



# South Dakota REPORT

Advocating the Rights of South Dakotans with Disabilities

## THE PROTECTION AND ADVOCACY SYSTEM FOR SOUTH DAKOTA

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# NEYHART CHOSEN TO HEAD SDAS

The South Dakota Advocacy Services (SDAS) Board of Directors is proud to announce it has selected Timothy E. Neyhart as Executive Director, the position having been recently vacated by the retiring Robert J. Kean.

Neyhart comes to the position with over 25 years of experience in the disability field. Tim has worked in several different components of the SDAS protection and advocacy system. He started in the Rapid City office in 1990, working with Marie McQuay, who was a part-time secretary. His primary duties as an Advocacy Services Representative were to implement and expand a Citizen Advocacy Program in that part of the state. Citizen Advocacy was a program in which a volunteer advocate was matched with a person with a disability. The relationship was designed to benefit both the person with a dis-



### Congratulations Partners in Policymaking Class of 2014! (see p. 16)

ability and volunteer so that people with disabilities would have a friend and an advocate to assist them. That program model was discontinued and was spun-off to the Independent Living Center. From that point forward, Tim's job description became very similar to that of Advocacy Services Representatives that work for SDAS now.

The job of Advocacy Services Representative became more complex with the addition of more programs designed to serve different populations of people with disabilities, such as people with traumatic brain injuries, and to address specific issues, such as assistive technology and voting. The job duties and case load expanded with the addition of the new programs and the

Rapid City office grew from one full-time person and a part-time secretary to four full-time staff. Neyhart was promoted to the Director of the Client As-

*Neyhart*

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Tim Neyhart

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# Things to Know as the 2014 General Election Approaches

by Pam Middleton

**P**lease remember, “Every election is determined by the people who show up.” – Larry J. Sabato

As South Dakotans prepare for the 2014 general election, the following are some important things to know. Absentee voting begins 45 days before an election. Voters can vote absentee for any reason before Election Day. Absentee voters can cast ballots in person at the County Auditor’s office, by mail, or if qualified via an authorized messenger. Mail requests can be printed from [www.sdsos.gov](http://www.sdsos.gov) or requested through the Auditor’s office.

All persons wishing to vote in the November 4, 2014, general election will need to be registered before the deadline of October 20, 2014. One may register to vote at the following locations:

- ◆ At your local County Auditor’s Office;
- ◆ By mail (forms online at [www.sdsos.gov](http://www.sdsos.gov)); or
- ◆ Any location which provides drivers’ licenses, SNAP, TANF, WIC, military recruitment, and assistance to persons with disabilities as provided by the Department of Human Services.

I have been involved with our election process since I was 18 years old. In the first election I ever worked, I was the demonstrator for the very first punch card machines. As we know, that did not work very well (especially in Florida) and voters were forced to revert back to paper ballots.

At the same time, South Dakota introduced the “Auto Mark” voting machine. It can be used by people with disabilities, such as those with low vision, by enlarging the print or by changing the background to black with white print to make it easier to read for some individuals. Auto Mark also allows for the ballot to be read to you and provides a set of headphones for that purpose. When you are done voting, you insert the ballot and Auto Mark will go through each item you have voted on; if you are satisfied, you will be asked to confirm. If you are not satisfied, you may continue voting. Once you confirm, the machine will print your ballot. When you take your marked ballot to the ballot box and insert it, you are done. If you want someone to help you use the Auto Mark, that is an option as well. You can have someone from the voting center help you or you can bring someone with you to help you vote.

In Pierre, we used the “NEW” E-poll books for the first time in our primary election in June 2014. Voting centers

**Voting**

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South Dakota Advocacy Services (SDAS) is an independent (not a part of state or federal government or any service provider), private, non-profit corporation established in the State of South Dakota and designated by the Governor to provide protection and advocacy services to eligible South Dakotans with disabilities. SDAS is funded in part by the U.S. Department of Health and Human Services, U.S. Department of Education, and Social Security Administration. Articles are intended for informational purposes only and are not intended as legal advice. Comments on SDAS services and priorities are welcome.

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# Crisis Assistance for Families of Children with Autism Spectrum Disorder

by Gail C. Eichstadt

Summer 2014 brought tornadoes and flooding to South Dakota. This created hardship and crisis for many families when their homes or places of employment were damaged or destroyed. These changes are difficult for everyone affected, but are especially difficult for children with an Autism Spectrum Disorder (ASD). Social stories can help explain what happened to children with ASD, but cannot pay for the damage.

Financial help may be available through AutismCares for the “cost of critical living expenses such as: housing, utilities, car repair, daycare, funeral expenses, and other essential items on a case by case basis.” See <http://www.autismcares.org/site/c.mqLOIYOBKIF/b.4745953/k.AE7B/FAQ.htm>.

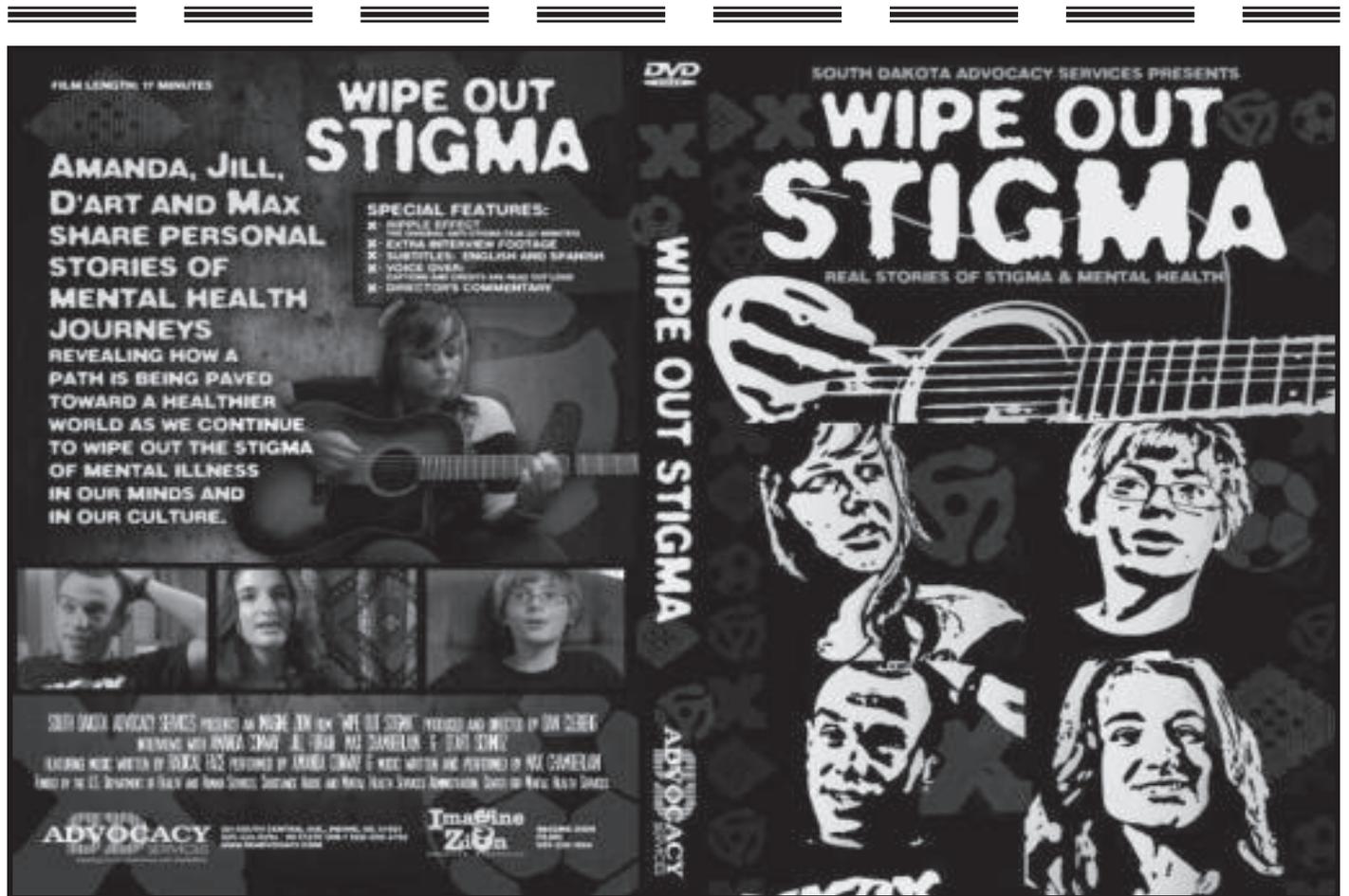
AutismCares may grant up to \$1,000 to eligible families with a child or children with ASD when faced with crisis in the previous 90 days. The crisis may include natural disasters (fire, flood, hurricane, tornado, severe storm, or earthquake), death or critical illness of an immediate family member, job loss for the main income-earner, or loss of home through foreclosure, eviction, or natural disaster.

Questions about the grants can be sent to [autismcares@autismspeaks.org](mailto:autismcares@autismspeaks.org). A confidential application for the financial help is found at: <https://www.grantinterface.com/Common/LogOn.aspx?eqs=oVBumf2XVy99aa6iM5grwwKvy05Yn6zM0>.

The application asks for general information about what problem the family faces, how and when it occurred, and who in the family has ASD. Annual income and any federal and state assistance received must be disclosed. How the family intends to use the grant and its impact must be explained. Vendor names and the cost for each vendor must be listed, so the application requires planning and action before submission.

A committee comprised of representatives from other autism groups reviews the applications. Applications should be submitted by the 22<sup>nd</sup> for consideration in that month. The committee works to make decisions within a week of the monthly deadline.

No family expects to need financial help for a crisis. Fortunately, awards are available due to the generosity of AutismCares contributors.



The SDAS Protection & Advocacy for Persons with Mental Illness (PAIMI) Program completed a new anti-stigma video focusing on YOUTH. “Wipe Out Stigma” was presented at the 2014 YAMWI Conference and is now on the SDAS website for viewing.

# Tech Bytes

by Valorie Ahrendt

Some individuals have difficulty with staying focused, managing their time, remembering to take medications, or performing everyday tasks. Child Psychologist, Dr. Laurence Becker, a specialist in attention and learning disorders, saw the need for individuals to have a discreet method of receiving reminders throughout the day and invented the WatchMinder.

## What Is The WatchMinder?

The WatchMinder is a simple wristwatch that can easily be programmed to set up vibrating reminders throughout one's day. The WatchMinder cues the user with a light vibration on the wrist, which is discreet and does not disrupt others in the classroom, office, or in a public place. The WatchMinder features simple on-screen programming. The user can set specific times to be reminded throughout the day or set the reminders to occur at random intervals.

Not only does the WatchMinder provide the vibrating cue, it also provides a written message on the screen reminding the person what it is they need to do. For example, the first vibrating message of the day could be to remind the person to SHOWER and 30 minutes later another vibration and screen message could remind the user to take their MEDICATION. Later in the day, a vibrating message cue could remind the user to PAY ATTENTION in math class where the user typically daydreams. Every Wednesday, the user can be reminded to take out the GARBAGE. The WatchMinder can store up to 30 reminders throughout the day. It comes with preprogrammed messages, but also allows the user to type in personalized messages.



The WatchMinder can also assist a person to practice and reinforce healthy behaviors. For example, the WatchMinder cues the user to take deep breathing and relaxation breaks throughout the day or to get up from their desk to stretch or walk around the block. Exercisers can use the WatchMinder to cue them to check their heart rate or to speed up their running pace. There are endless ways to use the WatchMinder.

Here are the features of the WatchMinder:

- ◆ Sports watch for all wrist sizes;
- ◆ Rechargeable battery (with charger included);
- ◆ Easy on-screen programming;
- ◆ 65 pre-programmed messages to choose from with 30 daily recurring alarms;
- ◆ Easily create your own personalized messages;
- ◆ Helpful training and reminder modes;
- ◆ Vibrating alert with “snooze repeat” feature; and
- ◆ Waterproof.

The new WatchMinder3 model includes a countdown timer.

The WatchMinder sells for \$79.00. Apple iPhone users can also download the WatchMinder app for their smartphone for \$1.99 from the iTunes store. For more information, visit [watchminder.com](http://watchminder.com).

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## Do You Know Where Your Child Is?

Knowing where your child is and knowing he or she is safe is a great feeling that all parents and caregivers share. When taking a child out in public, the fear of being separated from them is always on a person's mind. When a child has a tendency to run from their caregiver, the fear is even greater. The **BuddyTag™** can help!

## What Is The BuddyTag™?

**BuddyTag™** is a child safety device that helps parents in keeping their precious children safe. **BuddyTag™** is a wristband that has a Bluetooth technology device located inside the band. The **BuddyTag™** alerts the adult when the child is out-of-range and also has a water safety alert to help prevent accidental drowning. On the **BuddyTag™**, there is a panic button for children to press that alerts an adult when they need help. The **BuddyTag™** also includes a place to write personal identification information to help reunite a lost child with a parent or caregiver. The device uses Bluetooth. It is NOT a GPS tracker. Bluetooth technology is more cost effective, there are no monthly fees, and does not need charging.

Parents can set a certain limited area and when a child is out of that proximity, the **BuddyTag™** sends an alert to the **BuddyTag™** app on a smartphone. The **BuddyTag™** app can keep track of multiple **BuddyTags™** when there are multiple children. The **BuddyTag™** wristband comes in silicone, a one-time use disposable plastic, terry cloth, and fabric with Velcro, all in multiple colors. The silicone and disposable plastic bands are both difficult for a child to remove and would be a better option if an adult anticipates the child may try to remove it. The one-time disposable band has a locking snap latch system and

*Tech Bytes*

*(Continued on page 5)*

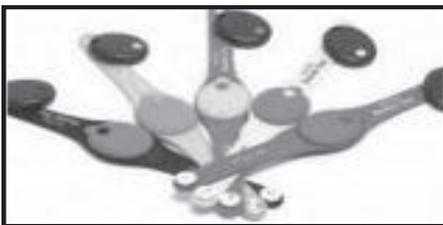
## Tech Bytes

*(Continued from page 4)*

can be removed with scissors. The silicone wristband has a coin screw latch locking system that can be unlocked by inserting a coin into the lock and turning.



**Disposable Wristband**



**Silicone Wristband**



**Terry Cloth Wristband**



**Fabric Wristband**

**BuddyTag™** is designed to work with the iPhone 4S, 5, 5C, 5S and Samsung S3, S4, S5, Note2, and Note3 with Android version 4.3 and newer. **Buddy-Tag™** is also compatible with the 4<sup>th</sup> Generation iPad, iPad Mini, and the 5<sup>th</sup> Generation iPod Touch. The **Buddy-Tag™** app is free and can be found in the Apple iTunes store and the Google Play Store.

The **BuddyTag™** sells for \$34.97. More information can be found at [my-buddytag.com](http://my-buddytag.com).

## Voting

*(Continued from page 2)*

facilitate a fast and convenient voting process. The voter check-in process is faster with the use of E-poll books. The voting process is the same, except voters will be checked in on a laptop instead of the paper poll book. Ballots will still be cast on paper with a pen or pencil. You are required to show your picture ID as we have done in the past. There is a bar code on the back of your driver's license/ID. The computer scans that bar code and your information is printed-out and given to you. Another poll worker will collect the printout from you and hand you the correct ballot to vote. The E-Poll books are all connected to a server that tells election workers how many votes have been cast at their voting center, as well as for the entire county.

If you make a mistake, you may return that ballot to the poll worker, who will mark "void" across your spoiled ballot. You will be given up to three ballots per election.

If you have forgotten your Picture ID, you do **not** have to leave to get it. Instead, you may sign an affidavit stating you are who you say you are, at which time you will be given a ballot and can vote.

If you are not listed in your county to vote and you know you have registered and should be allowed to vote, you have the option to vote on a provisional ballot. That means you are given a ballot and once completed, it will be sealed in an envelope. The county will notify you if your ballot was able to be counted. If the county finds you are a registered voter and for some reason you did not show up in the system, it will let you know via correspondence that your vote was counted. If the county finds no records showing you are a registered voter, you will receive correspondence stating your ballot was not counted.

Always remember: "Nobody will ever deprive the American people of the right to vote except the American people themselves and the only way they could do this is by not voting."  
— Franklin D. Roosevelt

## Neyhart

*(Continued from page 1)*

sistance Program and then added the duties of the PAIR Program before moving to Pierre in 2000.

In 2003, he became the Director of the Protection and Advocacy Developmental Disabilities (PADD) Program and held that position until his promotion to Executive Director in June of 2014.

Neyhart will oversee the SDAS agency staff and work closely with the Board of Directors. The SDAS corporate office is located in Pierre, with field offices in Sioux Falls, Rapid City, and Yankton, SD. Kean commented that "Neyhart will serve well in the many challenging arenas for the agency."

Neyhart is a native of South Dakota. He graduated from Northern State University in Aberdeen in 1984 with a BS in Secondary Education. His entire professional career has involved working with private, non-profit human services agencies. Prior to working for SDAS, Neyhart was a program developer for Big Brothers, Big Sisters of the Black Hills and started his professional career with Sky Ranch for Boys in Sturgis.

He has served on various boards and councils, including the Service to the Blind and Visually Impaired; South Dakota Coalition of Citizens with Disabilities; Core Stake Holders advisory group; and the South Dakota State Rehabilitation Advisory Council. He has presented on various topics at state and national conferences. In 1998, Tim received the Distinguished Service Award from the Governor's Committee on Employment of People with Disabilities.

Neyhart commented that he is humbled and honored to have been selected as the agency's second Executive Director. "This agency has been very successful since its inception in 1977 and it is my intent to maintain the dedication to protecting the rights of people with disabilities and to continue the high standard of service set by the staff of the agency."

# Big Paws Canine Foundation

by Charlene Hay

**P**ost Traumatic Stress Disorder (PTSD) is an identifiable reaction one may have to being involved in terrifying events, such as war, accidents, torture, or plane crashes, as well as for people who have witnessed a harmful event. Fear typically triggers the body's "fight or flight" response into action to help us defend against the danger. With PTSD, our body's defense reaction is changed or damaged so that when the

of those who have given so much in the line of duty.

I recently had the opportunity to visit with Gail Dickerson at the Big Paws Canine training location at the VFW in Sioux Falls. The VFW donates space for this training every Monday. The dogs and handlers are taught how to work with one another in a structured training setting by using a series of gestures or commands. Various drills, such as obstacles and distractions, are developed to simulate being out in public. The dogs and handler are screened to create an appropriate match. The match of dog to a handler is taken very seriously by Big Paws. If it is felt either the dog or handler will be put in jeopardy, the match is dissolved. The handler is required to provide his or her dog with physical exercise, mental stimulation, a healthy diet, and grooming on a daily basis. A bond develops when both dog and handler provide and feel a common respect and friendship for one another. In other words, they become "battle buddies."

- ◆ Open and close doors;
- ◆ Pull wheelchairs;
- ◆ Provide bracing for people to stand, walk, and sit down;
- ◆ Take laundry out of the clothes dryer;
- ◆ Help take off shoes and socks;
- ◆ Pay a cashier;
- ◆ Turn lights on;
- ◆ Deliver emergency medications; and
- ◆ Assist in diverting a panic attack by keeping the handler calm.

PTSD and other medical events can be averted by the keen senses of a trained service dog. Dogs are trained to sense and protect a person from unknown situations. For example, a person who has Chronic Obstructive Pulmonary Disease (COPD) was wearing a Continuous Positive Airway Pressure (CPAP) machine. The dog realized during the night the person's breathing was impaired, even with the CPAP machine in use. The dog was unable to wake up the handler, so he woke up the handler's wife in the next room by pulling at her clothing. This handler had a stroke, but lived because of



**Motto retrieves bottled water for his trainer, Scott Brunk. Motto is able to pick-up a dime, open doors, part a crowd, and other tasks.**

danger is no longer present, the fear and stress remains imbedded in the person's mind and life. PTSD can paralyze a person's life and prevent them from being involved in activities, in some cases causing one to isolate in their home. The current population of veterans returning home from combat may have multiple physical injuries and have PTSD as well.

Steve Slavik is the Co-Founder, President, and CEO of Big Paws Canine in California. Steve is a Disabled Veteran and former First Responder who has a passion for dogs and a priority to put Disabled Veterans and former First Responders first because of their sacrifices for our country. Steve launched this non-profit foundation in the spring of 2012 with an all volunteer staff. In September of 2013, Big Paws Canine developed a second location in Sioux Falls, SD. Gail Dickerson is the Foster Coordinator, Midwest. The foundation is run by volunteers such as Gail who recognize the value of trained service dogs in the lives

Big Paws Canine trains dogs to meet the on-going physical/emotional needs of the individual for life. For instance, if the individual has physical and mental complications, the dogs can be trained to:

- ◆ Pick-up and retrieve items;

**Big Paws**

*(Continued on page 17)*

**Big Paws Canine Foundation will be selling calendars focusing on handlers and their service dogs. They will be available in fall 2014.**



**Freddie and Roco**



**Ricky and Tracer**

# *Legal Pull-out Section*

July 2014

## SDCL 13-28-11 – Recent Issues and Need for Further Changes

by John A. Hamilton

**S**DCL 13-28-11 is a South Dakota statute allowing parents of children who are not eligible for special education services to place their child in a residential treatment center at district expense for the child's tuition. The residential portion of the costs is paid with Medicaid funds through the South Dakota Department of Social Services (*see* ARSD Ch. 67:16:47, Residential Treatment for Children). A "Residential Treatment Center" is a facility such as Aurora Plains in Plankinton, Abbott House in Mitchell, and Our Home in Parkston and Huron.

SDCL 13-28-11 is currently intended as an option for parents who have a child with significant mental health and/or behavioral issues, yet who does not qualify for special education services through the local school district. SDAS hears continually of situations where a student is able to "hold it together" for the most part in school, only to "let loose" at home. The school tells the parents it does not see a problem at school and, through evaluation, finds the child does not qualify for special education services. Meanwhile, having the student at home may be significantly dangerous to the student or family members. This statute provides parents with a needed residential option.

For years, SDCL 13-28-11 apparently did not state clearly enough which district was responsible for paying for the child's tuition – the home ("resident") district or the district where the treatment center is located that is providing the child's education. It also did not state the cost of the tuition. As a result, there was frequent disagreement, and sometimes litigation, between districts.

To remedy the problems with this statute, a legislative summer study group met in 2012 and proposed changes to the 2013 Legislature, which were passed and signed into law. Additional language changes were made in 2014, but they did not alter the intent of the 2013 amendments. The 2013 changes were intended to provide clarity regarding district responsibility for a student placed in a "residential treatment center or intensive residential treatment center." As amended, the law currently reads that "the school residence of the child is the school district where the parents or guardian reside" and "[t]he school district where a residential treatment center or intensive residential treatment center is located is responsible for providing an educational program for the children who reside in the residential treatment center or intensive residential treatment center." Most significantly, the

2013 amendments clarified that "Tuition for a child enrolled in a public school district is the responsibility of the school district where the child was enrolled at the time of placement in the residential treatment center or intensive residential treatment center." The 2013 amendments also set out a formula regarding the amount of tuition to be paid by the resident school district for these children (who are not eligible for special education at the time of placement). The State also pays a matching share of the costs per SDCL 13-13-87.

The legislative history of the 2013 amendments showed overwhelming support for the amendments. At the Senate Education Committee, proponents described how the bill addressed who has fiscal responsibility for the educational portion of the costs of a residential placement when a student is placed there by parents. It was described that the Governor set aside approximately \$140,000 to pay for the education component for thirty students (thirty students was an estimate of the number of parental placements occurring each year under SDCL 13-28-11). In the House Education Committee, the bill was described as covering the educational component. The Department of Education would pay for youth who need the service. A proponent stated the bill addresses the educational funding, as the local school pays its per student allocation and the State pays the other half. Another proponent stated the bill results in the costs falling on the local district with the remainder falling on the State. On the House Floor, the bill was described as covering the education costs of a residential placement. The bill passed both houses with only one vote in opposition.

While the 2013 amendments to SDCL 13-28-11 clarified the funding issues between districts, SDAS discovered they also created a whole new set of issues as the amendments began being interpreted and implemented by resident school districts, residential treatment centers, and local school districts providing educational services to the children at the treatment centers. Each of these issues again involved money, specifically the parents' responsibility to pay a portion of the cost of tuition:

- 1) If the residential treatment facility and its local school district believe the tuition amount set out in SDCL 13-28-11 is insufficient, are parents responsible to pay that additional amount?

---

***SDCL 13-28-11***  
*(Continued on page 8)*

2) Is the resident district (the district the child attended prior to placement) responsible for tuition on days it is not in session (Christmas/spring breaks, snow days, in-service days, etc.), or are the parents responsible for the full amount of tuition on those days? and

3) If the student is at the residential treatment center during summer months, is the resident district responsible for tuition beyond its school-year calendar, or are parents responsible for the full amount of tuition during summer months?

Evidently, it was believed our Legislature failed to address these issues when amending SDCL 13-28-11 (or did it?).

***The following is a real situation SDAS encountered this past school year:*** *Parents needed to place their child at a residential treatment center. In order to be accepted at the treatment center, the parents were required to sign an agreement stating they “agree to pay the remaining balance of tuition for instruction, \$39.04 per day, during the school year and \$91.90 on days in which [the resident district] does not count on their calendar, which also includes summer school, effective from the date of admission through discharge.” As a result of this agreement, the resident district was paying \$26.43 (per the SDCL 13-28-11 formula) each day it was in session for the child’s tuition, the State was matching it, and the parents were required to cover the remaining \$39.04 each day. On days the resident district was not in session (e.g., Christmas break, snow days, in-service days, spring break), the parents were required to pay the full tuition amount of \$91.90. Over the next three months, the parents received bills from the school district at the location of the residential facility totaling over \$3,200.00.*

SDAS advised the parents not to pay the bills. SDAS also informed the resident district, residential treatment center, and local district providing educational services that the parents were not responsible for those costs and the contract they signed violated South Dakota law (for the reasons set out in the following four paragraphs).

Beginning with the Legislative History, nowhere in any of the discussions before House and Senate committees, nor on the House or Senate floors, was there ever a mention of parents being responsible *at all* for a student’s tuition under 13-28-11. Rather, the amendments were described as *fully* covering the educational portion of a residential placement in the type of facility described therein. Statements by bill proponents such as, “the education costs are covered by the DOE,” “the State pays half,” “the cost of the education is covered,” and “the bill results in costs falling on the local district with the remainder falling on the State” indicate a very clear intent that the legislation was not to assign a portion or percentage of the tuition costs to parents. If the resident district pays its share per 13-28-11 and the State pays the “other half,” that leaves no room for parents being responsible for a third “half” or more of the cost.

The statutory language also is not as vague as some may claim. SDCL 13-28-11 states, in part: “Tuition for a child

enrolled in a public school district is the responsibility of the school district where the child was enrolled at the time of placement.” The statute does not mention parents as responsible for *any* tuition. It clearly states that tuition *is the responsibility* of the resident district. While this language answers the question of whether parents can be charged for their child’s tuition, what if the residential facility and/or its local school district want to charge more, such as in the above example? Per SDCL 13-28-11, they cannot charge more: “The amount of tuition paid by the resident school district ... shall be calculated as follows....” Thus, the statute sets the entire amount that the residential treatment facility and its local school district will receive when a parental placement occurs.

The second issue the parents in the above example faced is what was to occur on days when the resident district is not in session? Remember, the parents were required to sign a document agreeing to pay the entire tuition amount on such days. As discussed above, there is nothing in the law or legislative history describing any parental responsibility for tuition. Similarly, there is no mention in SDCL 13-28-11 (and 13-13-87 – providing for State match) of basing the resident district’s responsibility for paying tuition on the resident district’s own local school calendar. SDCL 13-28-11 actually addresses this question in very clear language. The final portion of the law specifically describes how tuition is to be billed: The tuition “shall be calculated as follows: (1) Divide the current per student allocation as defined in subdivision 13-13-10.1(4) by one hundred seventy-five; and (2) Multiply the result obtained in subdivision (1) by the number of days the child is placed.” Thus, resident district tuition is not to be based on the resident district’s local calendar; rather, it is to be based on the number of days the child is placed at the residential facility. Thus, if the resident district is on a break, but the educational program at the residential facility is in session, it does not matter. The resident district remains responsible for tuition based on the number of days the student is placed, making its local school calendar irrelevant.

The final question set out above relates to responsibility for tuition during summer months. Summer months were not discussed in the legislative history and SDCL 13-28-11 contains no additional provisions to address educational services provided to children residing in residential treatment centers during summer months. Residential programs are typically open year-round. The question on summer months is answered in the prior discussion. The statute treats summer months no differently than educational services provided to children during typical academic years. Again, the statute states that resident district tuition is to be based on the total number of days the child is placed at the residential facility, not on a resident school district’s local school calendar. Therefore, if educational services are provided at a residential treatment center during summer months, the resident district remains responsible for tuition.

*SDAS received no response from any of the three entities. The parents have not received another bill for their child’s tuition.*

## **Areas Where Further Legislative Change May Be Needed**

### **Tuition Formula**

In the above example, per the SDCL 13-28-11 formula, the resident district and State were paying a total of \$52.86 per day for tuition. The residential treatment center/local district providing the education wanted \$39.04 more per day than what SDCL 13-28-11 allowed. SDAS is concerned that if the legislative formula truly does not cover the tuition costs for the local districts providing the education to children residing in residential treatment centers, such facilities may begin rejecting students' applications when parentally placed, despite the students' dire need for services at the treatment center. It was certainly not the South Dakota Legislature's intention to effectively foreclose this option for parents when amending SDCL 13-28-11, but that could be the result if children are turned away because of the funding formula.

### **Children Receiving Special Education**

SDCL 13-28-11 is specifically set out to provide a residential option for children "not eligible for special education services at the time of placement." Arguably, this statute does not go far enough, as there is also a population of children receiving special education services that require services at a residential treatment center. In theory, if a child receiving special education services requires a residential placement, the law presupposes the IEP Team will agree to such placement. In reality, that is rarely how it works. SDAS frequently hears scenarios such as the following: The child typically has one or more mental health diagnoses and is on an IEP under the emotional disturbance category (although the disability/category may vary). The student is doing okay in school, meaning the district believes it is meeting the student's academic needs. Many students are mostly able to maintain appropriate behaviors while in school due to the structure provided. Even if the student exhibits aggressive or unsafe behaviors at school, the district states it can manage the behaviors during the school day and denies funding at a residential placement. In other situations, the district cannot handle the student's behaviors and will frequently call the parents to pick-up the student, but will still not consider a residential placement.

While many students are able to keep their emotions and behavior bottled-up at school, outside that environment is an entirely different story. The students may engage in any number of the following: Running away; killing animals; assaulting parents and often younger siblings; destroying property; threatening to use or using weapons against family members; having meltdowns in public places; etc. Essentially, it is not safe for the child to be in the home or in public.

Psychiatrists, psychologists, and mental health counselors are trained to know what treatment options will be best for individuals who have emotional disturbances. Family members are living in nightmares, sometimes not knowing if they will get through the day or night without someone getting

hurt by the child who needs the treatment. The child's psychiatrist/psychologist/counselor may have written letters recommending a psychiatric placement. When parents discuss a residential placement with the IEP Team, they may be told:

- ◆ "We do not see any of those behaviors in school;"
- ◆ "We are able to manage your child's behaviors in the school setting;"
- ◆ "We are meeting his educational needs;"
- ◆ "We are not responsible for what may happen outside of school;"
- ◆ "It sounds like a parenting issue;" and/or
- ◆ "We are only responsible for your child's educational needs; if your child has medical needs, that is your responsibility."

It is unfortunate that school districts can essentially be a roadblock to a child who is eligible for special education services from receiving the necessary residential treatment he or she needs. While parents could certainly challenge the district's position through litigation, their need is much more immediate and cannot wait for the months or even years it may take to reach resolution. They are scared to sleep in the same house with their child NOW. If the parents do not have the resources to pay for a private placement, often turning their child over to the court system is their only option. These students, who have an emotional disturbance and exhibit unsafe behaviors, need treatment, not to be treated as delinquents and placed in the court system.

The parents of children who have mental health needs and are eligible for special education are essentially in the same position as those whose children are not eligible for special education, but the option of placement through SDCL 13-28-11 is not available to them. The question was raised whether these parents could simply sign a form to refuse further special education services in order to avail themselves to SDCL 13-28-11? As mentioned above, SDCL 13-28-11 refers to "any child placed in a residential treatment center or intensive residential treatment center who is not eligible for special education services at the time of placement." If a parent refuses special education services for a child who previously was determined eligible, does that make the child "not eligible" for purposes of SDCL 13-28-11? Or, since the IEP Team had determined the child is eligible for special education services, would the child still be considered "eligible" under SDCL 13-28-11 in situations where parents withdrew the child from special education services? These questions are not answered in SDCL 13-28-11, but SDAS was informed that at least one parent has been told by a school district that the parent cannot make the child ineligible by refusing services for purposes of qualifying under SDCL 13-28-11.

The language, "who is not eligible for special education services at the time of placement," was new language added in 2013. Prior to that, SDCL 13-28-11 contained no reference to whether a child was or was not eligible for special education services. Thus, until 2013, parents of children who are eligible for special education services could also place their child under SDCL 13-28-11. The 2013 amendments have thus left an unmet need for many families in South Dakota.

# Robert J. Kean Retires After 37 Years

by John A. Hamilton

**T**wo years ago, South Dakota Advocacy Services (SDAS) celebrated both its 35<sup>th</sup> year and Robert J. Kean's 35<sup>th</sup> year as Executive Director. About a year ago, Robert decided that his 37<sup>th</sup> year would be his last at SDAS. Robert's final day at SDAS was June 30, 2014. Robert enjoyed the second-longest tenure of all the original protection and advocacy executive directors from across the country.



1986

In 1977, Robert moved to Pierre to write the initial grant under the Developmental Disabilities Act to start-up a fledgling agency that would eventually become South Dakota's protection and advocacy system. He began his work on February 1, 1977; on August 25, 1977, Governor Richard Kneip designated *South Dakota Advocacy Project* as South Dakota's protection and advocacy agency.

The past 37 years saw many changes, not only within SDAS, but in the area of disability law. The agency changed its name from South Dakota Advocacy Project to *South Dakota Advocacy Services* in 1989, and the agency grew from its singular PADD Program to its current eight component programs (Client Assistance Program (CAP), 1984; Protection and Advocacy for Persons with Mental Illness (PAIMI) Program, 1986; Protection and

Advocacy for Individual Rights (PAIR) and Protection and Advocacy Assistive Technology (PAAT) Programs, 1994; Protection and Advocacy for Beneficiaries of Social Security (PABSS) Program, 2000; and Protection and Advocacy Traumatic Brain Injury (PATBI) and Protection and Advocacy Vote Act (PAVA) Programs, 2002). In addition, SDAS began its Partners in Policymaking training program in 1992.

In addition to "growing" SDAS to its current eight programs and four office locations, Robert has been instrumental in the development of many of the state disability laws, administrative rules, and policies in existence today. Listing all of Robert's accomplishments would be difficult, but the following is a sampling of the significant work he did, both individually and as part of a group:

- ◆ Assisted in rewriting South Dakota's guardianship statutes.
- ◆ Assisted in rewrites of South Dakota's developmental disabilities and mental health laws/rules.
- ◆ Provided continual perspective to the SD Department of Education as the Education of all Handicapped Children Act (current IDEA) and its amendments were implemented, and participated in the development of special education rules and policy.
- ◆ Created what became known as the Hamilton Trust in South Dakota (trust that allows persons to set up a trust for a beneficiary with a disability that will not jeopardize the beneficiary's benefits, such as SSI and Medicaid).

While Robert was always quick to credit other SDAS staff, agencies, various committees, and/or individuals with disabilities for his accomplishments, he received long-overdue recognition in 2004, receiving the Distinguished Service Award at the Governor's Award Luncheon for "extraordinary contributions to advancing the empowerment and employment opportunities for people with disabilities." It was also no

secret that he has long been known across the state as the "go-to" person in South Dakota on difficult questions relating to guardianship and trusts.

*Ten years ago, when Robert won the Distinguished Service award, I interviewed him for an article in this newsletter. The following are some poignant excerpts:*



2012

**On starting-up the agency:** "It was myself, at a desk, in a little cubby that we rented from the South Dakota Association for Retarded Citizens."

**On changes he had seen over the past 27 years:** "Disability law has become more complex. We have had many changes in the IDEA. We have had the addition of the Americans with Disabilities Act. We have had constant refinement of these major pieces of legislation and others through court cases, and refinement through changes in regulations. I think the agency has developed a tremendous amount of skill and expertise. I think that we have grown as an agency and are now able to take on virtually any of the issues we face."

**On his biggest disappointment:** "As issues are resolved and settled, it does not seem to always permeate the psyche of persons in authority – per-

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**Robert J. Kean**  
(Continued on page 11)

# Vocational Rehabilitation and Transition Services for Students on IEPs

by Tim Neyhart

Staff from South Dakota Advocacy Services (SDAS) attend many types of meetings with numerous agencies and enter into discussions on behalf of people with disabilities about a variety of issues. For example, SDAS participates in IEP meetings with school districts, discusses various issues related to Vocational Rehabilitation and Independent Living Centers, and addresses issues with housing providers and the Social Security Administration. These experiences are usually specific to the agency identified and affect only that aspect of the life of the person SDAS is representing.

When SDAS is working with a young person on an Individual Education Plan (IEP) regarding transition services, its staff is often able to apply prior experiences in working with other agencies to the topics being discussed at the student's IEP meeting. The transition area of the IEP is a point where the activities of all the agencies in attendance can be examined, discussed, and coordinated at one meeting. These meetings are the best opportunity for

**Robert J. Kean**

*(Continued from page 10)*

sons managing programs – so an accomplishment or an issue that is decided, for example, by one parent, does not transfer to other parents or other children or other persons with disabilities in the same situation.”

**On how he would want to be remembered after he retires:** “I think I would like to be remembered as a contributor with a team of professional people within Advocacy Services in making positive change for persons with disabilities in the state.”

Now that ten years have passed and Robert has retired, it is safe to say he will be remembered in that way and then some.

the IEP team to weave all of the educational and adult service activities into a successful plan for the student. The ability of the advocate to speak the “different languages” of the service provider agencies, combined with their knowledge of the process and procedures used by those agencies, can lead to better outcomes for the student.

One of the agencies that frequently participates in IEP meetings related to transition services is the Division of Rehabilitation Services (DRS). DRS is a division of the SD Department of Human Services. DRS is funded through a mix of federal and state dollars; as a result, DRS is affected by both federal and state laws and regulations.

The Vocational Rehabilitation (VR) program at the federal level is administered by the Rehabilitation Services Administration (RSA). RSA operates according to federal law and regulation. In addition to monitoring states' implementation of the federal law and regulations, RSA also produces other types of documents known as Sub-Regulatory Guidance. The purpose of these documents is to help state VR Agencies and other programs funded under the Rehabilitation Act understand their responsibilities under the Act.

These guidance documents provide clarification about the law and the regulations and often discuss how they were intended to be interpreted or applied. There are three types of documents that make up this sub-regulatory body of information (in descending order of precedence): Policy Directives (PDs); Technical Assistance Circulars (TACs); and Information Memoranda (IMs). Along with the applicable laws and regulations, these documents are used by state VR agencies to develop rules and implement programs.

A Technical Assistance Circular (TAC) was issued on May 6, 2014, regarding “Transition Planning and Services provided through the State Vocational

Rehabilitation Services Program.” This document is cataloged as RSA-TAC-14-03 and can be found on RSA's website, at <https://rsa.ed.gov/policy.cfm>. The RSA website provides the opportunity to search for these sub-regulatory documents by the date they were issued or by document title. The latter option makes it easier to identify specific topics that have been addressed by RSA.

This TAC is important, as it provides the framework for the information to look for and be aware of as a person advocates for VR services for students when the IEP Team develops plans for a student transitioning from school to adult services. The purpose of this TAC is to provide guidance to state VR agencies to better assure that students with disabilities obtain the skills necessary to participate in jobs now and in the future. It is important to note that this TAC identifies these jobs as “high-quality competitive and integrated employment.”

This TAC addresses the issues raised by state VR agencies during the course of monitoring activities by RSA. The issues identified are as follows:

- (1) The effective collaboration between VR agencies and State educational agencies (SEA) for the provision of transition services;
- (2) The VR process as it relates to referral and application for services, the determination of eligibility, and the development of the individualized plan for employment (IPE);
- (3) The services that may be provided through the VR program.

The rest of this article will share the direction and suggestions provided by the federal partner. This information will highlight key terms and concepts that advocates must understand in order

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**VR and Transition Services**  
*(Continued on page 12)*

## ***VR and Transition Services***

***(Continued from page 11)***

to provide affective advocacy for students in this area of services.

Section 103(a)(15) of the Rehabilitation Act of 1973 as amended and VR program regulations at 34 C.F.R. §361.48(r) identify “transition services” as a VR service that may be provided to eligible students. 34 C.F.R. §361.5(b) (55) defines transition services as:

Transition *services* mean a coordinated set of activities for a student designed within an outcome-oriented process that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities must be based upon the individual student's needs, taking into account the student's preferences and interests, and must include instruction, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation. Transition services must promote or facilitate the achievement of the employment outcome identified in the student's individualized plan for employment.

(Authority: Section 7(37) and 103 (a)(15) of the Act; 29 U.S.C. 705 (37) and 723(a)(15)).

This definition is very similar to the definition of transition services found in the Individuals with Disabilities Education Act (IDEA) at 34 C.F.R. §300.43(a). These statutes and regulations form the foundation on which the VR program can assist students to achieve their post-school activities. One would hope that this similarity in definition would make it easier for the systems to work together to achieve employment goals for students on IEPs. There is still a lot of work to do in making these relationships work to achieve these goals. By reading this article, people involved in this process will

learn that both education and rehabilitation professionals at the administrative levels have created definitions, process, and practice that are designed to improve employment-related outcomes for students who qualify for these services.

The similarities in the education and rehabilitation process include concepts that professionals from both disciplines should recognize. Hopefully, parents and students will find this shared language useful as well. A student must have a disability to be eligible for services from the school or from VR. The disability must be significant enough to require specialized services in order for the student to achieve either an educational or employment outcome. The existence of the disability and its effects must be established by an evaluation completed by qualified professionals. The services must be based on the student's choice, skills, interests, and desires, and must be individually designed to meet the student's unique needs. The services must be provided in the most integrated setting and must be coordinated to achieve a particular outcome.

The TAC describes how the Act requires VR agencies to collaborate with state education officials by entering into a formal interagency agreement. The Rehabilitation Act requires that the agreement contain a description of the following elements:

- ◆ consultation and technical assistance to assist educational agencies

in planning for the transition of students with disabilities from school to post-school activities, including VR services;

- ◆ transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities that facilitates the development and completion of their individualized education programs (IEP) under Section 614(d) of the IDEA;
- ◆ the roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services; and
- ◆ procedures for outreach to and identification of students with disabilities who are in need of transition services. Outreach to these students should occur as early as possible during the transition planning process and must include, at a minimum, a description of the purpose of the VR program, eligibility requirements, application procedures, and scope of services that may be provided to eligible individuals.

While this TAC was issued May 14, 2014, the South Dakota Departments of Education (Special Education Programs,

## ***VR and Transition Services***

***(Continued on page 13)***

# **Chris Houlette Resigns**

**C**hris Houlette, Staff Attorney in the Pierre office, resigned his position as of July 3, 2014, to take a job with the State of South Dakota. Chris had worked for SDAS for just over thirteen years, having joined the agency in May 2001. Chris quickly became very interested in assisting clients with Social Security matters. He successfully represented over 80 individuals in SSI/SSDI eligibility cases. He also assisted numerous others with overpayment/waiver issues, where he was able to reduce or eliminate large amounts owed to Social Security.

SDAS wishes him well.



**Chris Houlette**

## ***VR and Transition Services***

***(Continued from page 12)***

Division of Curriculum, Career, and Technical Education), Human Services (Division of Rehabilitation Services, Division of Services to the Blind and Visually Impaired, Division of Developmental Disabilities), Labor and Regulation, and Social Services (Division of Community Behavior Health, Division of Child Protection Services) revised their “Cooperative Agreement Concerning Transition Services for Youth with Disabilities” on January 1, 2014. The Cooperative Agreement or Memorandum of Understanding can be found at the following link, <http://doe.sd.gov/oess/sped.aspx>. This lengthy document outlines the agreement to provide services at various stages of the transition process. As you review it, you will see that the description of services to be provided is delineated based on the age of the student.

It is important to review this information prior to attending an IEP meeting so that one knows what to expect from the agencies that will be involved. It is also important to know what services one can request at the meeting. There are two specific items that are very important to understand, but that are not necessarily clear when reviewing the document.

One item is found on page 6 of this document. This area describes the suggested referral processes for students who are age 16. The document indicates that students should be referred to the Division of Rehabilitation Services when they are 16 years old to determine eligibility, develop an Individual Plan for Employment, and provide VR services identified in their individualized plan for employment (IPE).

According to the IDEA, students are supposed to have a transition plan in place not later than the first IEP to be in effect at the time the student turns 16, or younger if determined appropriate. The IEP must also include appropriate measurable postsecondary goals based on age-appropriate transition assessments related to training, education, employment, etc. There is no provision in the Rehabilitation Act that requires a student to wait until age 16 to be referred to DRS for determination of eligibility. If students are not referred to begin the evaluation process until they reach age 16, it is possible that their opportunity to receive a full range of services while they are still in school could be impacted. If the VR eligibility determination is done prior to age 16, students would be in a position to start employment much sooner. When the VR eligibility determination is made prior to age 16, it would be possible for students to start Project Skills or other types of programs at age 16. In other words, rather than using the time after students turn age 16 waiting for the eligibility determination, the student could instead be actively involved in the identified VR services.

The second item that parents or advocates should be aware of regarding the Cooperative Agreement is found on pages nine and ten of the document. This part of the agreement addresses services for a person with a developmental disability. The information shared does not provide a clear understanding about how a person will secure funding for residential services at a community support provider if that is

what they require after graduation. A student with a significant developmental or intellectual disability who will need residential supports and funding from the Division of Developmental Disabilities should pay careful attention to this part of their educational process.

Furthermore, parents and adult students who have no guardian need to understand that if a school intends to graduate a student with a regular, signed, high school diploma, the school has determined that all of the student’s educational needs, including transition services needs, have been met. If the student receives a regular, signed, high school diploma, the school is no longer responsible for providing educational services to that student. The special education rules require that the school provide notice of its intent to graduate a student at least one year prior to the graduation date. While the student presumably will have met his or her academic requirements for graduation by the date identified, parents and adult students who do not have a guardian must be vigilant to ensure all the student’s transition service needs have been addressed in the IEP and the student has met all the transition goals prior to graduation. If there are unmet transition goals or uncompleted transition services, the parent/student may want to address postponing graduation with the IEP Team. If the school demands the student graduate, the parent/student has the right to contest the graduation through IDEA’s procedural safeguards (State Complaint, Due Process Hearing).

Under IDEA, schools are required to provide special education services to students who need them through the age of 21. In South Dakota, schools are required to provide these services for students until the end of the school year after they turn age 21. That means a student may receive special education services until June 30 after they turn 21, unless the student has received a regular, signed, high school diploma prior to reaching that age.

Many students and families who are not aware of this process accept the option of receiving a regular, signed, high school diploma. After their student has received the diploma, they may find out that their son or daughter does not qualify for services that are paid for by the Medicaid Waiver administered by the Division of Developmental Disabilities (DDD). If a student needs that level of service, the method to secure the services and the agency that is going to provide them must be addressed by the IEP team before the diploma is signed. If the IEP is not clear as to which agency will be responsible, then the parent should raise the issue and demand it be addressed prior to the student accepting the diploma. If the school demands the student graduate, the parent has the right to contest the graduation through State Complaint or Due Process Hearing procedures.

Other elements of the Memorandum of Understanding include delineation of roles and responsibilities of the agencies that are signing off on this document. The South Dakota Memorandum of Understanding contains the elements as described in the TAC. The information identified in the previous paragraphs help advocates to understand that the document does not always provide sufficient detail about certain

***VR and Transition Services***  
***(Continued on page 14)***

## ***VR and Transition Services***

***(Continued from page 13)***

topics. Advocates should be vigilant and well-informed about the eligibility processes and the scope of services to be provided by each agency.

As an example of the need to be fully informed about the process and procedure of an agency in the VR arena, one must understand that the type of services or supports provided by the program is based on the different stages of the VR process. The VR process includes referral, application, eligibility determination, and Individualized Plan for Employment (IPE) development stages.

Applicants may not receive individualized services when referred or applying for VR services, other than assistance with completing the application and evaluation(s). Most VR services are not provided until eligibility for services has been established and an IPE developed. Advocates and self-advocates must clearly express what they would like when they make contact with the VR agency. If you contact VR and want to complete an application, it is important that this be stated. Once an application has been com-

pleted, VR generally has 60 days to determine eligibility. This timeline holds true unless there are unforeseen circumstances that would prevent the timely completion of the eligibility determination. The applicant and the agency need to agree to any extension of this timeline. The eligibility determination does not always take 60 days, but it is important to be aware of the time limits and your rights in this process.

If an applicant is found eligible for VR services, the VR agency in South Dakota has 90 days to develop an IPE. This process generally takes much less than 90 days, but one should be aware of this time limit. Please remember, VR services such as Project Skills or other VR services can only be provided upon completion of the IPE.

The transition planning and service development process offers many opportunities and challenges for students and parents. It is the point in time when all of the years of preparation and hard work are focused on the student's movement from school to post-school activities. As you can see from reading this article, it is critical for advocates and self-advocates to be informed about the services and procedures of all of the agencies involved in this process.

As you go about these final steps in the education system, it is important to understand that the school district has significant responsibilities in assisting students to successfully complete this process. The school is required to keep the student or parent fully informed and to coordinate transition services. If one or more of the elements of the transition plan is not working or if an agency fails to address its part of the plan, it is the school's responsibility to call a meeting to resolve those concerns and ensure the services are provided. As mentioned earlier in this article, students and parents have significant rights in regard to receiving notice from the school of the intent to graduate the student and the need for the school to coordinate the student's transition services.

If you have any questions or if you need advocacy information or assistance, please call South Dakota Advocacy Services. The intake hours are from 9:00 A.M. to 3:00 P.M., Monday through Friday. In addition to the possibility of direct advocacy assistance, the agency provides detailed information and referral services to assist callers in answering their questions.

## ***The South Dakota Report is Going Green***

Because of increased printing costs, and well as a number of requests to have the *South Dakota Report* sent via email instead of receiving a paper copy, South Dakota Advocacy Services is converting its subscription mailing list to an email list to the extent possible. This transition will occur over the next year.

### **What You Need To Do:**

- ◆ Call or email SDAS with your email address. We will then remove you from our mailing list and you will receive the next *South Dakota Report* via email.

Phone: 800-658-4782

Email: [sdas@sdadvocacy.com](mailto:sdas@sdadvocacy.com)

- ◆ If you do not have access to a computer/email and/or wish to continue to receive a paper copy of the *South Dakota Report*, call SDAS.
- ◆ For those currently receiving the *South Dakota Report* in large print, we also want to hear from you whether you wish to continue to receive it in that format or would prefer receiving it via email. Those receiving it on audio disc will continue to do so and need not respond.

**The March edition of the *South Dakota Report* will provide a deadline of June 30, 2015. With the exception of those receiving audio discs, if we have not heard from you with either your email address or your desire to continue receiving a paper copy, you will be dropped from the mailing list at that time.**

# Paulsen Joins SDAS

Emily Paulsen of Pierre will become the new Protection and Advocacy Developmental Disabilities (PADD) Program Director for South Dakota Advocacy Services (SDAS) on August 18, 2014. She will be located in the Pierre office. Paulsen replaces Tim Neyhart, who was named the new Executive Director of South Dakota Advocacy Services (SDAS).

Paulsen comes to SDAS with thirteen years experience in grant writing, administration, and advocacy, and also has supervisory experience. Prior to joining SDAS, she was a Program Specialist for the



Emily Paulsen

South Dakota Victims' Services Program. She also worked for Missouri Shores Domestic Violence Center and Capitol Area Counseling Service, both in Pierre.

A graduate of Hoven High School, Paulsen earned a Bachelor of Science Degree from South Dakota State University, Brookings, where she majored in psychology and had minors in sociology and criminal justice.

Emily is married and her husband, Travis, is self-employed as a contractor. In her spare time, she enjoys crocheting and camping.

# Kean Receives Award During YAMWI Conference

by Twila Stibral

Robert J. Kean, former Executive Director of South Dakota Advocacy Services (SDAS), was awarded the Charlie Barron Lifetime Achievement Award during the 16th Annual Yankton Area Mental Wellness Inc. (YAMWI) Conference. The award recognizes an individual's professional contributions in service to mental wellness and commitment to promoting high quality services or advocacy on behalf of persons with mental illness.

The conference had 245 participants and was held June 4th and 5th on the Mount Marty College Campus in Yankton, SD. This year's conference, themed "Recovery: Mind, Body & Spirit," included



Dr. Tom Stanage, YAMWI Board President (left), presenting Robert J. Kean (right) with the Charlie Barron Lifetime Achievement Award

42 outstanding presenters. Among these presenters were Kean and Sandy Stocklin Hook from SDAS, presenting a session on "People First Language." Lori Eagle, Advisory Council Member of SDAS' Protection and Advocacy for Individuals with Mental Illness (PAIMI) Program, also participated by presenting on South Dakota United for Hope and Recovery (SD United) with three other SD United members.

YAMWI was proud to honor Robert for his many years of service and congratulates him on his retirement from SDAS. For further information regarding YAMWI and its annual conference, please visit [www.yamwi.org](http://www.yamwi.org).

# Graduates of Partners in Policymaking Now Number 530

by Sandy Stocklin Hook

*Everyone is a star and deserves the right to shine*, was the graduation theme for Year 22 of South Dakota Partners in Policymaking. The banquet and graduation ceremonies were held in Sioux Falls at the Ramkota Inn on Saturday, April 26, 2014. Over 325 people attended the banquet.

Over six months, the 26 members of the Class of 2014 studied about the history of disabilities, presented mock testimony to a panel of South Dakota legislators, and learned about inclusive education, meetings, Social Security, employment, assistive technology, and inclusive communities.



**Rep. Marc Feinstein**

Mayor of Highmore, and Representative Marc S. Feinstein of Sioux Falls. Day received the Robert J. Kean Advocacy Award and Feinstein the Legislative Advocacy Award. Lori Douville from Chamberlain was honored with a Star Quilt. Douville is a Year 7 graduate of the training who has assisted throughout the year on a volunteer basis since 2000.

Robert J. Kean, Executive Director of SD Advocacy Services (SDAS), who retired June 30, 2014, was recognized for all of his contributions during 37 years of service to, for, and with individuals with disabilities and their families throughout South Dakota. The SDAS Governing Board presented him with a plaque.

Other guests throughout the weekend events included Carmyn Egge of Sioux Falls representing Senator Tim Johnson and Brad Otten from Rapid City representing Representative Kristi Noem. Also in attendance was Speaker of the House, Representative Brian Gosch, who is an SDAS Staff Attorney from Rapid City, and Representative Kris Langer from Dell Rapids.

Members of the Class of 2014 included: Leon Adams, Jr, Sioux Falls; Diane Baumiller, Parkston; Marnie Boterman and Heidi Sato of Tea; Elizabeth Brown, Clear Lake; Brenda Dean, Jamie Never Misses A Shot, and Katey Peschl of Huron; Jon Ekle, Valerie Gallagher, Angel Maggard, and Nancy

Schlichenmayer from Pierre; Dan Guthmiller, Ryan Pederson, and Becca Wells of Aberdeen; Kent Ickler, Rapid City; Katherine Jaeger, Dakota Dunes; Doug Koutz, Holly Lemke, and Sue Sutton of Watertown; Tammy Luce, Wolsey; Lindsey Madsen, Harrisburg; Danella Petersen, Box Elder; Amy Sieh, Yankton; and Rhiannon Town of Roslyn.

Class speakers for graduation were Adams, Pederson, Luce, Petersen, and Jaeger. They each spoke of their experiences in the training, what they learned, and how they will use the training to advocate for others.



**Class Speaker, Leon Adams, Jr.**

In addition to graduation ceremonies, 157 graduates of prior years of SD Partners in Policymaking spent the weekend in Sioux Falls attending continuing education classes on current issues. "Networking is a very integral part of the entire training initiative. We have made a commitment to gather all graduates with the current class and offer continuing education and networking. Once a Partner graduate from the course, they are not forgotten," stated Stocklin Hook.

Continuing education classes included: Navigating Health Insurance (Kim Jones, Madison); Consumer Protection (Jody Swanson, Pierre); Self-

***Partners in Policymaking***  
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**Lisa and Max Merchen**

Keynote speakers at the banquet were Max and Lisa Merchen of Spearfish. Both are graduates of Partners and told the class "to never give up, even when things are getting you down. Keep going." Receiving awards were Vikki Day of Highmore, Partners graduate and



**Vikki Day**

## ***Partners in Policymaking***

***(Continued from page 16)***

Defense (Dennis Hook, Pierre), Aqua Zumba (Angie Albonico, Spearfish); Basic Sign Language (Julie Paluch, Pierre); Video Resume (Jack Mortenson, Sioux Falls; Sherri Knippling and Carley & Lori Douville, Chamberlain); Voting



### **Class Speaker, Ryan Pederson**

(Brian Gosch, Rapid City); Healthy Relationships (South Dakota Advocates for Change); Using Your Creativity (Dan Cleberg, Aberdeen); and Smart Phone Applications (Keith Bundy, Madison).

Friday evening, Partners participants, graduates, and their families enjoyed an evening at Common Grounds. Keith Bundy of Dakota State University in Madison, SD, spoke of independence. Though humorous in nature, his message reminded us that everyone is equally important, qualified, and respected. Better Ride, a band from Aberdeen, sang and entertained with karaoke and dancing.

Partners training analyzes developmental disability issues and builds skills that consumers, parents, and guardians



### **Class Speaker, Danella Petersen**

need to effectively obtain the most appropriate state-of-the-art services for themselves and others and participate in decision-making situations. Partners in Policymaking is a nationwide training now in 38 states and also in the UK, Scotland, New Zealand, Ireland, and the Netherlands. National and state speakers who are knowledgeable of disability issues present on current issues affecting people with disabilities, best practices, and the policymaking and legislative processes at the local, state, and federal levels. The overall goal of Partners in Policymaking is to achieve a productive partnership between people needing and using services and those in a position to make policy and law.

The training program in South Dakota is conducted by SD Advocacy Services (SDAS). Sandy Stocklin Hook of Pierre is the project coordinator for the statewide training course. She noted, "We now have 530 individuals throughout South Dakota



### **Keith Bundy**

who have completed Partners in Policymaking. Their voices are being heard!" Stocklin Hook also commented, "We strongly believe that individuals who use services should have a major role in determining what services they are being provided and how they are delivered. It is really exciting to see the Partners' enthusiasm and commitment to improving national, state and local services."

Year Twenty-three of South Dakota Partners in Policymaking will begin in November 2014. For more information on the program, contact Sandy Stocklin Hook, SD Advocacy Services, 221 S.

Central Ave., Ste. 38, Pierre, SD 57501, or call 1-800-658-4782. Or you can visit the SDAS Website for Partner information at [www.sdadvocacy.com](http://www.sdadvocacy.com) or email [hooks@sdadvocacy.com](mailto:hooks@sdadvocacy.com).

Partners is sponsored in South Dakota by grants from the SD Council on Developmental Disabilities, Center for Disabilities at Sanford School of Medicine at USD, Children's Care Hospital and School, and SD Parent Connection. South Dakota Advocacy Services facilities the training and contributes funding through its Protection & Advocacy Developmental Disabilities Program, Protection & Advocacy for Individuals with Mental Illness Program, and Protection & Advocacy Individual Rights Program.

## ***Big Paws***

***(Continued from page 6)***

the quick attention of the service dog. Gail cited another situation where a veteran had returned from combat and had great struggles with PTSD. He did not go out in public. He worked seven days a week in a familiar and trusted setting where he felt safe. He would not go beyond the perimeters of this area. His life changed when he received a trained service dog through Big Paws. Now, he is doing public speaking on behalf of Big Paws, as well as joining and participating in veterans organizations. Time has proven that trained service dogs can lessen a person's anxiety and improve the quality of life for those who have PTSD and other medical conditions.

Once dogs are trained and certified through Big Paws, they qualify under the ADA (Americans with Disabilities Act) as a service animal that is individually trained to do work or perform tasks for people with disabilities. In other words, the trained and certified service dogs are able to be with their handler in public facilities.

For further information on Big Paws Canine Foundation, please use the following contact information:

**Big Paws Canine Foundation,  
Inc. Mid-West Operations  
2601 South Minnesota Avenue,  
Suite 105-315  
Sioux Falls, SD 57105  
605-496-4909**

The web page: [bigpawscanine.com](http://bigpawscanine.com).

# Can A Training Really Change Your Life?

by Sandy Stocklin Hook

**Y**ES --- Partners in Policymaking can change your life. In fact, in the last 22 years it has changed the lives of 530 South Dakotans. It will change the way you think and will impact others. It will help you grow. You will become Partners with community organizations, agencies, federal/state/county/local governments, schools, employers, and, most importantly, others with the same goals and challenges you have.

On November 7, 2014, South Dakota Advocacy Services will begin the 23rd year of Partners training in South Dakota. This innovative, competency-based leadership training program is for adults with developmental and intellectual disabilities, their family members, and for parents of children with disabilities. The program has two purposes: to teach best practices in advocating for yourself and others; and to increase the personal skills of influencing others through effective communication.

The goal of the program is to educate participants to be active partners with policymakers. Graduates are provided training to learn the skills to make necessary changes to systems and to laws so that these laws and systems better meet the needs of the people they are designed to serve. Graduates will and have had an influence in the decision-making process for these programs over the course of the last 22 years. Graduates are changing the course of disability issues across the United States. They are long-term change agents who learn there are no quick fixes. The training teaches how to achieve long-term successes.

Has the training changed lives? Here is what graduates are saying:

*I learned about so many lives and met such incredible people. Every month, I left amazed by what I had learned and how brave and knowledgeable and incredible Partners are. I started this training having expectations of exclusion for my son; today that is the VERY LAST thing I dream of for him. Partners was a wonderful, incredible journey.*

*I intend to be more active in contacting legislators regarding issues for people with disabilities. I believe with education comes responsibility for leadership. Thank you Partners for waking me up!*

*I was, for the first time, able to talk about my thoughts, ideas, and feelings without being laughed at or told no one could understand me. I was an equal and I was heard and appreciated.*

Here is what a Partner from Year 22 has to say (reprinted with permission):

*When I was first approached with the duty of transporting two individuals to Partners in Policymaking, I thought to myself, how am I going to keep up with my responsibilities as a Support Coordinator at the agency where I was providing services? My next thoughts were ... Option One: I would be driving to Pierre on Thursday to drop off the participants and then driving back home, an eight-hour day spent driving. Not the most productive way to spend my work day. Then I would return to Pierre on Saturday to drive the two participants back home. That would mean half of my weekend was lost. Option Two: I would be spending the time during their sessions in a motel room, or in the city of Pierre, trying to find something to occupy my time. Then, before the first session ever happened, I learned that I would be taking part in the program, along with the individuals I*

*was transporting. Well, this new option sounded better than the two I had envisioned, but I still was unsure what I was getting myself into. I had really not heard much about Partners in Policymaking, other than some people within the agency had attended in prior years.*

*During my introduction to Partners at the first session, I heard about the movement through history of change for individuals with disabilities that was mostly filled with events I had heard of during my years of school. I then heard from a parent who raised a child with a disability. The mother talked primarily of heartaches and triumphs when dealing with the educational and medical systems and the accommodations that should be in place for every child so he or she has the tools necessary to make their formative years and beyond as successful as possible. Another speaker finished off the first day by talking about the changes that have occurred once parents became more involved in their children's lives, instead of leaving their rearing up to institutions. Finally, on the second day, past graduates of Partners shared their experiences before and after their participation in Partners.*

*I was still a little skeptical on how the information was going to impact my personal or professional life because the session seemed focused toward parents of children with disabilities. Apart from being active for a short time many, many years ago in an organization called YARC (Youth Association for Retarded Children), seeing the fellow students from the special education room attend a class once in a while during middle/high school, and now with my current employer, first as a DSP and now as a support coordinator in an agency providing services to adults with disabilities, I had not had a lot of exposure to the broad population of individuals. But, as each session occurred, I came to realize that I am exactly in the position to make a difference in lives. Each of the presentations, although mainly focused on getting better services for children through IEPs, assessments, assistive technology, bill ratifications, and advocacy, opened my eyes to see that I had an important role in ensuring that all of those services and more continue into adulthood. I also realized many adults receiving services from agencies have fallen through the cracks and need support in areas that they should have, but didn't receive during their childhoods.*

*I now feel a greater sense of purpose. I have been given many resources and gained knowledge through Partners that will assist me in finding solutions toward creating better services and opportunities for people who receive services. My ultimate goal in my work is to assist people in learning the skills they need to someday live as independently as possible. But, I also learned that being independent doesn't mean you are alone. My participation in Partners in Policymaking has shown me this. I learned that despite how unsure you are about a new experience, there is a whole network of people to help you through any hurdles you face. When affiliated with the right people, there are no stupid questions, there is no condemnation or discrimination, and no matter how heinous your life story might be, there are others who can relate to it and who show true compassion.*

**Change Your Life**  
(Continued on page 19)

# Medicaid Health Homes in South Dakota

by Dianna L. Marshall

**W**hile attending the Yankton Area Mental Wellness Conference, I learned about “Medicaid Health Homes” in South Dakota. I found particularly interesting how community mental health centers have become designated providers for “Behavioral Health Homes” for Medicaid recipients who have a severe mental illness or emotional disturbance. This article will describe how “Health Homes” were established, eligibility, what a “Health Home” is and is not, and how a “Health Home” can be of a benefit to a Medicaid recipient.

## How were Health Homes established?

The 2010 Patient Protection and Affordable Care Act (ACA) established a “Health Home” option under Medicaid to serve enrollees with chronic conditions, including mental health and substance use conditions.<sup>1</sup> Due to recommendations from the South Dakota Medicaid Solutions and the Health Home Workgroups, “Health Homes” were implemented in the state to better serve Medicaid recipients with chronic conditions and as a way to save costs for the state.<sup>2</sup>

## Who is eligible to be served by Health Homes?

Health Homes serve any Medicaid recipient:

1. With two or more chronic conditions OR one chronic condition and who are at risk for a second chronic condition; or
2. Who have a severe mental illness or emotional disturbance.<sup>3</sup>

Chronic conditions include: mental health conditions, substance use disorder, asthma, COPD, diabetes, heart disease, hypertension, obesity, and musculoskeletal and neck/back disorders. At-risk conditions include: pre-diabetes, tobacco use, cancer, hypercholesterolemia, depression, and use of multiple medications (6 or more classes of drugs).

## What is and is not a Health Home?

Health Homes are not “home health” services provided in a person’s home where, for example, a nurse may go into the home to provide health care services.

Nor is a Health Home a “place” where a person resides to receive care. The Medicaid Health Home is a model of care in which a team of providers gives the support a person needs to manage their physical and mental health care.

## Who are the Health Home Providers?

South Dakota has two types of Health Homes, those designated as **Primary Care Health Homes** by primary care providers, such as those located at medical clinics, and those designated as **Behavioral Health Homes** by community mental health centers.<sup>4</sup>

Designated providers for **Primary Care Health Homes** can be primary care physicians (e.g., family practice, internal medicine, pediatrician or OB/GYN), physician’s assistants, or advanced practice nurse practitioners, working in a Federally Qualified Health Center, Rural Health Clinic or clinic group practice).<sup>5</sup>

Designated providers for **Behavioral Health Homes** include mental health professionals working in a community mental health center or other behavioral health setting.<sup>6</sup> For example, if the person with a mental illness receives services from a community mental health center that is a designated provider of Behavioral Health Home Services, the person’s case manager may be the designated “care coordinator” to coordinate all of that person’s physical and mental health care services. The care coordinator will make sure that everyone involved with the person’s overall health care is talking with each other to ensure that the person’s needs are being taken care of and his/her care is being coordinated effectively.

Since coordination of the person’s overall health and wellness is the main focus of the Health Home concept, the following services or “provider standards” are required:<sup>7</sup>

- ◆ Each patient must have a comprehensive care plan;
- ◆ Services must be quality-driven, cost effective, culturally appropriate, person and family centered, and evidence-based;
- ◆ Services must include prevention and health promotion, healthcare, mental

health and substance use, and long-term care services, as well as linkages to community supports and resources;

- ◆ Service delivery must involve continuing care strategies, including care management, care coordination, and transitional care from the hospital to the community;
- ◆ Health Home providers do not need to provide all the required services themselves, but must ensure that a full array of services is available and coordinated; and
- ◆ Providers must be able to use health information technology to facilitate the Health Home’s work and establish quality improvement efforts to ensure that the work is effective at the individual and population level.

## How can a Medicaid recipient benefit from a Health Home?

It is a person’s choice to be in a Health Home and current services should not be affected if the person chooses not to participate in a Health Home. The Department of Social Services suggests that the person visit with his/her health care pro-

*Health Homes*  
(Continued on page 20)

## Change Your Life

(Continued from page 18)

*Finally, Partners in Policymaking has not only helped me see that my job will be enhanced, but that my personal life will be enhanced as well. Apart from anything else I learned this last six months, I gained knowledge in how to better express my opinions and research relevant facts toward improving my life and the lives of others. I believe everyone can benefit from this knowledge. I now believe my participation in Partners in Policymaking was time well spent.*

Applications for Year 23 are now available at all SDAS offices or by calling the program coordinator, Sandy Stocklin Hook, at 1-800-658-4782. An individual can apply on-line at [www.sdadvocacy.com](http://www.sdadvocacy.com) and click on the training button and follow the links.

**South Dakota Advocacy Services**  
**221 S. Central Avenue, Suite 38**  
**Pierre, SD 57501**  
**(605) 224-8294 or**  
**1-800-658-4782**  
**FAX: (605) 224-5125**  
**Email: [sdas@sdadvocacy.com](mailto:sdas@sdadvocacy.com)**  
**Website: [sdadvocacy.com](http://sdadvocacy.com)**

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## **CHANGE SERVICE REQUESTED**

### *Health Homes*

*(Continued from page 19)*

vider when choosing whether to participate in the program, and also has listed the following reasons on its Home Health webpage as to why a person should consider participating in the Health Home program:<sup>8</sup>

- ◆ Help you manage your medical conditions and improve your health.
- ◆ Help you prevent developing other illness or complications.
- ◆ Help you find exercise programs, learn healthy eating, and lose weight.
- ◆ Help you find a family doctor, pediatrician, dentist, counselor, or specialist.
- ◆ Help you and your family obtain child care, housing, transportation, and food assistance.
- ◆ Teach you and your family how to get well and stay well.
- ◆ Help you remember doctor appointments so you can get there on time.
- ◆ Help you get the medications you need and take them regularly.
- ◆ Help you understand medical test results and follow doctor's instructions.

## *Calendar*

- ◆ **September 19-20, 2014** - SDAS Board of Directors, Holiday Inn Express, Ft. Pierre
- ◆ **September 20, 2014** - Partners in Policymaking Applications Deadline
- ◆ **October 2-3, 2014** - NAMI SD Annual Conf., Watertown Event Center
- ◆ **October 3, 2014** - GreenSTAR Symposium, Sioux Falls Convention Center
- ◆ **November 7-8, 2014** - Session 1, Partners in Policymaking

- ◆ Help your doctors, counselors, and specialists talk to each other and work together to support your recovery.
- ◆ Help answer your health questions and listen to your concerns.

If you are considering participating in a Health Home and have questions on how services are coordinated and the availability of Health Home providers in your area, I would encourage you to contact the Department of Social Services at 605-773-3495 or you can access its webpage at [www.dss.sd.gov/healthhome](http://www.dss.sd.gov/healthhome).

<sup>1</sup>SAMHSA-HRSA, Center for Integrated Health Solutions (May 2012). Behavioral Health Homes For People With Mental Illness & Substance Use Conditions: The Core Clinical Features. Retrieved from

[www.integration.samhsa.gov/integrated-care-models/health-homes](http://www.integration.samhsa.gov/integrated-care-models/health-homes).

<sup>2</sup>Health Home FAQs. Retrieved from the South Dakota Department of Social Services website at <http://dss.sd.gov/healthhome/faq.asp>.

<sup>3</sup>*Ibid.*

<sup>4</sup>Nine of eleven community mental health centers in the state are designated providers for behavioral health homes. See <http://dss.sd.gov/healthhomes/index.asp> for a listing of Health Home Providers for each county.

<sup>5</sup>See Health Home FAQs.

<sup>6</sup>*Ibid.*

<sup>7</sup>See SAMHSA-HRSA, May 2012 report.

<sup>8</sup>See Health Home FAQs.