P&A system.

From its very meager beginnings, South Dakota Advocacy Project began growing over time, changing its name in 1989 to South Dakota Advocacy Services to reflect its longevity and growth. While only the Protection and Advocacy Developmental Disabilities (PADD) Program existed for the agency’s first seven years, Congress added the Client Assistance Program (CAP) in 1984 and the Protection and Advocacy for Persons with Mental Illness (PAIMI) Program in 1986. The Protection and Advocacy for Individual Rights (PAIR) and Protection and Advocacy Assistive Technology (PAAT) Programs began in 1994, followed by the Protection and Advocacy for Beneficiaries of Social Security (PABSS) Program in 2000, and the Protection and Advocacy Traumatic Brain Injury (PATBI) and Protection and Advocacy Vote Act (PAVA) Programs in 2002. With these additional programs, the agency grew in both staff numbers and geographically, establishing offices in Sioux Falls, Yankton, and Rapid City in the late 1980s.

The one constant since the agency’s inception has been Robert J. Kean. To recognize Robert’s efforts and leadership, during an all-staff in-service in late June, staff surprised Robert with a celebration of his 35 years with the agency.

Robert J. Kean
(Continued on page 2)

IN THIS ISSUE...

Robert J. Kean, SDAS, 35 Years ............ 1
iPads in Schools ............................ 3
Youth Anti-Stigma Video ................. 3
Disability.gov Website Portal ............ 4
Legal Pull-out Section .......................... 5
Jimmie v. Sebelius ............................ 5
Transfer of Rights at Age 18 .................. 6
Mental Health Statute Revisions .......... 9
Yankton NDEAM ............................. 13
Are You Prepared? .......................... 13
Partners in Policymaking ................. 14
complete with a slide show and a collage of staff photos from each of the four offices.

The June event was just window dressing – a diversion. When staff and the Board of Directors met in Pierre on September 21-22 for the Board’s annual meeting, Robert was in for another surprise. Staff had contacted current and former staff and board members, friends and family, and professionals who have worked with Robert over the years, asking them to bring a photo of Robert as inspiration. The response was so large that when the time came, the Board presented Robert with two large scrapbooks full of the individual notes and photos of Robert, staff, board members, and others (see photo on page 4).

The festivities began when Board member, Vikki Day, asked for everyone’s attention. Then shared the following:

As members of the SDAS Board of Directors, we’d like to congratulate South Dakota Advocacy Services for being a voice for South Dakotans with disabilities for the last 35 years. Board members and staff have come and gone since SDAS was born in 1977, but the one constant has been Robert J. Kean. Robert, thanks for writing the original grant. In fact, we’re told that when you moved to Pierre, you told “your bride” and your family that “We’ll only be here five years” — we are SO glad you miscalculated! What’s 30 years here or there among friends and family?

Robert, saying thanks to you seems so inadequate. You have done so much for the agency, communities, the state, and for all people with disabilities. You are a tireless advocate, a gentle giant, a calming presence, and an “all-around” great guy. SDAS has been very fortunate to have your guidance and foresight for the last 35 years.

So many memories have been made that we felt there was only one way to capture even a fraction of those and that was to prepare you a scrapbook. As you look through these pages, you’ll see letters and photos from family, friends, colleagues, Board members, staff, agencies, legislators, etc. We hope that each letter brings a smile to your face and happiness to your heart. So Robert, from the Board and staff we present you with MEMORIES.

And … we’re not done yet. At 7 p.m., you will see some familiar faces of many of those whose sentiments can be found throughout pages in your book because, SURPRISE, we are having an open house!!

Board member, Cary Gronemeyer, then read a proclamation from Governor Dennis Daugaard, declaring September 21, 2012, as Robert J. Kean Day in South Dakota. By then, the room had begun to fill with well-wishers.

Robert was truly surprised and thanked everyone for their part in his “surprise,” and emphasized that it is the staff, Board, and the people with disabilities in South Dakota who have assisted him in directing SDAS. Congratulations Robert and SDAS on 35 years!
THE iPad - A DIFFERENT MODALITY

by Marie McQuay

Luke Comeau and Shelly Grinde of the University of South Dakota, Center for Disabilities, Sioux Falls, recently presented training at several South Dakota locations on Computer Based Interventions for Individuals with Autism Spectrum Disorder (ASD) and Other Developmental Disabilities. Luke presented information about the iPad, domains, and apps, while Shelly presented information on determining if an App is Evidence-Based.

The iPads were not originally created for educational purposes. The real reason why iPads were introduced into schools was for communicative purposes. iPads are being offered for a fraction of the cost of other devices that have been on the market. While paying for more expensive items, Medicaid is currently not paying for these devices. Private insurance may be an option, but at this point in time, very few private pay insurances will cover the cost of an iPad.

The training demonstrated how iPads can be used for five domain areas. The first is Personal/ Business. This domain makes specific areas of our lives easier. It can be used for email, the web, apps for online banking, credit cards, weather, and newspaper. The second domain is Entertainment, used for entertainment and leisure. We can enjoy movies, music, books, and apps for games. The Education domain is a tool used to enhance learning. There are different apps, such as Math Blaster, iWrite Words, Flash Cards, Letter Tracer, Math Academy, and Brainquest to name just a few. The fourth domain is Communicative. Many apps, such as Proloquo2Go, Go Talk, Talk Tablet, I Communicate, Grace, and many others are available for this domain. It is important to remember that courts have ruled that if an individual is using the Communicative domain of the iPad, it means the device has now become a Part Of the person. Likewise, if the Executive Functioning domain is being used by an individual, it becomes a Part Of the person. That person is being helped with the memory, organization, and time management skills of this domain.

In the education setting, it is best to match the domains to be used with the Individualized Education Plan (IEP) of a student. Before implementing any iPad technology, it is important to make sure there is a goal and a plan for its use. Only one domain at a time should be introduced to an individual who will be utilizing an iPad, and that domain should be completed before moving on to another domain if it is needed. As stated by Luke Comeau, “It’s not the iPad that makes the difference; it is how you use it!”

Shelly Grinde shared information about the Five-Step Process for Determining if an App is Evidence-Based. The first step is to frame our clinical questions using PICO (Population, Intervention, Comparison, and Outcome). The second step is to find the evidence. A good website to do this is at nectac.org. It will provide specific information related to research in the area of early childhood intervention. Other websites are asha.org/research and ncepmaps.org. Step three requires assessing the evidence. At Step four, you can begin to search the app store and consult the evidence. A website for obtaining some free apps is smartappsforkids.com. The apps are only free at the time they are being offered for free. Finally, step five involves making a clinical decision and integrating the different types of evidence to determine your choices.

An important quote shared was “An Augmentative and Alternate Communication (AAC) device is not going to turn someone into an efficient communicator any more than a piano turns someone into a concert pianist.” In other words, simply providing the assistive technology device is not sufficient; assistive technology services must also be part of the plan in order to teach the student, parents, and teachers how to effectively use it. It should be noted that currently, technology integration, specific to autism interventions, is in the emerging category.*

(Continued on page 4)

PAIMI Program Producing Youth Anti-Stigma Video

by Dianna L. Marshall

The Protection & Advocacy for Individuals with Mental Illness (PAIMI) Program provides rights protection and advocacy services to individuals with mental illness or psychiatric disabilities. Seven years ago, the PAIMI Program produced a short video focusing on how stigma associated with mental illness affects the lives of adults through sharing their thoughts and experiences. This DVD was disseminated state-wide to law enforcement agencies, various organizations, and to the general public. It was very well received (you can view it at www.sdadvocacy.com). A priority for the PAIMI Program this fiscal year is to produce a similar video, this time focusing on youth and how stigma associated with mental illness affects their lives in the community, school, work, and home environments.

Mental illness can affect anyone at anytime - a friend, neighbor, co-worker, or family member. Stigma remains the biggest barrier to individuals seeking treatment. There are so many negative beliefs and attitudes associated with mental illness that can affect individuals in their everyday lives at work, school, and in the community. Stigma also can lead to discrimination.

Stigma will not go away overnight, but our hope is that this video will help “combat stigma” and change the general public’s perception and attitude toward mental illness. Our communities need to learn how to support a person living with mental illness and change the negative stereotypes associated with this disability.

How can you help? We are looking for youth between the ages of 15-19 to be interviewed for this video. The person would need to be comfortable in talking about their mental illness and in sharing their experiences. If you are interested in participating in this project, please contact the PAIMI Program Director at 605-342-3808 or at marshaldi@sdadvocacy.com.
What’s Your Connection?

by Valorie Ahrendt

Disability.gov is a website portal containing comprehensive information on disability services and programs all over the United States. It is managed by the Department of Labor’s Office of Disability Employment Policy, in collaboration with 22 federal agency partners, such as the National Council on Disability, Department of Veterans Affairs, Social Security Administration, Department of Transportation, and Department of Education. A web portal means that the site links to more than 14,000 resources from local, state, and federal governmental agencies, academic institutions, and nonprofit organizations. If an individual has questions about disability-related topics, this is the site to go to for answers. New information is added every day regarding 10 main subject areas. These areas are:

- Benefits;
- Civil Rights;
- Community Life;
- Education;
- Emergency Preparedness;
- Employment;
- Health;
- Housing;
- Technology; and
- Transportation.

When an individual selects a resource, a link will take them to another website that contains the information. For example, clicking on a resource about employment for young adults with disabilities in South Dakota will lead to the Department of Human Services, Division of Rehabilitation Services, which provides detailed information about the South Dakota Project Skills Program. The main purpose of Disability.gov is to connect people of all abilities to the resources they need to fully participate in their communities.

Disability.gov is celebrating its 10th anniversary. To commemorate this anniversary, Disability.gov has launched a campaign called, “What’s Your Connection?” This campaign emphasizes that disability is a natural part of the human experience and focuses on the integral role people with disabilities play in American society. According to Kathy Martinez, Assistant Secretary of Labor for Disability Employment Policy, there are nearly 57 million individuals with disabilities in the United States and they are all connected to their family, co-workers, friends and neighbors. The What’s Your Connection? initiative is growing into a grassroots movement emphasizing the connections among all people. Disability.gov is asking people nationwide to participate by sending in a captioned photo or video answering the question, “What’s Your Connection to Disability?” Participants are to explain how having a disability or knowing someone with a disability has touched their life. “By sharing how disability touches us all, we can reinforce and encourage the inclusion of people with disabilities in every aspect of daily life, in our homes, communities and workplaces,” states Kathy Martinez.

This campaign will run from October 30, 2012, through July 31, 2013. Participants should send their photograph and caption to disability@ dol.gov. Video submissions should be uploaded on YouTube and include the hashtag “#myconnection2,” in the title. Please visit Disability.gov at https://www.disability.gov/home/newsroom/what’s_your_connection for more information and details regarding submissions. To see the photographs that have already been submitted, visit http://www.flickr.com/photos/disabilitygov.

iPad

(Continued from page 3)

Do your homework when choosing a device and the apps that best suit the individual who will be using it. The point that Luke reiterated was that before purchasing any form of technology, one should make sure to have a plan for its use.

*Evidence Based Practice and Autism in the Schools: Published by the National Autism Center.

Robert J. Kean with Lori Douville (left) and Sandy Stocklin Hook (center), creators of his Memories scrapbooks.
effective immediately, thousands of individuals with chronic conditions and disabilities may find it easier to qualify for Medicare coverage of home health care, skilled nursing home stays, and outpatient therapy due to a recent settlement proposed in the case of Jimmo v. Sebelius.

The lead plaintiff in this case, Glenda R. Jimmo, has been blind since childhood. Her right leg was amputated below the knee because of blood circulation problems, and she uses a wheelchair. She was receiving visits from nurses and home health aides until Medi-care denied coverage for those services because her condition was “unlikely to improve.” She was joined in this legal action by many others with severe and chronic conditions who also were denied treatment and services based on what has been dubbed the “Medicare Improvement Standard.”

Medicare is required to cover up to 100 days of skilled care or rehabilitation. Currently, it is common practice that rehabilitation or skilled nursing facilities will issue a Notice of Medicare Skilled Care Termination as soon as there is any doubt that the patient needs ongoing skilled care. Often the reason given is that the patient has reached a “plateau” in his or her progress. That language cannot be found within Medicare law and regulation, but it is used by facilities and permitted by the Centers for Medicare and Medicaid Services (CMS), the federal agency charged with oversight of federally-supported health care programs.

Plaintiffs argued that this “standard” operates as a de facto rule of thumb that prevents the evaluation of a beneficiary’s unique condition and individual need for skilled care, as required by law. The plaintiffs challenged the continued use of the improvement standard as a policy because it results in the loss of Medicare coverage to thousands of individuals on the grounds that their condition was stable, chronic, not improving, or that the necessary services were for “maintenance only.” The use of this illegal standard has had a particularly devastating effect on patients with chronic conditions such as Multiple Sclerosis, Alzheimer’s disease, ALS, Parkinson’s disease, and paralysis.

Contrary to current practice, the Medicare regulations explicitly state:

The restoration potential of a patient is not the deciding factor in determining whether skilled services are needed. Even if full recovery or medical improvement is not possible, a patient may need skilled services to prevent further deterioration or preserve current capabilities.

The proposed settlement was submitted in late October to the chief judge of the Federal District Court in Vermont. If she approves it, she would have authority to enforce the settlement for up to four years. Some of the key provisions of the 30-page proposed settlement include the following:

1. A nationwide class will be certified consisting of all beneficiaries who received an adverse administrative decision based on the Improvement Standard that became final and non-appealable on or after January 18, 2011. Many of those class members will be entitled to review of their claims.

2. CMS will revise relevant portions of the Medicare Benefit Policy Manual to eliminate any suggestion that a beneficiary must show a potential for improvement in order to receive skilled care.

3. CMS will engage in a nationwide Educational Campaign to communicate the corrected maintenance coverage standards to providers, contractors, and adjudicators.

4. CMS will do random samplings of QIC (Qualified Independent Contractor) decisions to determine if the corrected policy is being applied and review up to 100 claims brought to them by plaintiffs’ counsel. QICs review initial appeals.

5. The Court will maintain jurisdiction for up to two or three years after the end of the Educational Campaign, during which time plaintiffs may seek enforcement of any settlement provisions that they believe the Secretary is not complying with.

CMS recognizes the settlement does not change the underlying law and regulations governing the Medicare program. Because the underlying Medicare law has not changed, nursing homes and other health care providers should implement the maintenance standard now.

Dr. Lynn Gerber, director of the Center for Study of Chronic Illness and Disability at George Mason University in Virginia, called the settlement “a landmark decision for Medicare recipients with chronic illness and especially those with disability. Disability frequently accompanies many chronic conditions.” Dr. Gerber said, “and we often have no cures, so people are likely to experience progressive disability. Rehabilitation, physical and occupational therapy and skilled care are incredibly important in maintaining a person’s functional ability, performance and quality of life.”


2 Centers for Medicare & Medicaid Services (CMS). Medicare Coverage of Skilled Nursing Facility Care. Depart-
Transfer of Parental Rights at Age of Majority – Is It That Simple?

by John A. Hamilton

Nationally, most youth look forward to the day they become “legal” adults, meaning reaching the age of majority. The age of majority is determined on a state-by-state basis. South Dakota set it at age eighteen, so this article will refer to age eighteen as the age of majority. When youths reach the age of majority, their legal relationship with their parents and society changes dramatically, probably in several ways in which youth (and parents) are unaware. Additional changes, which are described in the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), take place for students with disabilities. The IDEA sets out how a number of “parental rights” will transfer to the student upon reaching the age of majority. This article will discuss IDEA’s transfer of parental rights, its legal implications, and the information districts actually provide to students and parents on transfer of parental rights, as well as guardianship and rights pertaining to all youth reaching the age of majority.

IDEA’s Transfer of Parental Rights at Age of Majority

IDEA sets out provisions regarding how parental rights transfer to the student upon reaching the age of majority. Specifically, at 34 C.F.R. § 300.520(c), as part of the definition of an individualized education program (IEP), it states: “Transfer of rights at age of majority. Beginning not later than one year before the child reaches the age of majority under State law, the IEP must include a statement that the child has been informed of the child’s rights under Part B of the Act, if any, that will transfer to the child on reaching the age of majority under § 300.520.” This requirement is pretty straightforward – because one becomes an “adult” in South Dakota at age eighteen (age of majority), the IEP must therefore include a statement prior to the student’s seventeenth birthday that the student and parent have been informed that parental rights will transfer to the student at age eighteen.

Similarly, 34 C.F.R. § 300.520, which is contained in IDEA’s procedural safeguards, states: “Transfer of parental rights at age of majority. (a) General. A State may provide that, when a child with a disability reaches the age of majority under State law that applies to all children (except for a child with a disability who has been determined to be incompetent under State law) — (1)(i) The public agency must provide any notice required by this part to both the child and the parents; and (ii) All rights accorded to parents under Part B of the Act, transfer to the child; (2) All rights accorded to parents under Part B of the Act, transfer to children who are incapacitated in an adult or juvenile, State or local correctional institution; and (3) Whenever a State provides for the transfer of rights under this part pursuant to paragraph (a)(1) or (a)(2) of this section, the agency must notify the child and the parents of the transfer of rights. (b) Special rule. A State must establish procedures for appointing the parent of a child with a disability, or, if the parent is not available, another appropriate individual, to represent the

educational interests of the child throughout the period of the child’s eligibility under Part B of the Act if, under State law, a child who has reached the age of majority, but has not been determined to be incompetent, can be determined not to have the ability to provide informed consent with respect to the child’s educational program.” This regulation adds that transfer of rights applies to all children with disabilities, including those who are incarcerated, unless the student “has been determined to be incompetent under State law.” This clause would be referencing situations where a guardianship is in place in South Dakota. This regulation also adds section (b), which references a parent or other individual being appointed to make educational decisions for students age eighteen or older in South Dakota if South Dakota law allows for a determination that the student does not have the ability to provide informed consent despite a guardianship not being in place. Under South Dakota law, only a court can take away rights by a determination that one is not capable of making decisions. Therefore, section (b) does not apply in South Dakota. South Dakota’s administrative rules contain similar provisions at ARSD 24:05:30:16.01.

What Happens When Parents/Students are “Informed” of the Transfer of Rights?

The South Dakota Special Education Programs office has an IEP template and IEP Technical Assistance Guide on its website. The sample IEP states, on a transition services page: “Transfer of Parent/Guardian Rights (must be addressed on or before the 17th birthday).” Below that, the sample IEP contains the statement: “Student will turn 17 on ___. Student was informed of this transfer of rights on __/__/____.” In terms of an explanation, the Technical Assistance Guide states: “By age 17 or earlier, the student’s IEP must contain a statement that the student has been informed of the rights that will transfer to him or her upon reaching age 18. In this section, document the day, month and year the student will turn 17 years old and the day, month and year that the parents and student were informed of the transfer of rights.

Unless parents assume guardianship, all rights previously afforded to parents will transfer when the student turns 18 years of age. The student will receive prior notice for the IEP and approve the Individual Education Program. Consent to evaluate, change in educational placement, review of records, and mediation/de due process will all become rights of the student.” The Technical Assistance Guide lists some of the rights that will transfer, but provides no guidance as to what districts should actually be telling students and parents/guardians. Special Education Programs also provides a technical assistance document entitled “Parental Rights and Procedural Safeguards” on its website, but in terms of the transfer of parental rights, all it contains is the language of the federal regulation.

Transfer of Parental Rights
(Continued on page 7)
Transfer of Parental Rights
(Continued from page 6)

The IEP Technical Assistance Guide is geared toward ensuring districts comply with the timelines and properly document that parents/students are informed, but it provides districts with no direction regarding the expected content of that discussion. The Parental Rights document provides even less information. What exactly do districts tell/explain to students and parents/guardians at these IEP Team meetings prior to the students’ seventeenth birthdays? Do district personnel limit the discussion to merely telling the students and parents/guardians that all parental rights will transfer to the student when the student turns age eighteen? Do district personnel at the IEP Team meetings go a step further and list some or all of the rights that will transfer (e.g., rights to prior written notice, requesting IEP Team meetings, determination of IEP Team members, setting date and time of IEP Team meetings, providing consent for reevaluations and release of information, seeking independent educational evaluations, filing Due Process Complaints)? Or, do district personnel take yet another step further by going through each parental right and actually explaining what they mean to the student? Obviously, the third option will provide students and parents/guardians with the most meaningful information.

In an unscientific poll taken at a recent Transition Forum in the eastern part of the state, the consensus among participants was that districts do make sure students and parents/guardians are informed in a timely manner that rights will transfer when the student turns age eighteen (complying with the timeline in the regulation), but they provide very little, if any, explanation as to the implications of the transfer of rights. Participants were very concerned that families — both students and parents/guardians — therefore lack a true understanding of what occurs at age eighteen under IDEA.

How Can Transfer of Parental Rights be Made More Meaningful?
Without an understanding of what the transfer of rights actually means for students, the regulatory language is not very helpful. Perhaps an initial step in remedying this is to ensure students with disabilities are actively participating in transition programming. Beginning with the IEP that will be in place when the student turns age sixteen (or younger if appropriate), IDEA requires districts to specifically invite students to participate in IEP Team meetings because that is the time when transition services must be included in the IEP. 34 C.F.R. §§300.320(b); 300.321(b). IDEA requires the IEP Team to ascertain each student’s “preferences and interests” and provide transition services taking into account those preferences and interests. 34 C.F.R. §300.43(a). Assuming the students are being invited to the IEP Team meetings as IDEA requires, answering the following questions will provide insight regarding individual situations. Are students actually attending the meetings? If students are attending the meetings, are they actively involved in the discussions and determination of services? Do teachers (and parents) discuss the meetings ahead of time with students to alleviate fears and prepare the students for actively participating in the meetings? Are students encouraged to not only participate, but to lead the IEP Team meetings when appropriate? Are students asked (by teachers and parents) who they want to invite to their IEP Team meetings? If the answer to each of these questions is “yes,” this type of preparation can go a long way toward ensuring students are not dragged into the meetings, only to be put on the spot with questions as to what the student wants to do or be when leaving the school system, which frequently results in the response, “I don’t know.” By taking these steps and promoting students’ active involvement at IEP Team meetings, students will become familiar with the IEP Team process and, with that understanding, will glean at least some knowledge of the parental rights that will transfer at age eighteen.

Active participation in IEP Team meetings alone, however, will not impart students with a good understanding of all the parental rights that will transfer at age eighteen. For most students with disabilities, simply supplying the student with a copy of the parental rights document is insufficient. Students who have parental rights transfer to them need to understand that at age eighteen:

- The student becomes solely responsible for his or her educational program, not the parents or guardian (guardianship of a minor would end when the student turns age eighteen unless the guardianship order states otherwise);
- The student is responsible for reviewing and/or seeking copies of school records. Students must understand they have a right to review all educational records and request a copy (and be informed whether there are reasonable copying charges);
- The student, not the parents or guardian, will receive notices of IEP Team meetings and must contact the school if the day and time do not work and the meetings need to be rescheduled. Students would need to be shown and walked-through Notice documents;
- The student, not the parents or guardian, is responsible for attending and participating in IEP Team meetings. Students would need to be provided with an explanation of all parts of the IEP document and provided with an explanation of the student’s role at the meetings;
- The student may, but is not required to, invite his or her parents to IEP Team meetings, as parents no longer are mandatory IEP Team members when the student turns age eighteen. Students need to understand that parents cannot participate at IEP Team meetings unless invited; conversely, students need to understand that they do not have to invite their parents to IEP Team meetings;
- The student is responsible for inviting other people to IEP Team meetings, such as an advocate, Navigator, or other desired professionals. Students must understand that other desired individuals will not simply show up at meetings unless the student invites them;
- The student is responsible for requesting evaluations, if needed, and signing consent for all evaluations sought by the district or requested by the student. Students must be provided with an explanation of what giving “informed consent” means generally and, as it applies to evaluations, of the right to request evaluations and how to do that;
- The student is responsible for determining whether he or she disagrees with any evaluations completed by the district

(Transfer of Parental Rights
(Continued on page 8)
Transfer of Parental Rights
(Continued from page 7)

and whether to engage his or her right to independent educational evaluations. \textbf{Students must understand the right to independent educational evaluations, when it applies, and how to invoke the right;}

\textbullet The student is responsible for consenting to persons from participating agencies participating at IEP Team meetings and for consenting to any release of information. \textbf{Again, students must understand what giving informed consent means as applicable to a given situation wherein consent is sought and required.}

\textbullet The student is responsible for determining whether he or she agrees with IEPs the IEP Team develops; and for deciding whether to request mediation or contest IEP provisions (and/or identification, eligibility, placement, evaluations, or other aspects of a free appropriate public education) through filing a Due Process Complaint. \textbf{Students must understand the mediation process and how to request it; they must understand what it means to file a Due Process Complaint and the procedures and their rights involved with doing so;}

\textbullet The student is responsible for locating and hiring legal representation if desired. \textbf{Students would need to understand what an attorney does and how to contact one; and}

\textbullet The student is responsible for addressing discipline issues relating to his or her own behaviors. \textbf{Students involved in disciplinary situations would require a great deal of explanation of the process and their rights.}

\textbf{Other Rights that Attach at Age Eighteen}

While significant rights transfer to students with disabilities under IDEA at age eighteen, they are essentially the “tip of the iceberg” compared to the rights that transfer or otherwise attach at age eighteen for all youth. For students with disabilities, there is no specific IDEA requirement that dictates inform students and parents of the non-special education rights that attach at age eighteen; nonetheless, they should provide students with this information in some form because they encompass part of the transition to adulthood. If the IDEA’s intent is to ensure students with disabilities successfully transition to appropriate adult “outcomes” (and it is), then informing students of the universally applicable rights that attach at age eighteen seems like a “no-brainer” as part of a good transition plan.

At age eighteen, students have the following rights (this list not intended to be all-inclusive):

\textbullet To vote;
\textbullet To make a will;
\textbullet To make a power of attorney;
\textbullet To make end-of-life decisions;
\textbullet To be an organ donor;
\textbullet To sign an enforceable contract (e.g., rent an apartment, purchase a house, take out a loan, purchase a car);
\textbullet To obtain medical treatment without parental consent;
\textbullet To enlist in the armed forces without parental consent;
\textbullet To apply for credit in their own name;
\textbullet To be completely independent of parental control; and

\textbullet To get married without parental permission.

At age eighteen:

\textbullet Your parents are no longer required to support you;
\textbullet You may be sued for breaching contracts you signed;
\textbullet You are responsible for having auto insurance;
\textbullet You are responsible for your own car accidents;
\textbullet You are eligible for jury duty;
\textbullet You will be tried as an adult for committing a crime; and
\textbullet If you are male, you must register for the selective service.

While IDEA’s rights last only through graduation with a signed regular diploma or until the student ages-out of the system (end of the state fiscal year in which the student turns age twenty-one in South Dakota), the rights and responsibilities described in this section last the lifetime.

Is Guardianship Appropriate?

When IDEA’s parental rights transfer to students at age eighteen, students become responsible for making informed decisions regarding all aspects of their educational programming. Without an understanding or ability to understand their rights and make informed choices, there is certainly a greater risk that students may make bad choices, such as deciding to drop out of school or accepting a diploma despite the need for continued transition services. Of course, the risk of young adults making bad choices is not unique to students with disabilities.

Parents who believe, due to their student’s disability, that their child will not be able to make some or all types of decisions on his or her own behalf may want to consider guardianship. As mentioned previously, all parental rights under IDEA transfer to the student at age eighteen unless there is a guardianship in place. Similarly, all rights and responsibilities afforded to the general public at age eighteen also apply to students with disabilities. Parents who believe their child to be incapable of making informed decisions may want to pursue a guardianship. Parents who believe a guardianship is needed should take steps to ensure a guardianship is in place when the student turns age eighteen. Otherwise, regardless of the student’s actual capabilities, the student will become his or her own guardian and all rights will transfer at age eighteen until such time a court determines a guardianship is needed and such guardianship is in place.

Guardianship is not addressed in federal law. Each State must create its own requirements and procedures. In South Dakota, guardianship and conservatorship laws are located at SDCL Ch. 29A-5. Guardianship requires a legal proceeding, with several procedural requirements that must be followed under South Dakota law before a court will grant a guardianship. Parents seeking to have a guardianship in place when their child turns age eighteen should therefore obtain legal advice/representation at least six months prior to their child reaching age eighteen.

Guardianship results in a significant deprivation of rights. Courts do not enter into it lightly. South Dakota law requires the court to receive a current evaluation so that the court can determine whether the person needs a guardianship (or conservatorship). Courts should award a guardianship only if lesser-restrict-
NEW MENTAL HEALTH STATUTES IN EFFECT

by Robert J. Kean

On July 1, 2012, several substantive mental health law changes took effect that were passed in the 2012 Legislative Session. The laws were a result of an initiative that grew out of an Executive Order that moved the Divisions of Mental Health, Drug and Alcohol Abuse, and the administration of the Human Services Center (HSC) from the Department of Human Services to the Department of Social Services. The new laws modified existing procedures and in some instances created new procedures to be used throughout the behavioral health services system. Also, changes were made in the administration of the involuntary mental health commitment process and forced provision of mental health treatment in South Dakota. This article will review the origins and development of the new laws, review selected changes that are now in effect, and share some early impressions of their potential impact and implications.

As this article is pursued, it is important to keep in mind that the new laws did not change the county board of mental illness lay board system. While the presiding circuit court judge of the circuit in which the county is situated appoints a magistrate judge or lawyer to serve as the chair of the county board of mental illness, the county board of mental illness itself is not a judicial body, nor does it have judicial powers. The county board is typically made up of lay, non-attorney members who are given the statutory authority to hear petitions to determine the need for behavioral health services intervention and, within statutory limits, the placement and treatment services to be provided. The lay board determination of the need to intervene and provide a course of behavioral health services to a person is not a judicial process. Because it is a non-judicial process, a finding of the county board of mental illness regarding the need for intervention, detention, admission, commitment, and treatment services is not a determination of the legal competency of the individual involved. This is clearly set out at SDCL 27A-12-1.2.

Transfer of Parental Rights
(Continued from page 8)

The changes to the mental health statutes had their genesis in an executive order signed by Governor Daugaard in January of 2011 (Executive Reorganization Order 2011-01), which reorganized several state departments and realigned their functions into other or new departments. The executive order moved the behavioral health and drug and alcohol component programs from the state Department of Human Services to the Department of Social Services. The programs moved included the Division of Mental Health, Division of Alcohol and Drug Abuse, the Human Services Center, and their associated boards and councils. As the programs were moved to the Department of Social Services, they were placed into three service areas: the Division of Community Behavioral Health Services; the Division of Correctional Behavioral Health Services; and the Human Services Center. The move became effective on April 14, 2011.

In signing the executive order, Governor Daugaard stated, “I believe these changes will make the best use of state resources and will benefit the citizens of South Dakota.” In this spirit of providing the best services, it was also decided to form a Behavioral Health Services Workgroup to review aspects of the behav-

S.D. Mental Health Law Revisions
(Continued on page 10)

Jimmo v. Sebelius
(Continued from page 5)


7. [No Source Provided]

8. 42 C.F.R. § 409.32(c) (2010).

9. Id.

10. Id.


12. Id.

13. Id.

14. Id.

15. Id.
S.D. Mental Health Law Revisions (Continued from page 9)

ioral health services system in the state. The stated purpose of the workgroup was to identify systems change initiatives important to realizing improvements in how services are delivered to better meet the needs of those who seek behavioral health care and to "help guide the long term vision of the future behavioral health system." The workgroup was led by Lt. Governor Matt Michels and Senior Advisor Deb Bowman from the Governor’s Office. It also included legislators, community mental health and substance abuse providers, inpatient behavioral health providers, advocacy organizations, county mental illness boards, and representatives from the Department of Social Services and related divisions of behavioral health. The Workgroup began a series of meetings in February 2011 that lasted until October 2012.

The initial efforts of the Workgroup included thorough and extensive discussions relating to the challenges and barriers in the existing behavioral health services system. These included the need to address administrative aspects of providing the structure for behavioral health care, modify the current commitment process, and address the forced or resultant limitations of the community/regional behavioral health system based on the state’s unique demographic dynamics. As the discussion matured during the course of the meetings, sub-committees were formed to deal with specific aspects of the debate that would benefit from a more focused review. This allowed for more extensive analysis and development of further discrete goals to be pursued within and without the Workgroup. By the time the Workgroup concluded its efforts in October 2012, the following sub-committees were formed: Prevention; Geriatric; Commitment Laws; and Essential Services (Community/Regional).

Early in the discussions that resulted in the creation of the Essential Services sub-committee, the Workgroup agreed to a set of guiding principles that provided a basis for the continuing discussion of outcomes and further development of community/regional-based resources. In a sense, they became the guidelines for the entire Workgroup effort and were referred to many times during the ongoing discussions. The guiding principles are:

- Services are provided through the “no wrong door” approach.
- Services focus on individualized recovery/resiliency driven outcomes.
- Services are person-centered/family-driven.
- People are served in the least restrictive environment appropriate for their care and safety.
- People are served with dignity and respect in a culturally responsible manner.
- Services are available and accessible statewide.
- Communities are involved and invested in service delivery.

In addition to having broad discussions on relevant behavioral health system topics, an initial agreed-to plan of action was to develop specific proposed legislation for the 2012 legislative session. The legislation would be designed to address specific changes in the administration, procedures, and processes of the then-current system that provided for professional oversight and for the specific needs of individuals with mental health and drug and alcohol issues. The bulk of this effort was done by the Commitment Laws sub-committee. Early in the discussion, it was noted that the last major revision of the state’s mental health statutes took place in 1991, with additional minor revisions in 1992 and 1993, and that much has changed since that time in the design and delivery of services and the systems that provide them. The sub-committee effort included identifying statutes that were outdated and no longer reflected the practices in place or the state of behavioral health services practice. In doing so, the goal was to remove barriers and provide a better integration of the treatment of behavioral health conditions, and allow for a more comprehensive approach of the county board of mental illness to address treatment issues at the time of commitment and have authority to deal with the commitment and treatment of individuals with co-occurring mental health and alcohol and drug abuse issues. The proposed statutory changes were introduced in a thirty-nine page omnibus bill with a one-page companion bill. The bills passed without opposition. They were signed by the Governor on February 8, 2012, and became effective July 1, 2012.

This article will review the following selected areas of change: Definitions; Emergency/Non-emergency Treatment; Treatment Decisions; Admission Process/Informed Consent to Treatment; Outpatient Commitment; and Advance Directives. The new statutory provisions discussed are found throughout SDCL Title 27A, with the exception of references to the power of attorney statutes located at SDCL Title 59.

DEFINITIONS: The new statutes reflect several changes and additional definitions that were required to implement new concepts and authorities. Five new definitions are of particular interest. The revisions left the existing definitions of “Danger to Others” and “Danger to Self” in place and unchanged, but added the new definition, “Chronic Disability.” It is described as, "a condition evidenced by a reasonable expectation, based on the person’s psychiatric history, that the person is incapable of making an informed medical decision because of a severe mental illness, is unlikely to comply with treatment as shown by a failure to comply with a prescribed course of treatment outside of an inpatient setting on two or more occasions within any continuous twelve month period, and as a consequence, the person’s current condition is likely to deteriorate until it is probable that the person will be a danger to self or others." This definition was created to define the criteria and time framework to be considered by the county board of mental illness for a person to be placed under an outpatient commitment order.

The new statutes also created definitions for “co-occurring substance use disorder” and “incapacitated by the effects of alcohol or drugs.” The “co-occurring” definition refers to “persons who have at least one mental disorder as well as an alcohol or drug use disorder.” “Incapacitated” is defined as “a person, as a result of the use of alcohol or drugs, is unconscious or the person’s judgment is otherwise so impaired that the person is incapable of realizing and making a rational decision with respect to the need for treatment.” These were created to allow for the expanded authority of the county board of mental illness to commit a person who has co-occurring conditions and is incapacitated to be placed into an appropriate treatment facility or program.

The new statutes add definitions of “outpatient treatment” and “outpatient commitment order.” “Outpatient treatment” is...
defined as “mental health diagnosis, evaluation, care, treatment or rehabilitation rendered inside or outside the premises of an outpatient program for the treatment of persons with mental, emotional or substance use disorders.” “Outpatient commitment order” is defined as an “order by the board committing a person to outpatient treatment, either following a commitment hearing or upon a stipulation of the parties represented by counsel.” The definitions were necessary to expand the authority of the county mental illness board and clarify the extent of the new authority to direct treatment.

EMERGENCY / NON-EMERGENCY TREATMENT: A substantive change in prior statutes will impact the area of treatment provided to an involuntary patient in emergency situations. The new law removes electroconvulsive therapy as an intrusive treatment which, in effect, makes the therapy available to be considered as an equal option to other approaches when deciding the provision of services. The statutes now provide that psychotropic medication, electroconvulsive therapy and “such other medical treatment as may be necessary for the emergency treatment of the involuntarily committed person’s mental illness” can be employed. The determination to treat must be made by the involuntarily committed person’s attending physician and one other physician that administration of medication, therapy, or treatment is necessary to prevent significant deterioration of the person’s severe mental illness or to prevent significant deterioration of the person’s severe mental illness and that the person’s potential for improvement would be significantly impaired if such treatment was not provided. In a marked departure, the new statute limits emergency intervention to a ten-day period. Previously, it was often the practice to continue a series of ten-day periods of emergency treatment for an extended period of time.

The new statutes preserve the person’s right to provide informed consent to non-emergency treatment or, if incapacitated, by substituted informed consent from an appointed guardian, an attorney-in-fact, or a person with authority under SDCL 34-12C. Informed consent may be withdrawn at any time and is effective immediately upon communication of the withdrawal of consent to the treatment provider.

TREATMENT DECISIONS: In reviewing the current involuntary commitment process, the Commitment Laws subcommittee concluded that having a lay county board of mental illness decide the need for involuntary behavioral health services would not be changed, but its role in treatment decisions would be dramatically increased.

Prior to the new statutes’ implementation, separate and distinct lay county board of mental illness and court processes were used to determine the commitment and treatment provisions of an individual’s involuntary mental health. A county board of mental illness determined if a person was in need of an involuntary commitment. A separate court hearing was held (not at the same time and not always in the same location) to determine the need for court-ordered treatment of the involuntary committed person. A separate distinct court hearing was used to determine if a person was in need of an involuntary substance abuse commitment.

Since July 1, 2012, the board of mental illness received additional authority to address other aspects of treatment if the crite-
S.D. Mental Health Law Revisions
(Continued from page 11)

has had a law providing for outpatient commitment since 1991. It was designed and available for a narrow group of persons who had previously been at the Human Services Center and returned to their communities. Outpatient commitment was seldom used, however, due to a variety of issues including costs of maintaining the effort, patient transition and coordination issues, enforcement responsibility, and jurisdiction. The new statutes recast and refined the implementation and management of outpatient commitment to make it a more viable and useful treatment option within the state's revised behavioral services framework, especially for persons who are repeatedly considered for involuntary inpatient commitment to the Human Services Center.

If a person is found to meet the criteria for an involuntary commitment, the board of mental illness has the option to commit (order the person to the Human Services Center, a veterans' hospital, a private facility, or a community-based outpatient treatment program. The facility or program must agree to accept the person committed. Another condition placed on the community commitment is that it is not to result in liability to any county for the cost of treating the person committed. As in the previous statutes, a person committed to the Human Services Center may be transferred to a veterans' hospital, a mental health center, or a community-based mental health program as the director deems appropriate.

If a person fails to comply with the outpatient commitment order and it is felt that the person's current condition is likely to deteriorate until it is probable that the person will be a danger to self or others, the program director or the person's treating physician may notify law enforcement. Law enforcement, upon request of the program director or the person's treating physician, may transport the person to the outpatient treatment program or treating physician's office for the purpose of making reasonable efforts to obtain the person's compliance with the requirements of the treatment order. If the person does not further comply with the requirements of the order, the program director or the treating physician may notify the person who brought the original petition for intervention and the state's attorney office of the county where the person is found. The original petitioner or the state's attorney, within seventy-two hours, may petition the board of mental illness for a supplemental hearing to decide on further disposition of the situation.

ADVANCE DIRECTIVES: In 1997, South Dakota passed laws allowing an individual to create a document setting out in detail the mental health care the person wished to receive if the person was not able to make or carry out informed decisions. Set out at SDCL Chapter 27A-16, "Advance Directives" covered three areas: psychotropic medications; convulsive treatment; and admission to and retention in a facility. The document, called "Declaration and Power of Attorney for Mental Health Treatment," was implemented through a power of attorney, which gave the decision-making authority to another to see that the requested actions took place and services were received. The Workgroup questioned whether this was the best method of conveying and implementing an individual's treatment decision intent. It was noted that the document was narrowly focused and individuals used it very infrequently. In addition, the traditional power of attorney authority had greatly expanded in SD statutes to include greater flexibility in providing for decision-making in the health care area. It was decided to repeal the advance directive statute and add language to the existing power of attorney authority to clarify that a durable power of attorney may authorize the person acting under its authority (attorney-in-fact) to consent to, reject, or withdraw consent for health care, including any care, service, or procedure to maintain, diagnose, or treat a person's physical or mental health.

To assist those interested in creating a document that would set out the behavioral health services wishes of a person that would accompany a power of attorney, the State Bar of South Dakota was approached to collaborate on the development of a prototype instrument. To date, that effort has not been completed. The expanded power of attorney authority to include mental health care is located at SDCL 59-7-2.1.

The new statutes have been in effect for about five months when the South Dakota Report went to press, so it is difficult to accurately describe how the laws described in this article are working or predict potential areas that will need further attention. The body of new laws was designed to address many different aspects of the behavioral health services area and each will need to be utilized to have a sense of its efficacy and whether it has achieved its sought-for purpose. One issue that may emerge early in the implementation is the potential added cost to the county. The new statutes give the county board of mental illness significant added duties and responsibilities. For example, the county board will now be able to make treatment decisions at several points in a person's involvement in the system in addition to the initial decision of the need for an involuntary or outpatient commitment to a community facility or program. This will require a separate proceeding to take place after the determination of need to commit. Under prior statutes, courts were used to seek the necessary permissions to treat involuntary committed persons against their will. However, using the courts was perceived as a challenge in terms of getting hearings in a timely manner. The hearing to decide the administration of medications and other medical treatment is adversarial, as is the initial need for commitment hearing. Due process protections require representation, further fact-finding, and perhaps evaluations and testing. In fulfilling these new authorities and responsibilities of the board, the process will, of necessity, require more participants to engage in the procedures and take more time to complete them. In addition, a system of data collection, retention, and monitoring will need to be established by the board to receive the required reports that will be sent to it by the program directors where the outpatient committed person is receiving services. These additional activities may also create a fatigue factor in the membership of the board, especially in the counties that have a high number of hearings. The increased activities will raise costs.

It is important to note that the personal and due process rights of the individual previously available at court proceedings are also available at the initial, treatment, and supplemental hearings before the county boards. The new statutes also clearly declare that no sterilization may be authorized under authority of the mental illness portion of the South Dakota statutes for a person incapable of giving written informed consent.

In addition to the state code itself, the Department of Social Services website (http://dls.sd.gov) contains information on Executive Reorganization Order 2011-01, formation of the Workgroup, minutes of its meetings, and additional relevant information.
Yankton Celebrates National Disabilities Employment Awareness Month

by Irma Arens

This year’s National Disabilities Employment Awareness Month (NDEAM) event in Yankton was held October 9, 2012, and featured John Robinson, a motivational speaker. John is 3'9" tall. He was born without extension of all four limbs. His arms do not extend below his elbows and his legs are attached to his hips without knees. John, however, has not let his disability define him. He has been married over fifteen years and has three children. John is president and CEO of Our Ability, Inc., and travels the world speaking about the obstacles he has overcome. His autobiography, “Get Off Your Knees: A Story of Faith, Courage, and Determination,” was published in 2009. John included humor in his presentation by telling personal stories of stunts his college buddies pulled on him because of his stature and difficulties he has encountered doing “ordinary” things like going on carnival rides. John inspired the audience with his courage, conviction, and unstoppable positive attitude.

John Robinson

Another speaker at the event was Susan Schneider, an associate with Jackson Lewis’ Omaha office. Jackson Lewis is one of the fastest growing workplace law firms in the U.S. Susan represents management in all aspects of employment litigation. Her presentation, “Navigating the Americans with Disabilities Act,” provided valuable information to participants about understanding the significant changes to the definition of “disability” that make it easier for a person to establish a disability under the ADA. She cited several examples of cases her firm has encountered in this area. Schneider also offered the best practices for employers to use to ensure compliance with the recent amendments to the ADA.

Always a highlight at the Yankton NDEAM event is the presentation of the Employee and Employer of the Year awards. Yankton Mayor, Nancy Wenade, was the presenter for this year’s awards. The winner of the Pat Smith Employee of the Year Award was Jim Johnson, an employee of A’viands Food and Services Management Company. Jim works at the South Dakota Human Services Center (HSC) refilling its vending machines. HSC and A’viands’ employees nominated Jim for this honor. According to Jim, “All the patients I see, they wait for me in the hallways. I hope people will always be kind to the patients! Try to make somebody’s day. Give them a sincere compliment.” This advice exemplifies the goals of the NDEAM by

(Continued on page 15)

From left to right: Tina Hubbard and Brandy Brown from the Days Inn; Jim Johnson, Employee of the Year; Yankton Mayor, Nancy Wenade

Are You Prepared?

by Valorie Ahrendt

When disaster strikes, persons with disabilities can be hit the hardest because they may not be able to obtain or access specialized supplies, equipment, and medical services they need on an everyday basis. Those with intellectual disabilities may not understand what happened and feel scared because their whole world has changed. After an event like Hurricane Sandy, which destroyed parts of the east coast in late October, people are left emotionally, mentally, and physically exhausted. Add a disability to that and you can imagine the toll it can take on someone’s life.

In South Dakota, we do not have to worry about natural disasters such as hurricanes or tsunamis, but we do experience blizzards, tornados, floods, and the rare earthquake. We may also experience

(Continued on page 16)
Partners in Policymaking ... Changing Systems One Class at a Time

Year 21 Began in November
by Sandy Stocklin Hook

Twenty-eight individuals from twelve counties throughout South Dakota comprise the Partners in Policymaking Class of 2013 (Year 21). This year’s class is made up of 14 self-advocates, ten parents, one family member, and three partner assistants. There are 12 males and 17 females in the class. Unique to Year 21 is that nine members of the class are children of Partners graduates. Class participants include: Rockel Akason, Jason Bruns, Edward Kopp, and Timothy Kopp of Rapid City; Elizabeth Avery, Alcester; Jacque Brown, Kevin Hinners, Bobbie Mullenburg, and Travis Red Blanket of Huron; Angie Clifford and Percy White Plume from Manderson; Estan Douville, Chamberlain; Toni Feist, Deadwood; Emily Gustaf, Erin Gustaf, and Brandon Haug from Sioux Falls; Stephanie Haugen-Brown, Black Hawk; Carrie Jacob, Beresford; Ashley Kienow, Iroquois; Rebecca Lamma, Madison; Julie Lewandowski, Max Merchen, Amethyst Schwender, and Josh Steinhauser of Spearfish; Ricky Miller, Hot Springs; Jon Vavruska, Tyndall; Charlotte Walking Eagle, Wahbbee; and Mary Ann Westrom from Viborg.

Partners in Policymaking is an innovative leadership and advocacy training program designed to involve and empower individuals with developmental disabilities, parents of children with disabilities, and other family members. It requires a serious commitment by each participant during the training, as well as after graduation. The expectation is that each Partner will commit to actively use the acquired skills to encourage positive changes in the areas of community awareness, sensitivity, accessibility, and inclusion for people with disabilities.

Class participants attend six two-day training sessions from November through April. At each session, experts in disability and advocacy fields present information and interact with the class. Partners have the opportunity to work on communication skills, assertiveness, decision-making skills, legislative testimonial presentation skills, and group activities. Each participant must complete homework assignments every month.

When selecting the participants for each class, the selection committee uses criteria including representation from varying ethnic and cultural backgrounds, different geographic regions of the state, and a mix of parents and consumers. Partners graduates, Cary Gronemeyer (Year 12) and Lori Douville (Year 7), served on this year’s selection committee. Serving in an advisory capacity for the committee was Arlene Poncelet, Director of the SD Council on Developmental Disabilities.

Class member Jason Bruns

The Class of 2013 met November 16-17 at the Governors Inn in Pierre for Session One. Robert J. Kean, SDAS Executive Director, and Tim Neyhart, PADD Program Director, both of Pierre, welcomed the class to Partners and spoke about SDAS and the DD Network.

Dennis Hook of Pierre opened the session with a fun ice breaker, literally throwing things at the class! Throughout this exercise, participants learned each other’s names and became at ease with each other, all the while learning that it is okay to be afraid of change, but if change doesn’t happen, progress isn’t made.

Kathie Snow of Colorado Springs, CO, challenged the class to think “different.” Snow stressed the importance of Partners Top 10 Values and how car pooling and room sharing all add to the networking process of Partners. She spoke of People First Language, putting the person first and the disability second, and how it helps.

Partners in Policymaking
(Continued on page 15)
to change attitudinal barriers. Snow introduced the class to the history of Partners in Policymaking and the positive impact it can have on their lives. Snow stressed the importance of participants fulfilling their responsibilities to the program and the empowerment and connections gained by being a Partner. “Labels are used for services and for nothing else. People First Language will help change the attitudinal barriers that face people with disabilities on a daily basis.” She left the class with the following: “You have responsibility as a Partner to network together and change the status quo. Partners will have a positive impact on your life, so be open-minded and ready to accept and generate change.”

David Hancock of Golden Valley, MN, spoke to the class on the History of Disabilities and the History of the Parent and Independent Living Movement. He gave Partners a historical perspective of the landmark decisions that affect individuals with disabilities. Hancock explained, “Building supports in local communities is the first step in achieving inclusion and it is everyone’s responsibility. While the past has fostered discrimination and segregation against people with disabilities and despite some improvements, discrimination and segregation still exist and it is YOUR job as a Partner to change this!”

Six Partners graduates shared how Partners changed their lives. Juanita Harrington of Piedmont (Year 18) told of her experiences and how Partners not only changed and improved her life, but also that of her family. She is now a member of the school board in her district. Peggy Waltner of Freeman and Lincoln Waltner of Yankton, both Year 18 graduates, talked about learning to have a mother/son partnership and how sometimes it is hard as a parent to “let go.” Peggy explained how Partners showed her it is okay for her to allow her son to try things, even if she knows he may fail. Lincoln noted that he learned that his mom is always there to support him, but the independence he gained through Partners has helped them to have a friendship and respect for each other. Connie Lemke of Bruce (Year 13) told the class to “get acquainted — look around the room, because the people here will become your best friends, your family, and your confidants.” She stressed the importance of networking. Rich Bartling (Year 20), Burke, explained how as a dad he usually sat back and let his wife do the talking. Partners taught him that he needs to use his voice and that by working together with the school and service providers, they will accomplish whatever is best for his child. Julie Yellow Cloud of Porcupine (Year 15) explained that Partners gave her a voice and she is sharing her voice throughout her reservation, helping families to learn to advocate for their children. “Advocating on a Tribal Nation is totally different than in an urban area, but Partners gave me the knowledge and voice to educate others and to make a difference,” stated Yellow Cloud.

Sandy Stocklin Hook of SDAS’ Pierre office is in her 16th year as Coordinator of the Partners in Policymaking training program. Assisting in Year 21 is Lori Douville of Chamberlain.

Partners is funded in part by grants from the SD Council on Developmental Disabilities, Children’s Care Hospital and School, Center for Disabilities at Sanford School of Medicine at USD, and SD Parent Connection. Also providing funding are the PADD, PAIR, and PAIMI Programs of SDAS.

**NDEAM**

(Continued from page 13)

brining increased awareness about those with disabilities.

The Days Inn was the winner of the Employer of the Year Award. Accepting the award on behalf of the Days Inn were Brandy Brown, Manager, and Tina Hubbard, Head of Housekeeping. Connie Schupbach, Employment Coordinator at Lewis & Clark Behavioral Health Services, noted in her nomination of the Days Inn, “For years the Days Inn has consistently been willing to give individuals an opportunity to demonstrate their abilities to work, whether it is to try out the job (evaluation), on-the-job training (OJT), or hiring with job coaching and follow along support. Often being creative with focus on the special gifts each individual offers has been required, and the staff brainstorms ways to help individuals succeed.” The Days Inn certainly exemplifies the 2012 NDEAM theme, “A Strong Workforce is an Inclusive Workforce: What Can YOU Do?”

Sponsors of this year’s NDEAM event were: SD Vocational Rehabilitation Services; Lewis & Clark Behavioral Health; SD Human Services Center; Independent Living Choices; Ability Building Services; SD Advocacy Services; Southeast Job Link; and SD Services to the Blind & Visually Impaired.
other types of emergencies, such as chemical, biological and radiological events, house fires, or long power outages. If you are a person with a disability, or you have a family member with a disability, are you prepared for a disaster? Would you know what to do? Would you know how to get out of your home if you needed to leave suddenly? Would you know what to take with you if you had to leave suddenly? Would you be able to communicate if your regular system of communication was no longer available? These are just a few of the many questions persons need to ask themselves.

People are less likely to have major problems if they are prepared for an emergency. Preparing takes time and effort, but the more you have figured out ahead of time, the less drastic your experience can be. A guide to assist people with starting an emergency preparedness plan has been developed for persons with disabilities. The publication is titled, Emergency Preparedness: Taking Responsibility for Your Safety. Tips for People with Activity Limitations and Disabilities. The booklet walks the reader through an activity checklist to make sure all areas are covered. Activities include: Conducting an ability self-assessment; establishing a support team; learning to quickly give information on how best to assist you; creating emergency plans; practicing those plans; collecting disability-specific supplies for emergency supplies kits; and then creating those emergency supplies kits. The questions asked in the checklist are very detailed to give the reader a scenario to think about and how to best prepare for it. An example of this is a question asked of a person who is blind or has a visual impairment. Evacuating a work site: If you rely on sound cues to get around (such as the hum of the copy machine by an elevator), will you be able to get yourself to safety if they are missing? You can’t count on these clues if the electricity goes off or alarms are blaring.

The Emergency Preparedness guide is a great resource for people to have in preparing their own emergency plans. As the saying goes ... a person can never be too prepared!

The guide can be found at http://www.siouxfalls.org/-/media/Documents/emergency_management/Tips-for-People.pdf.