

# TRI-COUNTIES REGIONAL CENTER

## EXECUTIVE DIRECTOR REPORT

October 5, 2013

---

### **I. Regional Events**

Welcome back to Omar Noorzad, Ph.D., as he resumes his duties as TCRC's Executive Director! Everyone looks forward to his leadership as the agency moves forward in these continuing challenging times. TCRC is pleased to report that it hosted the very successful Sixth Annual California Gathering for Person Centered Practices, held on September 25th and 26th in Camarillo. Over 160 participants enjoyed presentations by TCRC staff and providers, discussion groups on topics selected by those attending, and a keynote address by Laura Buckner of Texas, a member of the Board of Directors for the national Learning Community for Person Centered Practices. On Saturday, September 28th, 2013, Area Board 9 hosted a highly successful Self-Advocacy Conference at VTC Enterprises in Santa Maria. TCRC supported their conference by helping with the planning committee, assisting with administrative costs, providing a gift basket for the raffle, and setting up information tables for TCRC and Rainbow Family Resource Center.

- **Attachment #1 – The California Gathering for Person Centered Practices**
- **Attachment #2 – 2013 Self-Advocacy Conference**

### **II. Crisis Services**

As of August 16th, the new crisis services provider, Crisis Support Services (CSS), has been assisting TCRC individuals, families, and providers as problems developed. Working closely with TCRC service coordinators and management, CSS staff have enrolled the most at risk individuals into the system and begun to make crisis calls and preventative visits. After the first 45 days, the reports are very favorable about the work CSS is doing to support persons served by TCRC. The service is available 24/7, backed up by an On Call TCRC Manager.

- **Attachment #3 – Crisis Support Services brochure**

### **III. Changes in Labor Rules**

Two major changes, one at the Federal level and one at the State level, have been announced in the past month. At the Federal level, the U.S. Dept. of Labor released the Final Rule on home care and domestic workers, which extends federal minimum wage and overtime provisions to most home care workers, including IHSS workers and Supported Living Services staff. The new rule takes effect on January 1, 2015. At the State level, the Governor recently signed legislation that will raise the State minimum wage from \$8.00/hour to \$10.00/hour in the next 18 months, beginning July 1, 2014. ARCA,

# TRI-COUNTIES REGIONAL CENTER

## EXECUTIVE DIRECTOR REPORT

October 5, 2013

---

providers, and recipients of services are seeking to understand the new labor changes, particularly how DDS will address the resulting increases in POS costs to the Regional Center system.

- **Attachment #4 – CDCAN Disability Rights Report, Sept. 17<sup>th</sup>**
- **Attachment #5 – California Minimum Wage**

#### **IV. Legislation**

SB 468, the Self-Determination bill, passed both houses of the legislature without any “No” votes and is on the Governor’s desk awaiting his signature. ARCA’s position was Support with Amendments. ARCA was able to work with the bill’s sponsors to address several important issues, as the Regional Center system remains in support of the self-determination concept. ARCA continues to question DDS about how regional center operations costs to implement the new program will be funded, should the Governor sign the bill as expected.

SB 579, Commission on Oversight Efficiency and Quality Enhancement Model, has become a two year bill, with a reduced focus on setting up a commission to review and study ways to implement a unified oversight and quality enhancement process that assures health and safety for persons with developmental disabilities served by programs licensed by Community Care Licensing. The Commission would be selected by February 14, 2015, and would submit its recommendations to DDS by December 30, 2015. Regional centers could volunteer to participate in a pilot consistent with the recommendations of the commission.

- **Attachment #6 – ARCA Self-Determination Letter**
- **Attachment #7 – SB 579, Commission on Oversight Efficiency and Quality Enhancement Model**

#### **V. TCADD Board Recruitment**

The Board is actively seeking to increase its membership, particularly to include persons representing the Latino community and the San Luis Obispo County area. Recruiting measures are underway in accordance with the Board’s Recruitment Plan. For example, recruitment cards that invite consideration to be a Board member and explain the Board’s purpose have been printed for use by TCRC staff and Board members.

- **Attachment #8 – TCADD Board Recruitment Card**



THE  
CALIFORNIA  
GATHERING  
*for Person Centered Practices*  
2013

sharing learning  
building capacity  
seeking **partnership**  
**creating change**

September 25 & 26, 2013  
Camarillo, California



The Learning Community  
for person centered practices

The California Gathering is a regional learning event sanctioned by the Learning Community for Person Centered Practices [www.learningcommunity.us](http://www.learningcommunity.us)



## • MORE WORKSHOPS •

<b>J</b>	<b>MY PEERS, MY LOVE, MY LIFE</b> Do you know how important your peers are? You can't always rely on program staff to help you out. Learn about the value of friendship between people with disabilities.	<i>Presenter: Sam Durbin</i>
<b>K</b>	<b>HELP THE AMERICANS WITH DISABILITIES ACT GO GLOBAL</b> Learn about the United Nation's Convention on the Rights of Persons with Disabilities (known as the UN CRPD) and your rights on a global, national and local level.	<i>Presenter: Trena Wade</i>
<b>L</b>	<b>I CAN MAKE A DIFFERENCE!</b> Realize that YOU, all by yourself, CAN make a difference. Stephen will show you how through personal stories and examples from history. Lots of audience participation!	<i>Presenter: Stephen Day</i>
<b>M</b>	<b>"ADVOCATING WITH YOUR ELECTED OFFICIALS" VIDEO &amp; CHAT</b> Explore how you can have an effective visit with an elected official from any part of government— city, county, state or federal. Ray will share his personal experiences.	<i>Presenter: Ray Castro</i>
<b>N</b>	<b>RESPECT MY CHOICES AND PRIVACY!</b> Learn how to tell people that support you what you want help with (and what you don't). Learn ways to tell people when to keep their nose out of your business!	<i>Presenter: Karen Moore</i>
<b>O</b>	<b>GENTLE YOGA</b> Gentle yoga is modified yoga poses and breathing that helps calm the mind and body. This type of yoga is great for students of all levels and it reduces stress and anxiety.	<i>Presenter: Vicki Forman</i>
<b>P</b>	<b>FEELING SAFE, BEING SAFE</b> Learn how to prepare your own personal safety in case of any kind of emergency— earthquake, fire, etc. Learn what you need to put together your own emergency kit.	<i>Presenter: Office of Clients Rights Advocacy (OCRA)</i>
<b>Q</b>	<b>POWER OF PHOTOS</b> A photo is worth a 1,000 words. Joseph will talk about how photos can be an effective tool in communication and self advocacy. Learn about the power of images.	<i>Presenter: Joseph Buchroeder</i>
<b>R</b>	<b>YOGA &amp; MINDFULNESS</b> "Yoga" means body movement. "Mindfulness" means awareness, paying attention and concentrating with your mind. Learn how doing both at the same time is relaxing.	<i>Presenter: Samantha Kincaid</i>
<b>S</b>	<b>SERVICES &amp; SUPPORTS: WHAT DO I WANT/WHAT DO I NEED?</b> Using Person Centered Tools (PCT), figure out the difference between what is important to you versus what you need. Lots of hands on learning at this workshop!	<i>Presenter: Karen Moore</i>
<b>T</b>	<b>HOW TO GET A JOB &amp; KEEP IT</b> Learn about the different types of jobs available to you and the supports you can get to be successful at work. A self advocate from Pathpoint will share their personal story.	<i>Presenter: Marcus Tesch</i>
<b>U</b>	<b>GET OUT OF THE GROUP HOME &amp; INTO YOUR OWN PLACE</b> OCRA will tell you what information you need, who to get it from, and how to prepare for important meetings. Learn about how to live on your own, independently!	<i>Presenter: OCRA</i>
<b>V</b>	<b>OUCH, THAT HURTS!</b> Learn about different types of abuse— emotional, physical, sexual, financial, etc. and what to do when someone hurts you at home, at your program or in the community.	<i>Presenter: Area Board 9</i>

PAGE 4— CONFERENCE BOOKLET



### CONFERENCE PURPOSE

To give adults with developmental disabilities the chance to learn about the power and importance of the self advocacy movement.

### WHO SHOULD ATTEND?

People with developmental disabilities 18 and older who are interested in helping build a stronger self advocacy movement in the Tri-Counties area.

### WHY SELF ADVOCATES SHOULD GO!

Meet self advocates from all over the Tri-Counties area and California. Learn about self advocacy and speaking up for yourself. Attend workshops on many topics. Learn how to be a part of the self advocacy movement.

### WHO ELSE CAN COME?

Staff and family members are invited to come to the conference to support self advocates during conference activities or as a conference volunteer. This conference is intended to be **for and by** people with developmental disabilities. There will be no activities specifically for staff or family members.

PAGE 1— CONFERENCE BOOKLET

# 2013 SELF ADVOCACY CONFERENCE

Saturday, September 28, 2013

VTC Enterprises  
2445 'A' Street, Santa Maria, CA

### CONFERENCE SCHEDULE

11:00 am-12:15 pm	Conference Registration & Community Resource Fair
12:30-1:30 pm	Conference Welcome & Keynote Address by Sam Durbin
1:45-2:45 pm	Workshops
3:00-4:00 pm	Workshops
4:15-5:15 pm	Your CHOICE: Free time, People First IDOL, or Hair-styling/Make-up
5:30-6:15 pm	Wine & Cheese Mixer (non-alcoholic sparkling cider will also be served)
6:30-8:30 pm	Dinner, Dessert & Presentation of Proclamations
8:30-10:00 pm	Dance

**REGISTRATION AND PAYMENT  
DUE BY 09/06/2013**



## MEET THE KEYNOTE SPEAKER: SAM DURBIN, Self Advocate

Once homeless and alone, Sam Durbin managed to find a lifeline of support and acceptance at Integrity House, a program for people with disabilities in Santa Ana, California.



Sam Durbin and his dog, Katie.

Over the past 20 years, Sam has served on many committees, boards and workgroups for agencies that provide services to people with developmental disabilities. In 2006 Sam wrote a book entitled *You're Not the Boss of Me* and in 2009 a documentary was made about Sam titled, "When I'm Not Alone".

Sam is a public speaker and powerful advocate for people with disabilities and has championed self-determination throughout California and the United States.

## NEED A RIDE TO THE SELF ADVOCACY CONFERENCE?



If you live in  
San Luis Obispo  
County

**ride-  
on**  
TRANSPORTATION

Call (805) 543-2039  
Ask for Ellen  
Roundtrip ride: \$6.00  
Limited Space— CALL NOW!

NORTH SB COUNTY

**SMOOTH**

Call (805) 922-8476  
Ask for Deanna  
Roundtrip ride: \$10.00  
Limited Space— CALL NOW!

If you live in  
Santa Barbara  
County

SOUTH SB COUNTY

**Easy  
Life**  
TRANSPORTATION

Call (805) 681-1181  
Ask for Nicole  
Roundtrip ride: Free  
Limited Space— CALL NOW!

If you live in  
Ventura  
County

**The Arc**  
of Ventura County

Call (805) 650-8611  
Extension 100  
Roundtrip ride: Free  
Limited Space— CALL NOW!

PAGE 2— CONFERENCE BOOKLET

## WORKSHOPS REGISTRATION INSTRUCTIONS

- 1. READ** the workshops descriptions on this page and the next page.
- 2. PICK** 4 workshops and order them by your 1st choice, 2nd choice, 3rd choice and 4th choice.
- 3. GRAB** your yellow registration forms and turn to page 3.
- 4. CIRCLE** the letter of the workshop for each choice (on page 3 of the yellow registration forms).

### • WORKSHOPS •

<b>A</b>	<b>"WHEN I AM NOT ALONE" SHORT DOCUMENTARY FILM</b> Born female but raised as a male for twenty-eight years, Sam Durbin experienced horrible abuse, never learned to read or write, and drifted in and out of institutions. Learn how Sam turned his life around and became a published author and national advocate for people with disabilities. Question and answer session after film showing.	Presenter: <b>Sam Durbin</b>
<b>B</b>	<b>START YOUR OWN BUSINESS</b> Have you always wanted to have your own business? Here's your chance to learn how! Chris will take you through all the steps he took to start his own successful DJ business.	Presenter: <b>Chris Benedict</b>
<b>C</b>	<b>I CAN SPEAK FOR MYSELF!</b> Build specific skills needed for effective self advocacy, including learning assertive communication. Scott will talk from his experiences as a peer self advocate at DRC.	Presenter: <b>Scott Baron</b>
<b>D</b>	<b>CHAIR YOGA</b> Chair Yoga is a gentle form of yoga that is practiced sitting in a chair or standing using a chair for support. Practice breathing and relaxation exercises.	Presenter: <b>Vicki Forman</b>
<b>E</b>	<b>YOU, TOO, CAN BE A LEADER!</b> Learn how to become a leader in your building, neighborhood or city/town. Draw from examples of famous leaders and learn how to use the A.W.E. strategy.	Presenter: <b>Steven Matschke</b>
<b>F</b>	<b>"SEXUAL BILL OF RIGHTS" VIDEO &amp; CHAT</b> People First of San Luis Obispo will show their video which talks about the sexual rights of people with developmental disabilities. A discussion to follow viewing of video.	Presenter: <b>Jody Barker</b>
<b>G</b>	<b>HOW TO GET LEGISLATORS TO YOUR PROGRAM</b> Paul Ericksen and Scott Clarkson share the successful techniques they have used to get legislators to visit their program at Alpha. Learn about the grassroots approach.	Presenters: <b>Loud &amp; Proud Advocates</b>
<b>H</b>	<b>BREATHE AND RELAX</b> Feeling stressed? This workshop will teach you about how you can make stress go away just by thinking about how you breathe. Learn new ways to relax.	Presenter: <b>Samantha Kincaid</b>
<b>I</b>	<b>BE YOUR OWN HEALTH CARE ADVOCATE</b> Tools you need so that you can change from being a <i>passive</i> patient to an <i>active</i> advocate for your own health care. Molly will draw from her own life experience.	Presenter: <b>Molly Kennedy</b>

PAGE 3— CONFERENCE BOOKLET

**MORE WORKSHOPS NEXT PAGE**

**It's about ability not disability!**

### **MISSION STATEMENT**

Crisis Support Services is an organization that provides crisis prevention and intervention counseling to individuals who have developmental disabilities.

Teams of counselors are available to take calls to diffuse a situation or go to a crisis site to intervene & prevent a crisis. The teams provide training and on site secondary support to all direct support personnel and act as the liaison for the Regional Center Service Coordinators.

Safety of all individuals is the primary concern; the Crisis Support Service Teams are always available and ready to respond.

### **Contact Information**

San Luis Obispo County

**1-888-406-6464**

Santa Barbara County

**1-800-953-9593**

Ventura County

**1-888-566-1666**



All calls are returned as quickly as possible. If you have not received a response within 5-10 minutes, call again to ensure your message was received by the CSS Team.

**Tri-Counties Regional Center**

# **Crisis Support Services**



**Attachment #3**

**Let Us Help**

Executive Director



## Introduction of Crisis Support Services

Crisis Support Services (CSS) is a mobile crisis team comprised of trained professional. We are contracted by Tri-Counties Regional Center to provide mobile crisis intervention services.

The CSS Team is available:

### Face to Face Intervention for Crisis Calls:

24 Hours/ 7 Days A Week

### Face to Face Prevention Appointments:

Monday through Friday

10am - 6pm

Services are provided by the CSS Team at no charge to the person's family, residential provider, and other direct support professionals.

## Summary of Services

- Crisis Prevention is an integral part of CSS
- Prevent and De-escalate Crisis
- Utilize Non-Aversive and Non-Confrontational Methods
- Assessment for Crisis Potential
- Assist with Transitions
- Remain available for Support and Assurance
- Stabilize & Maintain Placement
- Link to Generic Services
- Avoid Hospitalization and Police Involvement
- Assist with Hospitalization and Police Involvement when necessary
- Prioritize Crises based upon Severity and Available Resources  
(An Urgent call may result in termination of another call/appointment)

## Contacting CSS Team

If there is a possibility of any Immediate Danger, please call 911. Then call the CSS Team so we may provide support and assistance.

San Luis Obispo County

**1-888-406-6464**

Santa Barbara County

**1-800-953-9593**

Ventura County

**1-888-566-1666**

Tell the operator to "call" the **Crisis Team**. Give the operator **Your Name and Phone Number** and the Individual's name, along with a brief description of the presenting problem.

## Attachment #4

**Frank Bush - Re: CDCAN REPORT #085-2013 (SEP 17 2013): US DEPT OF LABOR RELEASE FINAL RULE EXTENDING FEDERAL OVERTIME AND MINIMUM WAGE PROTECTIONS TO HOME CARE AND DOMESTIC WORKERS - RULE GOES INTO EFFECT JANUARY 1, 2015**

---

**From:** "Marty Omoto - CDCAN (California Disability Community Action Network)"  
<martyomoto@rcip.com>  
**To:** <CDCANreportlist01@rcip.com>  
**Date:** 9/18/2013 1:32 AM  
**Subject:** Re: CDCAN REPORT #085-2013 (SEP 17 2013): US DEPT OF LABOR RELEASE FINAL RULE EXTENDING FEDERAL OVERTIME AND MINIMUM WAGE PROTECTIONS TO HOME CARE AND DOMESTIC WORKERS - RULE GOES INTO EFFECT JANUARY 1, 2015

---

### **CDCAN DISABILITY RIGHTS REPORT CALIFORNIA DISABILITY COMMUNITY ACTION NETWORK**

**#085-2013 – September 17, 2013 – Tuesday Night**

*Advocacy Without Borders: One Community – Accountability With Action*

*CDCAN Reports go out to over 65,000 people with disabilities, mental health needs, seniors, people with traumatic brain and other injuries, people with MS, Alzheimer's and other disorders, veterans with disabilities and mental health needs, families, workers, community organizations, facilities and advocacy groups including those in the Asian/Pacific Islander, Latino, American Indian, Indian, African-American communities; policymakers, and others across the State.*

*Sign up for these free reports by going to the CDCAN website. Website: [www.cdcan.us](http://www.cdcan.us)*

*To reply to THIS Report write:*

*Marty Omoto at [martyomoto@rcip.com](mailto:martyomoto@rcip.com) Twitter: [martyomoto](https://twitter.com/martyomoto)*

*Office Line: 916-418-4745 CDCAN Cell Phone: 916-757-9549*

#### **SPECIAL NOTE ON CHANGES FOR CDCAN REPORTS – HELP NEEDED:**

- *NEW EMAIL LIST SERVICE PROVIDER - CDCAN has been in the process of transitioning over the past couple of months to a different email list service to send out future CDCAN reports very soon that should provide a lot of ways to improve and expand reporting. The reports will look basically the same, though there will be differences in format and we won't be able to send out attachments. Please let me know if you are receiving the reports using the new service, and if the format and reporting looks okay or have other comments.*
- *HELP NEEDED: It will cost more every month, so any support would be greatly (and urgently) needed and appreciated. Please help! (see below)*
- *I want to pay special tribute to River City Internet Providers (RCIP) and the staff there for their tremendous support they have given over the past 15 years to CDCAN and the work of advocacy for people with disabilities, mental health needs, the blind and seniors. Without them I could not have been able to provide the reports I was able to do over the years.*

#### **Federal Update**

### **US DEPARTMENT OF LABOR RELEASES FINAL RULE ON HOME CARE & DOMESTIC WORKERS**

- **Final Rule Will Take Effect January 1, 2015**
- **Extends Federal Fair Labor Standards Act's Minimum Wage and Overtime Provisions to Most Home Care Workers Across Nation**



- ***Final Rule Provisions Raised Major Opposition and Concerns of Many Disability and Senior Advocacy Organizations and Individuals Across Nation***
- ***Major Potential Impact For California's IHSS, Supported Living and Other Home Care Workers and To Those Persons Receiving Services***
- ***Final Rule Will Impact Last Six Months of 2014-2015 State Budget That Governor Will Release January 10th***

SACRAMENTO, CA (CDCAN) [Last updated - 09/17/2013 – 10:35 PM] – The US Department of Labor released today a controversial final regulation that - effective January 1, 2015 – extends the minimum wage and overtime protections under the federal Fair Labor Standards Act, to nearly 2 million home care workers including home health aides, personal care aides and certified nursing assistants. It also extends those minimum wage and overtime protections to all direct care workers employed by home care agencies and other third parties.

A copy of the 358 page Final Rule can be downloaded from the US Department of Labor website as a pdf document file: [http://www.dol.gov/whd/homecare/final\\_rule.pdf](http://www.dol.gov/whd/homecare/final_rule.pdf)

Fifteen states already extend state minimum wage and overtime protections to direct care workers, and an additional six states and the District of Columbia mandate state minimum wage protections.

Alluding to the sometimes intense opposition by many disability rights and senior advocacy and provider groups across the nation, Laura Fortman, principal deputy administrator of the US Department of Labor's Wage and Hour Division said that "...the department [of Labor] carefully considered the comments received from individuals who receive home care, workers, third-party employers and administrators of state programs that support home care. In response, the final rule provides increased flexibility, and gives programs sufficient time to make any needed adjustments. Together these changes will allow the rule to better meet consumers' needs while better protecting direct care workers."

The US Department of Labor noted that, in accordance with Congress' initial intent, individual workers who are employed only by the person receiving services or that person's family or household and engaged primarily in fellowship and protection (providing company, visiting or engaging in hobbies) and care incidental to such activities, will still be considered exempt from the federal Fair Labor Standards Act's minimum wage and overtime protections – though with limits.

## **MAJOR IMPACT IN CALIFORNIA**

- The Final Rule will impact some number of the over 360,000 IHSS workers who work more than 40 hours per week for an IHSS recipient and do not meet the restrictions for the "companionship" exemption. Correspondingly, the Final Rule's provisions will impact some number of the over 440,000 children and adults with disabilities (including developmental), the blind and seniors who are IHSS recipients whose workers would trigger the overtime provisions of the Final Rule.
- The Final Rule will also impact other similar home care support workers including Supported Living Services workers and providers funded under the 21 non-profit regional centers under contract with the Department of Developmental Services for thousands of people with developmental disabilities.
- The Brown Administration early this past year sent a letter urging the Obama Administration to modify the then proposed regulations citing limited state resources to cover overtime

costs that the regulation would impose, and the impact on IHSS recipients that could mean less availability of their experienced worker and the need to hire additional people, in order to avoid exceeding the overtime rules.

- With the likelihood that the US Department of Labor would approve the proposed regulation, the Brown Administration last May indicated that it intends to push legislation that would limit the number of hours of an IHSS worker so that it will not exceed the federal overtime provisions in what was then the proposed regulation – now Final Rule. While the intention to do so was confirmed by Brown Administration officials, no such legislation was put forward. It was not clear then – or now – whether the legislation restricting overtime for IHSS workers would also apply to other homecare workers, including Supported Living Services.
- Since last May the Brown Administration has not yet indicated publicly whether it still intends to include those overtime restrictions as part of the proposed 2014-2015 State Budget that the Governor will release on January 10, 2014 – which seems likely, or as proposed legislation outside the budget process next year.
- The announcement of the Final Rule comes just days after the California Legislature approved AB 10 by Assemblymember Luis Alejo (Democrat – Watsonville) that will raise the State minimum wage to \$9.00 an hour on July 1, 2014 and then to \$10.00 an hour effective January 1, 2016. Governor Brown, a few days before passage of the bill, announced that he would sign the measure into law. Many organizations who provide services and supports funded through the 21 non-profit regional centers, and other providers including home health agencies have raised concerns that the increase would represent another budget reduction to them unless the State next year provides funding to pay for the minimum wage increase.

#### **ISSUE HAS DIVIDED ADVOCATES FOR WORKERS & RECIPIENTS OF SERVICES**

- Across the nation and in California, the issue has sharply divided worker unions with many disability and senior rights advocates, many IHSS recipients, Supported Living Services providers, home health agencies.
- Many advocates for people with disabilities and seniors while agreeing that domestic and IHSS workers should be treated fairly and paid overtime – fear that the federal and states will not fund overtime. That in turn will mean – they believe – potential loss of in-home supports or instability because new additional workers would need to be hired to avoid triggering the proposed overtime provisions.
- Advocates of the proposed regulation – now Final Rule - argue that state and federal governments should fund the overtime provisions – as they do for other state, federal and county workers. They assert that domestic workers – including homecare workers – have a right to be treated as a worker on the same level as any other worker protected by federal law.
- Advocates for workers and unions have previously made unsuccessful attempts in recent years to push legislation that would have provided similar overtime protections in State law regarding domestic and certain homecare workers, though exempting IHSS workers. Those bills however either failed to win final approval in the Legislature or were vetoed by the Governor.
- Modified and watered down versions of those bills were passed in the final days of the 2013 Legislative session and are now pending action on the Governor's desk.

#### **WHAT THE FINAL RULE DOES – EFFECTIVE JANUARY 1, 2015**

- The Final Rule changes and in some cases repeals the existing overtime exemption under the federal Fair Labor Standards Act so that many of the nearly 2 million home care and domestic workers across the US (including hundreds of thousands of IHSS, Supported Living Services, home health aides, personal care aides and other homecare workers in



California) would no longer be considered exempt from federal minimum wage and overtime rules when the Final Rule goes into effect January 1, 2015.

- The Final Rule place limits on the amount of other work done by a person under the "companionship services" exemption when the care is provided attendant to and in conjunction with the provision of "fellowship and protection", and does not exceed 20% of the total hours worked per consumer and per workweek.
- The Final Rule clarifies that "companionship services" do not include the performance of medically related tasks for which training is typically required.

#### **TIMELINE OF FINAL RULE**

- DEC 27, 2011: the US Department of Labor submitted the proposed regulation, published in the Federal Register, for public comment. President Obama makes announcement of the proposed rule in an event at the White House.
- FEB 24, 2012: the US Department of Labor published a notice to extend the comment period to March 12, 2012, because of requests received to extend the period for filing public comments.
- MAR 13, 2012: the US Department of Labor published a notice to extend the comment period a second time - until March 21, 2012. Over 9,000 public comments were received between December 27, 2011 and March 21, 2012 will be included in the rulemaking record according to the US Department of Labor
- JAN 15, 2013: the US Department of Labor submitted for final review the proposed federal regulations to the Office of Information and Regulatory Affairs (OIRA), a division within the White House Office of Management and Budget (OMB) as part of the long federal regulatory process. Certain federal regulations that have significant impact are referred to the Office of Management and Budget for further review and approval. That White House agency, under federal law, normally has 90 days to review the proposed final regulations, which mean a deadline of April 15<sup>th</sup> in the case of the domestic worker proposed US Department of Labor regulations. However that deadline can be extended by the OMB director for an additional 30 days – or extended indefinitely by the agency proposing the regulations – in this case the US Department of Labor.
- APR 15, 2013: 90 day deadline for the Office of Management and Budget's review of the US Department of Labor domestic worker proposed final regulations.
- MAY 15, 2013: It is clear the deadline has been extended, but it is not clear if the extension is 30 days – meaning May 15<sup>th</sup>, or if it was extended indefinitely.
- SEPTEMBER 17, 2013 – US Department of Labor releases announcement of the Final Rule that will go into effect January 1, 2015.
- JANUARY 1, 2015 – Final Rule becomes effective.

#### **US DEPARTMENT OF LABOR FACT SHEETS ON FINAL RULE**

The US Department of Labor reported that it has created a new web portal with interactive web tools, fact sheets and other materials to help families, other employers and workers understand the new requirements.

These, along with information about upcoming webinars on the rule, are available at [www.dol.gov/whd/homecare](http://www.dol.gov/whd/homecare)

In addition, the US Department of Labor also released the following fact sheets today (September 17, 2013) regarding the Final Rule:

- Final Rule Fact Sheet: Application of the Fair Labor Standards Act to Domestic Service,

Final Rule [PDF]: <http://www.dol.gov/whd/regs/compliance/whdfsFinalRule.htm>

- Fact Sheet 79: Private Home and Domestic Service Employment Under the Fair Labor Standards Act [PDF]: <http://www.dol.gov/whd/regs/compliance/whdfs79.htm>
- Fact Sheet 79A: Companionship Services Under the Fair Labor Standards Act (FLSA): Definition, Duties, and Prohibited Tasks [PDF]: <http://www.dol.gov/whd/regs/compliance/whdfs79a.htm>
- Fact Sheet 79B: Live-in Domestic Service Workers Under the Fair Labor Standards Act (FLSA) [PDF]: <http://www.dol.gov/whd/regs/compliance/whdfs79b.htm>
- Fact Sheet 79C: Recordkeeping Requirements for Individuals, Families, or Households Who Employ Domestic Service Workers Under the Fair Labor Standards Act (FLSA) [PDF]: <http://www.dol.gov/whd/regs/compliance/whdfs79c.htm>
- Fact Sheet 79D: Hours Worked Applicable to Domestic Service Employment Under the Fair Labor Standards Act (FLSA) [PDF]: <http://www.dol.gov/whd/regs/compliance/whdfs79d.htm>
- Fact Sheet 79E: Joint Employment in Domestic Service Employment Under the Fair Labor Standards Act (FLSA) [PDF]: <http://www.dol.gov/whd/regs/compliance/whdfs79e.htm>
- Fact Sheet 79F: Paid Family or Household Members in Certain Medicaid-Funded and Certain Other Publicly Funded Programs Offering Home Care Services Under the Fair Labor Standards Act (FLSA) [PDF]: <http://www.dol.gov/whd/regs/compliance/whdfs79f.htm>

#### **OBAMA ADMINISTRATION OFFICIALS PRAISE FINAL RULE**

- Kathleen Sebelius, Secretary of the US Department of Health and Human Services: “Direct care workers play a critical role in ensuring access to high-quality home care that many people need in order to remain healthy and independent in their communities, and they should be compensated fairly for this important work. We will continue to engage with consumers, states, advocates and home care providers in the implementation of this rule to help people with disabilities, older adults and their families receive quality, person-centered services.”
- Thomas E. Perez, Secretary, US Department of Labor: “Many American families rely on the vital services provided by direct care workers. “Because of their hard work, countless Americans are able to live independently, go to work and participate more fully in their communities. Today we are taking an important step toward guaranteeing that these professionals receive the wage protections they deserve while protecting the right of individuals to live at home.”

#### **BACKGROUND OF THE FAIR LABOR STANDARDS ACT**

- The federal Fair Labor Standards Act (FLSA) was passed in 1938 to provide minimum wage and overtime protections for workers, to prevent unfair competition among businesses based on subminimum wages, and to require employers whose employees work excessive hours to compensate employees at one-and-one-half times the regular rate of pay for all hours worked over 40 hours.
- The Fair Labor Standards Act did not initially protect workers employed directly by households in domestic service, such as cooks, housekeepers, maids, and gardeners. However domestic workers that were employed by businesses covered under the federal labor law, such as gardeners employed by landscaping companies or a cook employed by a caterer, did received minimum wage and overtime protections even if their work was in or about a private household.
- Congress in 1974, amended the Fair Labor Standards Act, to extend coverage to “domestic service” workers amending the federal law to apply to employees performing services of a household nature in or about a private home.
- While amending the federal law, Congress also provided for a limited exemption from both



the minimum wage and overtime pay requirements for “casual babysitters” and companions for the aged and infirm, and created an exemption from the overtime pay requirement only for live-in domestic workers. Federal law on this issue has largely remained unchanged since then.

## FREQUENTLY ASKED QUESTIONS REGARDING FINAL FEDERAL REGULATION

The following is a series of “frequently asked questions” regarding the Final Rule that was released by the US Department of Labor today (September 17, 2013) at

<http://www.dol.gov/whd/homecare/faq.htm>

To provide information to IHSS and other recipients – and workers and provider organizations, CDCAN is reproducing the frequently asked questions regarding the Final Rule. Please note that the questions and answers below are from the US Department of Labor – not CDCAN):

### GENERAL QUESTIONS ABOUT THE FINAL RULE

*QUESTION: How long has it been since the Department [of Labor] last revised the "domestic service" regulations?*

*ANSWER [by US Department of Labor]:*

- *No major revisions have been made to the domestic service regulations in 38 years.*
- *The Fair Labor Standards Act (FLSA or Act) was passed in 1938 to provide minimum wage and overtime protections for workers, to prevent unfair competition among businesses based on subminimum wages, and to spread employment by requiring employers whose employees work excessive hours to compensate employees at one-and-one-half times the regular rate of pay for all hours worked over 40.*
- *The FLSA [Fair Labor Standards Act] did not initially protect workers employed directly by households in domestic service, such as cooks, housekeepers, maids, and gardeners.*
- *However, the FLSA's minimum wage and overtime compensation provisions did extend to domestic service workers employed by enterprises covered by the Act, such as gardeners employed by covered landscaping companies or a cook employed by a covered caterer, even if their work was in or about a private household.*
- *Congress explicitly extended FLSA coverage to "domestic service" workers in 1974, amending the Act to apply to employees performing household services in a private home, including those domestic service workers employed directly by households or by companies too small to be covered as enterprises under the Act.*
- *While Congress expanded protections to "domestic service" workers, the 1974 amendments also exempted certain domestic service workers from the FLSA's minimum wage and overtime provisions.*
- *Under this exemption, casual babysitters and domestic service workers employed to provide "companionship services" to elderly persons or persons with illnesses, injuries, or disabilities) are not required to be paid the minimum wage or overtime pay. Congress also created an exemption only from the overtime pay requirement for live-in domestic service workers.*
- *The Department [of Labor] issued final regulations in 1975 implementing these exemptions. No major revisions have been made to the domestic service regulations in 38 years.*

*QUESTION: Why did the Department [of Labor] change the "domestic service" regulations?*

*ANSWER:*

- *Although the regulations governing these exemptions have been substantially unchanged since they were promulgated in 1975, the home care industry has undergone a dramatic*

transformation in the past several decades.

- *As more individuals choose to receive services at home rather than in nursing homes or other institutions, workers who provide home care services perform increasingly skilled duties.*
- *Referred to as "direct care workers" in the Final Rule, these workers are employed under titles including certified nursing assistants, home health aides, personal care aides, and caregivers.*
- *Today, direct care workers are, for the most part, not the elder sitters that Congress envisioned when it enacted the companionship services exemption in 1974, but are instead professional caregivers.*
- *There has been a growing demand for long-term home care for persons of all ages, and as a result the home care industry has grown dramatically.*
- *Despite this industry's growth and the fact that many direct care workers perform increasingly skilled work previously done by trained personnel, direct care workers remain among the lowest paid in the service industry, impeding efforts to improve both jobs and care.*
- *Many direct care workers employed by individuals and third parties have been excluded from the minimum wage and overtime protections of the FLSA [Fair Labor Standards Act] under the current companionship services exemption, which courts have read broadly to encompass essentially all workers providing services in the home to elderly people or people with illnesses, injuries, or disabilities regardless of the skill required to provide the care.*
- *This broad application of the exemption harms direct care workers, who depend on wages for their livelihood and that of their families, as well as the individuals receiving services and their families, who depend on a professional, trained workforce to provide high-quality services and continuity of care.*
- *In view of these changes, the Department [of Labor] has revised its regulations concerning domestic service workers in large part to narrow the companionship services exemption to apply only to the types of workers Congress intended to fall outside the scope of the FLSA.*
- *For more information see Fact Sheet: Application of the Fair Labor Standards Act to Domestic Service; Final Rule.*

**QUESTION:** *What are the significant changes to the "domestic service" regulations?*

**ANSWER:**

- *The Department's [of Labor] Final Rule makes two significant changes: (1) the tasks that comprise exempt "companionship services" are more narrowly defined; and (2) the exemptions for companionship services and live-in domestic service employees may only be claimed by the individual, family, or household using the services rather than third party employers such as home health care agencies.*
- *The Final Rule also revises the recordkeeping requirements for employers of live-in domestic service employees.*
- *See Fact Sheet: Application of the Fair Labor Standards Act to Domestic Service; Final Rule.*

**QUESTION:** *Can individuals, families, and/or households who employ a domestic service worker directly claim the companionship services and live-in domestic service worker exemptions under the Final Rule?*

**ANSWER:**

- *Under the Final Rule, an individual, family, or household who employs a worker providing companionship services to an elderly person or person with illness, injury, or disability may*



*claim the companionship services exemption from the Act's minimum wage and overtime pay provisions if the employee meets the "duties test."*

- *Similarly, an individual, family, or household who employs a worker who resides on the employer's premises to provide domestic service may claim the live-in domestic service employee overtime pay exemption under the Final Rule if the employee meets the residency requirements.*
- *See Fact Sheet: Application of the Fair Labor Standards Act to Domestic Service; Final Rule for additional information.*

*QUESTION: Can third party employers, such as home care or staffing agencies, claim the companionship services and live-in domestic service worker exemptions under the Final Rule?*

*ANSWER:*

- *No, third party employers are not entitled to claim either the companionship services or live-in domestic service employee exemptions under this Final Rule.*
- *Individuals or members of a family or household using the services, even if they are considered a joint employer along with a third party, however, may claim the minimum wage and overtime exemption for companionship services under the Final Rule as long as the employee meets the "duties test."*
- *Similarly, individuals, families, or households, even if considered a joint employer, may claim the live-in domestic service employee exemption under the Final Rule as long as the employee meets the residency requirements.*

*QUESTION: What FLSA [Fair Labor Standards Act] policies were not changed as part of this rulemaking?*

*ANSWER:*

- *The Final Rule makes no changes to the Department's [of Labor] longstanding regulations concerning:*
- *What constitutes a "private home," which is the type of residence in which "domestic service" occurs (see Fact Sheet #79: Private Home and Domestic Service Employment Under the Fair Labor Standards Act (FLSA));*
- *Whether an employment relationship exists (see Fact Sheet #13 Employment Relationship Under the Fair Labor Standards Act (FLSA));*
- *Whether an employee is jointly employed by two or more employers (see #79E: Joint Employment in Domestic Employment Under the Fair Labor Standards Act (FLSA)); and*
- *What constitutes compensable "hours worked" (see Fact Sheet #79D: Hours Worked Applicable to Domestic Service under the Fair Labor Standards Act (FLSA)).*

*QUESTION: What does it mean to be an employer under the Fair Labor Standards Act?*

*ANSWER:*

- *The FLSA [Fair Labor Standards Act] defines "employer" as "any person acting directly or indirectly in the interest of an employer in relation to an employee..."*
- *The FLSA further defines an "employee" as "any individual employed by an employer," and "employ" as "includes to suffer or permit to work."*
- *The definition is necessarily a broad one, in accordance with the remedial purpose of the FLSA. See Fact Sheet # 13: Employment Relationship Under the Fair Labor Standards Act (FLSA) for more information.*
- *An individual, family, or household receiving services provided by a direct care worker typically acts as an "employer" of the direct care worker under the FLSA.*
- *A single individual may be considered an employer of more than one employee under the FLSA. For example, an agency that sends a direct care worker to an individual's home may*

be a joint employer with the individual, family or household to whom the direct care worker provides services.

- For more information about "joint employment," see Fact Sheet #79E: Joint Employment in Domestic Employment Under the Fair Labor Standards Act.

### QUESTIONS ABOUT "COMPANIONSHIP" SERVICES

QUESTION: What is the companionship services exemption?

ANSWER:

- Congress explicitly extended FLSA [Fair Labor Standards Act] coverage to "domestic service" workers in 1974, amending the Act to apply to employees performing household services in a private home, including those domestic service workers employed directly by households or by companies too small to be covered as enterprises the Act.
- While Congress expanded protections to "domestic service" workers, the 1974 amendments also created a limited exemption from both the minimum wage and overtime pay requirements of the Act for domestic service workers employed to provide "companionship services" for elderly people or people with illnesses, injuries or disabilities who require assistance in caring for themselves.
- The statute authorizes the Department of Labor to define the term "companionship services."
- The Final Rule defines "companionship services" as the provision of fellowship and protection and explains that "companionship services" may also include the provision of care if the care is provided attendant to and in conjunction with the provision of fellowship and protection and does not exceed 20 percent of the total hours worked per person and per workweek.

QUESTION: What are tasks that constitute fellowship and protection?

ANSWER:

- "Fellowship" means to engage the person receiving services in social, physical, and mental activities.
- "Protection" means to be present with the person receiving services in his or her home or to accompany the person when outside of the home to monitor the person's safety and well-being.
- Examples of fellowship and protection may include: conversation; reading; games; crafts; and accompanying the person on walks, on errands, to appointments, or to social events.

QUESTION: Do other activities or services qualify as companionship services?

ANSWER: "Companionship services" also includes the provision of care services under the following conditions:

- The care is provided attendant to and in conjunction with the provision of fellowship and protection;
- The care is limited to assistance with activities of daily living (ADLs) (such as dressing, grooming, feeding, bathing, toileting, and transferring) and instrumental activities of daily living (IADLs), which are tasks that enable a person to live independently at home (such as meal preparation, driving, light housework, managing finances, assistance with the physical taking of medications, and arranging medical care); and
- The time the domestic service worker spends providing care to the person is no more than 20 percent of his or her hours worked for the person during the workweek.
- For example, Sue, a direct care worker employed solely by Ms. Jones, regularly works 35 hours per week in Ms. Jones' home. Sue primarily provides fellowship and protection to Ms.

*Jones. If she also spends no more than 7 hours per week (20% of her work time for Ms. Jones) providing assistance to Ms. Jones with ADLs and IADLs, she is providing care within the scope of the definition of companionship services, and Ms. Jones is not required to pay her minimum wage and overtime compensation.*

*QUESTION: Must driving always be counted in the 20 percent allowance for care services?*

*ANSWER:*

- *No. Driving usually constitutes assistance with IADLs [Instrumental Activities of Daily Living] and is part of the 20 percent allowance for care services. But because fellowship and protection can include accompanying the person outside of the home, driving may, in limited circumstances, be part of those services.*
- *The distinction between driving that is part of fellowship and protection and driving that constitutes assistance with IADLs depends upon the purpose and context of the trip.*
- *For example: Henry is hired as a personal attendant for Mr. Clark, an elderly person who requires assistance with meal preparation, driving, and light housework. Henry's duties include driving Mr. Clark to medical appointments. The time he spends at that task would count toward the 20 percent limitation on care. But if Henry takes Mr. Clark on an outing such as taking a scenic drive to see fall foliage or driving to go out to lunch together, Henry would be providing fellowship and protection, and that time would not count toward the 20 percent limitation on care.*

*QUESTION: What happens if the worker spends more than 20 percent of his or her time in a week assisting the person with ADLs [Activities of Daily Living] and IADLs [Instrumental Activities of Daily Living]?*

*ANSWER:*

- *If a worker providing services in a private home spends more than 20% of his or her workweek providing assistance to the person with ADLs and IADLs, then he or she is not performing companionship services during that week.*
- *In such cases, the worker must be paid at least the Federal minimum wage for all hours worked and overtime at one and a half his or her regular rate of pay for hours worked over 40 in the workweek.*

*QUESTION: Does "companionship services" include activities such as making dinner for the entire household or washing the laundry for everyone in the household?*

*ANSWER:*

- *No, companionship services must be provided primarily for the benefit of the elderly person or person with an illness, injury, or disability who requires assistance in caring for himself or herself rather than for other members of that person's household.*
- *However, the Department [of Labor] recognizes that sometimes assisting the person with IADLs [Instrumental Activities of Daily Living] may benefit other household members.*
- *For example, if a domestic service worker makes tuna salad for the person's lunch and there is some tuna salad left over after the person has eaten lunch, the fact that another member of the household may eat the leftover tuna salad doesn't change the fact that the tuna salad was prepared primarily for the elderly person or person with an illness, injury, or disability.*
- *Similarly, if the domestic service worker dusts a bedroom the person shares with another household member and the dusting was performed primarily for the benefit of the elderly person or person with an illness, injury or disability, performance of that task does not mean the worker is not performing companionship services.*
- *If a worker performs general household services unrelated to the care of the person,*



however, he or she is not performing companionship services and he or she must be paid at least the Federal minimum wage and overtime at one and a half times his or her regular rate of pay for all hours worked over to in the workweek.

QUESTION: Are medically related services considered part of companionship services?

ANSWER:

- No "Companionship services" does not include the performance of medically related services for the person.
- The determination of whether services are medically related is based on whether the services typically require and are performed by trained personnel, such as registered nurses, licensed practical nurses, or certified nursing assistants; the determination is not based on the actual training or occupational title of the individual performing the services.
- Medically related tasks may be invasive, sterile, or otherwise require the exercise of medical judgment; examples include but are not limited to catheter care, turning and repositioning, ostomy care, tube feeding, treating bruising or bedsores, and physical therapy.
- If the worker performs medically related services for the person, then during that workweek he or she must be paid at least the Federal minimum wage for all hours worked and overtime at one and a half his or her regular rate of pay for hours worked over 40 in the workweek.

#### QUESTIONS ABOUT LIVE-IN DOMESTIC SERVICE EMPLOYEES

QUESTION: What is a "live-in" domestic service employee?

ANSWER:

- Employees providing domestic services in a private home who reside on the employer's premises are live-in domestic service employees exempt from the overtime requirements of the FLSA [Fair Labor Standards Act].
- Employees reside on the employer's premises if they work and sleep there on a "permanent basis" or for "extended periods of time."
- Employees who work and sleep on the employer's premises seven days per week and therefore have no home of their own other than the one provided by the employer under the employment agreement are considered to reside on the employer's premises on a "permanent basis."
- Employees who work 120 hours or more each week and work and sleep on the employer's premises five days a week reside on the employer's premises for "extended periods of time."
- Employees who work and sleep on the employer's premises for five consecutive days or nights each week would also qualify as residing on the premises for "extended periods of time" even if they do not work 120 or more hours each week.
- Employees who work for only a short period of time for the household are not considered live-in domestic service workers, because residing on the premises implies more than temporary activity.
- Employees who work 24-hour shifts but are not residing on the employer's premises "permanently" or for "extended periods of time" are not considered live-in domestic service workers, and the employers are not entitled to the overtime pay exemption.
- Employees who work 24-hour shifts but are not live-ins must be paid at least minimum wage and overtime for all hours worked unless they are otherwise exempt.
- See Fact Sheet #79B: Live-In Domestic Service Workers Under the Fair Labor Standards Act (FLSA) for more information.

QUESTION: What are employers' obligations to live-in domestic service employees?

**ANSWER:**

- *Domestic service workers who reside in the employer's home and are employed by an individual, family, or household are exempt from the overtime pay requirement, although they must be paid at least the Federal minimum wage for all hours worked.*
- *Third party employers, such as home care agencies, may not claim the overtime exemption for live-in domestic service workers, and must pay such workers at least the Federal minimum wage for all hours worked and overtime pay at one and a half times the regular rate of pay for all hours worked over 40 in a workweek.*
- *(See Fact Sheet #79E: Joint Employment in Domestic Service Employment Under the Fair Labor Standards Act (FLSA) for information about joint employment.)*

**QUESTION:** *Will live-in domestic service workers be entitled to overtime pay under the Final Rule?*

**ANSWER:**

- *Live-in domestic service workers who reside in the employer's home and are employed solely by an individual, family, or household are exempt from overtime pay, although they must be paid at least the federal minimum wage for all hours worked.*
- *Live-in domestic workers who are employed by a third party must be paid at least the federal minimum wage and overtime pay for all hours worked.*

**QUESTION:** *Does the Final Rule make other changes relevant to live-in domestic service workers?*

**ANSWER:**

- *As with all workers covered by the FLSA [Fair Labor Standards Act], employers must maintain an accurate record of hours worked by live-in domestic service workers.*
- *Employers and live-in domestic service workers may create an agreement regarding time to be excluded from hours worked, including bona fide meal periods, sleep periods, and other off-duty time.*
- *If there is significant deviation from such an agreement, the employer and live-in domestic service worker should reach a new agreement reflecting the actual schedule.*
- *Regardless of whether an agreement exists, the employer is required to keep records showing, among other things, the exact number of hours worked by the live-in domestic service worker.*
- *While the employer is ultimately responsible for complying with the recordkeeping requirements, an employer may assign a live-in domestic employee the tasks of recording his or her hours worked and submitting those records to the employer.*
- *See Fact Sheet #79B: Live-In Domestic Service Workers under the Fair Labor Standards Act (FLSA) for more information.*

**QUESTIONS - HOME CARE AGENCIES & OTHER THIRD PARTY EMPLOYERS**

**QUESTION:** *What is a third party employer?*

**ANSWER:**

- *A worker may be employed by the individual, family, or household for whom the worker provides services and may also be employed by another employer, such as a staffing agency, public agency, or home care agency.*
- *When the domestic service employee is employed by an employer other than an individual, family, or household to perform services, that other employer is the third party employer.*

**QUESTION:** *Is a fiscal intermediary or employer of record considered a third party employer?*

## ANSWER:

- *It depends. Certain entities may provide referral services, perform payroll functions, or process Medicaid reimbursement payments but not act as the employer of a worker.*
- *Such entities may be fiscal intermediaries or "employers of record" and are not held liable for payment of minimum wage or overtime pay.*
- *Under the Fair Labor Standards Act, determinations about whether an entity has an employment relationship with a worker are made by examining all the facts in a particular case and assessing the economic realities of the work relationship.*
- *Factors to consider may include, but are not limited to, the following:*
  - *Whether the entity has the power to direct, control, or supervise the worker(s) or the work performed;*
  - *Whether the entity has the power to hire or fire, modify the employment conditions or determine the pay rates or the methods of wage payment for the worker(s);*
  - *The degree of permanency and duration of the relationship; where the work is performed and whether the tasks performed require special skills;*
  - *Whether the work performed is an integral part of the overall business operation; whether the entity undertakes responsibilities in relation to the worker(s) which are commonly performed by employers;*
  - *Whose equipment is used; and*
  - *Who performs payroll and similar functions.*
- *Other factors may be considered, and no one factor is controlling.*
- *While no one factor is controlling, the entity will likely be considered an employer under the FLSA if the entity has the power to direct or supervise the worker, or the power to hire, fire, or modify the conditions of employment, or determine the pay rate or method of pay.*
- *Example 1: Mary contacts her state government about receiving home care services. The state has a "self-direction program" that allows Mary to hire a direct care worker through an entity that has contracted with the state to serve as the "fiscal/employer agent" for program participants who employ direct care workers. The "fiscal/employer agent" performs tasks similar to those that commercial payroll agents perform for businesses, such as maintaining records, issuing payments, addressing tax withholdings, and ensuring that workers' compensation insurance is maintained for the worker, but is not involved in any way in the daily supervision, scheduling, or direction of the employee. Mary has complete budget authority over how to allocate the funds she receives under the Medicaid self-direction program, negotiates the wage rate with the direct care worker, is wholly responsible for day-to-day duty assignments, and has the sole power to hire and fire her direct care worker. In this scenario, the fiscal/employer agent is likely not an employer of the direct care worker, and Mary is likely the sole employer. The fiscal/employer agent has no power to hire or fire, direct, control, or supervise the worker and cannot modify the pay rate or modify the employment conditions. The work is not performed on the fiscal/employer agent's premises, and the fiscal/employer agent has provided no tools or materials required for the tasks performed. However, any change in the specific facts of this scenario, such as if direct care workers are required to obtain approval from the fiscal/employer agent in order to arrive late or be absent from work or if the fiscal/employer agent sets the direct care workers' specific hours worked, may lead to a different conclusion regarding the employer status of the fiscal/employer agent.*
- *Example 2: Michael contacted his county government about receiving home care services. A county social worker met with Michael and made a determination with respect to Michael's financial eligibility and need for services. The social worker determined the tasks to be performed for Michael and the hours per week required to perform those tasks. The social worker provided Michael with a list of potential workers but after Michael forgot to contact*



the potential workers several times, the social worker hired the direct care worker himself.

While Michael is responsible for the day-to-day supervision of the direct care worker, the social worker intervenes if a problem arises such as arranging for another worker should the primary worker become unavailable. The county is considered to be the employer of record, as it pays the direct care worker directly via check, keeps records of hours worked, and the hourly rate of pay for the worker is determined by the county. Here, the direct care worker's wages are paid by the county and the county controls the rate of pay and the method of payment. The county maintains employment records. The county exercises considerable control over the structure and conditions of employment by determining the number of hours for work and what tasks are to be performed. The county intervenes in issues between the direct care worker and consumer and the county social worker hired the worker. In this instance, the county is likely a joint employer with the consumer.

**QUESTION:** What are the obligations of third party employers?

**ANSWER:**

- Third party employers must pay at least the Federal minimum wage and overtime pay to all workers employed to perform domestic service employment, including workers who perform companionship services or are live-in domestic service employees.
- The requirement to pay minimum wage and overtime applies to third party employers even for workers who perform companionship services and are jointly employed by the individual or the individual's family or household.
- Also, third party employers of live-in domestic service workers are prohibited from claiming the overtime exemption even for live-in domestic workers jointly employed by the individual or individual's family or household.
- Third party employers must maintain records for each employee working in domestic service employment just as employers are required to maintain records for any other non-exempt employee.
- See Fact Sheet #79C: Recordkeeping Requirements for Individuals, Families, or Households who Employ Domestic Service Workers Under the Fair Labor Standards Act (FLSA).

### QUESTIONS ABOUT SLEEP TIME

**QUESTION:** For an overnight shift, does the employee have to be paid when he or she is asleep?

**ANSWER:**

- It depends.
- Less than 24 Hours - Under the FLSA [Fair Labor Standards Act], an employee who is required to be at work for less than 24 hours must be paid even though he or she is permitted to sleep or engage in other personal activities when not busy. All the time is counted as work time that must be paid.
- 24 Hours or more - If an employee is required to be on duty for 24 hours or more, the employer and employee may agree to not count as hours worked a bona fide regularly scheduled sleeping period of not more than eight hours, provided that (1) adequate sleeping facilities are furnished by the employer, and (2) the employee's time spent sleeping is usually uninterrupted.
- There are different rules for employees who live in the household where the services are provided. See the questions and answers regarding rules that apply to live-in domestic service employees.

*QUESTION: What if there is no agreement between the employer and the employee about how to pay for sleep time for duty periods of 24 hours or more?*

*ANSWER: If there is no express or implied agreement with respect to how an employee will be paid for sleep time, all hours spent on duty, including time spent sleeping, must be counted as work time.*

*QUESTION: If the employee has been providing domestic service to an individual, family or household for the last year and does not have an agreement about sleep time and the employee no longer qualifies for the companionship services exemption, must the employer now pay for all sleep time?*

*ANSWER:*

- *The Department [of Labor] understands that many employers may not have express agreements with their current employees to exclude sleep time from hours worked.*
- *The Department [of Labor] believes, however, that sufficient time exists before the Final Rule becomes effective on January 1, 2015 for the employer and employee to enter into an agreement to exclude a scheduled sleeping period of not more than 8 hours from the employee's hours worked.*
- *To exclude such time, the employer must provide adequate sleeping facilities and the employee's time spent sleeping must usually be uninterrupted.*

*QUESTION: If the employee refuses to enter into the agreement to exclude sleep time, may the employer terminate the employment relationship?*

*ANSWER:*

- *No. While the employer may not terminate an employee for refusing to enter into an agreement or for ending an agreement, the employer would not be required to agree to a continuation of the same terms and conditions of employment.*
- *The employer and employee are free to establish new conditions of employment such as rate of pay, hours of work, or reassignment.*
- *For example, if an employee refuses to enter into an agreement regarding the exclusion of sleep time, an employer might decide to assign that employee only to shifts of less than 24 hours.*

*QUESTION: What if an employee is up multiple times throughout the night or all night providing services to the person?*

*ANSWER:*

- *Interruptions during which the worker performs tasks on behalf the person must always be paid as work time.*
- *If the interruptions are so frequent that the employee cannot get at least five hours of sleep during the scheduled sleeping period, the entire period must be counted as time spent working and paid accordingly.*

*QUESTION: If an employee lives in the employer's home, what constitutes compensable hours worked?*

*ANSWER:*

- *An employee who resides in the employer's home permanently or for extended periods of time need not be paid for all of the time spent at the home.*
- *When a live-in employee engages in normal personal activities such as eating, sleeping, entertaining, and other periods of complete freedom from all duties, he or she does not have to be paid for that time.*
- *For a live-in domestic service employee, such as a live-in roommate, the employer and*

employee may agree to not pay for time spent during bona fide meal periods, sleep periods, and off-duty time.

- If the meal periods, sleep time, or other periods of free time are interrupted by a call to duty, the interruption must be counted as hours worked.
- In these circumstances, the Department [of Labor] will accept any reasonable agreement of the parties taking into consideration all of the pertinent facts.
- However, the employer must track and record all hours worked by domestic service employees, including live-in employees, and the employee must be paid for all hours actually worked notwithstanding the existence of an agreement.
- The employer may assign the employee the tasks of recording the hours worked and submitting that record to the employer.

QUESTION: Does a live-in employee, such as a roommate who is paid to assist an elderly person or person with an illness, injury, or disability in the household, have to be paid for sleep time?

ANSWER: The Department's [of Labor] longstanding rules under the FLSA [Fair Labor Standards Act] make clear that live-in employees do not need to be compensated for sleep time if there is an agreement to exclude such time and the employees are not performing work.

### QUESTIONS ON TRAVEL TIME

QUESTION: Must an employer pay for the employee's drive or travel time from home to the client's residence?

ANSWER:

- No. Under the FLSA [Fair Labor Standards Act], normal home-to-work travel does not need to be paid regardless of whether the employee works at a fixed location or at different job sites.
- If a direct care worker travels to the first work site directly from home, and returns directly home from the final work site, this commuting travel time generally does not need to be paid.

QUESTION: If an employee is assigned by his or her employer to provide services to multiple clients during the workday and must travel between these worksites, does that travel time count as work time that must be paid?

ANSWER:

- Yes. Under the FLSA [Fair Labor Standards Act], employees who travel to more than one worksite for an employer during the workday must be paid for travel time between each worksite.
- If an employee works for two different employers, he or she does not need to be compensated for time spent traveling between the two employers' worksites.

QUESTION: If an employee provides assistance to an elderly person or person with an illness, injury or disability by driving or accompanying him or her to an errand or appointment, must that time be paid?

ANSWER:

- Yes. Under the FLSA [Fair Labor Standards Act], travel that is "all in the day's work" must be compensated.
- For example, if a domestic service employee drives an elderly person or person with an illness, injury or disability to a doctor's appointment or to the grocery store, that time is "all in the day's work" and must be compensated.



*QUESTION: If an employee is assigned to travel to another city with an elderly person or person with an illness, injury or disability, must all the time spent traveling be paid?*

*ANSWER:*

- *The Department [of Labor] considers all travel that keeps an employee away from home overnight to be a special class of travel away from home.*
- *Travel away from home is work time to the extent that the travel cuts across the employee's workday.*
- *The travel is simply a substitute for the employee's other duties. A direct care worker who accompanies an elderly person or person with an illness, injury or disability on travel away from home must be paid for all time spent traveling during the employee's normal work hours.*
- *On the other hand, as an enforcement policy, the Department [of Labor] will not consider as work time that time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile.*
- *However, an employee traveling as a passenger with an elderly person or person with an illness, injury or disability as an assistant or helper and "on duty" during the flight is working even though traveling outside of the employee's regular work hours.*

*QUESTION: If an employee travels on a plane with an elderly person or person with an illness, injury or disability outside of the employee's normal work day and is required to assist the person only during the beginning and end of the flight and is otherwise able to spend the flight time for his or her own purposes, such as reading a magazine, taking a nap or watching a movie, must the entire flight time be paid?*

*ANSWER:*

- *Any work which an employee performs while traveling must be counted as hours worked.*
- *However, it is clear that not all time spent while away on travel is hours worked and there may be significant periods of time that a direct care worker is not working and is not "engaged to wait" and thus need not be compensated.*
- *For example, periods when the employee is completely relieved from duty and which are long enough to enable the employee to use the time effectively for his or her own purposes, such as reading a magazine, taking a nap or watching a movie, are not considered work time that must be paid.*

## **PLEASE HELP!!!!!!**

**September 17, 2013**

### **PLEASE HELP CDCAN CONTINUE ITS WORK**

**CDCAN Townhall Telemeetings, CDCAN Reports and Alerts and other activities cannot continue without YOUR help. To continue the CDCAN website and the CDCAN Reports and Alerts sent out and read by over 65,000 people and organizations, policy makers and media across the State, and to continue and resume CDCAN Townhall Telemeetings, trainings and other events, please send your contribution/donation (please make check payable to "CDCAN" or "California Disability Community Action Network" and mail to:**

**CDCAN – NEW MAILING ADDRESS:**

**1500 West El Camino Avenue Suite 499  
Sacramento, CA 95833**

**[replaces 1225 8<sup>th</sup> Street Suite 480, Sacramento, CA 95814]**

**Office Line: 916-418-4745 CDCAN Cell Phone: 916-757-9549 (replaced 916-212-0237)**

**Many, many thanks to all the organizations and individuals for their continued support that make these reports and other CDCAN efforts possible!**

## Frank Bush - Governor Brown Signs Minimum Wage Increase Bill

---

**From:** Cathy Berry  
**To:** All Board of Directors; All TCRC Staff  
**Date:** 9/27/2013 12:05 PM  
**Subject:** Governor Brown Signs Minimum Wage Increase Bill  
**CC:** All Board Group II

---

Good afternoon, TCADD Board members and TCRC staff,

Please see the email message, below, sent to you on behalf of Meredith Catalini, TCADD Board VAC Advisory member.

Subject: [csIn-discuss:3573] Governor Brown Signs Minimum Wage Increase Bill

# THE SACRAMENTO BEE



sacbee.com



## CAPITOL ALERT

[CLICK HERE FOR OUR INSIDER EDITION APP](#)

### The latest on California politics and government

September 25, 2013

[Jerry Brown signs bill to raise California minimum wage](#)



Gov. **Jerry Brown** this morning signed legislation to raise California's minimum wage by 25 percent, from \$8 an hour to \$10 an hour by 2016.

The bill, celebrated by Brown and his labor union allies at an event in [Los Angeles](#), promises the first increase in California's hourly minimum since 2008, when the minimum wage was raised 50 cents to \$8. After appearing in the state's biggest media market this morning, the Democratic governor is scheduled to fly to Oakland to promote the bill at a second event this afternoon.

Assembly Bill 10, by Assemblyman **Luis Alejo**, D-Watsonville, will raise the minimum wage from \$8 to \$9 an hour on July 1, 2014, and to \$10 on Jan. 1, 2016.



The bill was the only one of 38 bills designated by the California Chamber of Commerce as a "jobs killers" to make it out of the Legislature this year.

The chamber and other business groups said raising the hourly minimum would unfairly increase business costs and jeopardize California's economic recovery.

California is one of 18 states and the District of Columbia that have minimum wages above the federal minimum of \$7.25 an hour, according to the National Conference of State Legislatures, and California's \$10 minimum is likely to be among the highest in the nation in 2016.

Washington currently has the nation's highest state minimum wage, at \$9.19 an hour, but that state is one of 10 that provide for automatic adjustments to their minimum wages based on cost of living measures, a provision eliminated from an earlier version of the bill Brown signed.

The California legislation is expected to affect about 1.5 million full-time, year-round workers, about 14 percent of the state's full-time workforce, according to a Bee review of U.S. Census data.

The broader effects of a minimum wage increase are the subject of longstanding debate. The **California Budget Project**, which advocates for low-income residents, said in a brief this month that California's minimum wage has not kept pace with the rising cost of living and that raising the hourly minimum "would help reverse the decline in the purchasing power of workers' wages."

Proponents of raising the minimum wage say workers who earn more will spend more, stimulating the economy, and will require less government assistance.

Opponents of raising the minimum wage say requiring employers to pay higher wages will force them to offset costs by raising prices, hiring fewer workers or reducing workers' hours.

The **National Federation of Independent Business**, an advocacy group, released a study in March warning that a minimum wage increase under an earlier version of the California bill could result in the loss of more than 68,000 jobs in California over 10 years.

*The Bee's Phillip Reese contributed to this report*

*PHOTO: Gov. Jerry Brown is escorted by Sen. Hannah-Beth Jackson, left, and Assemblywoman Nora Campos to his right, as he enters the Assembly to present his State of the State speech at the state Capitol on Thursday, January 24, 2013. The Sacramento Bee/Hector Amezcua*

*Read more here: <http://blogs.sacbee.com/capitolalert/latest/2013/09/jerry-brown-signs-bill-to-raise-california-minimum-wage.html#storylink=cpy>*

--

--

You received this message because you are subscribed to the Google Groups "CSLN-Discuss" group, a discussion group for members of the California Supported Living Network (<http://supportedliving.com>)

CSLN members may post emails to this group at [csln-discuss@googlegroups.com](mailto:csln-discuss@googlegroups.com)

To unsubscribe from this group, send email to [csln-discuss+unsubscribe@googlegroups.com](mailto:csln-discuss+unsubscribe@googlegroups.com)

For more options, visit this group at <http://groups.google.com/group/csln-discuss?hl=en>

---

You received this message because you are subscribed to the Google Groups "CSLN-Discuss" group.

To unsubscribe from this group and stop receiving emails from it, send an email to [csln-discuss+unsubscribe@googlegroups.com](mailto:csln-discuss+unsubscribe@googlegroups.com).

For more options, visit [https://groups.google.com/groups/opt\\_out](https://groups.google.com/groups/opt_out).

Cathy Berry  
Executive Assistant  
Office of the Executive Director  
Tri-Counties Regional Center  
520 East Montecito Street  
Santa Barbara, CA 93101  
Tel: (805) 884-7215  
Fax: (805) 884-4696  
[cberry@tri-counties.org](mailto:cberry@tri-counties.org)



ASSOCIATION OF REGIONAL CENTER AGENCIES  
915 L Street, Suite 1440 • Sacramento, California 95814 • 916.446.7961 • Fax: 916.446.6912

September 24, 2013

Honorable Jerry Brown, Governor, State of California  
State Capitol, Suite 1173  
Sacramento, CA 95814

**RE: SB 468 (Emmerson)**

Honorable Governor Brown:

The Association of Regional Center Agencies (ARCA) represents the network of Regional Centers that advocate on behalf of and coordinate services for California's over 260,000 persons with developmental disabilities and their families. SB 468 (Emmerson) would expand the opportunity for participation in self-determined services (SDS) from approximately 140 participants in long-running pilot projects to a maximum of 2,500 individuals for three years and finally to a voluntary program open to most individuals served by Regional Centers.

ARCA and its twenty-one member Regional Centers strongly support the concept of self-determined services (SDS) as an alternative service delivery system for developmental services in California. Unfortunately, we believe it is important to advise you that the bill before you, SB 468 (Emmerson), contains insufficient financial support for the service planning, case management, and resource development necessary to ensure the success of the program.

SB 468 (Emmerson) proposes the single largest change in the service delivery of the Regional Center system since its creation over 40 years ago. The five pilot Regional Centers found during the greater than fourteen years of implementation that participants and their families appreciated the increased flexibility and control over their services that a Self-Determination Program can provide. They further learned that the key to this success was lower caseload ratios that allowed sufficient time for more creative and individualized service coordination and resource development. In addition, greater levels of documentation and administrative processes are necessary to maintain the critically important federal funding. These costs are not absorbable by the Regional Center system, and if left insufficiently funded would require Regional Centers to divert resources and attention from other individuals not participating in SDS.

A similar SDS program considered in 2005 would have allocated over \$4 million annually to Regional Centers for additional support had the maximum capacity been 2,500 for the first three years of the program as is being proposed in SB 486. The inadequacy of the pool of federal funds to meet the new requirements for Regional Centers in the bill is highlighted in the Assembly Floor Analysis which estimates the cost of implementation to exceed the projected revenues, resulting in a shortage of funds for necessary service coordination. Sufficient funding for service coordination must be the highest priority to ensure the success of the program.

ARCA appreciates the positive consideration and response by the author and sponsors of SB 468 to many of our suggested changes to the bill. Regional Centers are committed to working closely with the Department of Developmental Services to implement an SDS program for the ultimate benefit of Californians with developmental disabilities. It is expected that a cooperative effort will be needed in order to realize the promise of SDS in California, including targeted efforts to ensure that financial

resources are available to meet federal requirements in order to establish and maintain funding for the program, and that adequate support to the Centers is provided to ensure that goal is met.

Sincerely,  
/s/  
Eileen Richey  
Executive Director

cc: Senator Bill Emmerson  
Terri Delgadillo, Director, Department of Developmental Services  
Lark Park, Deputy Legislative Secretary, Office of the Governor  
Carla Castaneda, Principal Program Budget Analyst, Department of Finance  
Lawana Welch, Finance Budget Analyst, Department of Finance  
Diana Dooley, Secretary, Health and Human Services Agency  
Catherine Blakemore, Executive Director, Disability Rights California



AMENDED IN SENATE SEPTEMBER 11, 2013

AMENDED IN SENATE APRIL 9, 2013

**SENATE BILL**

**No. 579**

---

**Introduced by Senator Berryhill  
(Coauthor: Senator Emmerson)**

February 22, 2013

---

An act to add Section 4751 to the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

SB 579, as amended, Berryhill. Developmental services: *Commission on Oversight Efficiency and Quality Enhancement Model.*

The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan, developed in accordance with prescribed requirements.

*The California Community Care Facilities Act provides for the licensure and regulation of community care facilities, including residential facilities, adult day programs, small family homes, and group homes, by the State Department of Social Services.*

*Existing law requires the State Department of Public Health to license and regulate various types of health facilities, and requires the State Department of Public Health and the State Department of Developmental Services to jointly develop and implement licensing regulations appropriate for intermediate care facilities/developmentally disabled-nursing and intermediate care facility/developmentally disabled-continuous nursing.*

*This bill would establish the Commission on the Oversight Efficiency and Quality Enhancement Model to investigate methods of implementing a unified oversight and quality enhancement process that ensures the welfare, community participation, health, and safety of individuals with developmental disabilities who are served in programs licensed by the Community Care Licensing Division of the State Department of Social Services. The bill would require the process to also enhance accountability and quality review processes for the services directly provided by regional centers. The bill would state the intent of the Legislature that the State Department of Developmental Services identify regional center catchment areas for voluntary participation in a pilot project consistent with the recommendations of the commission. The bill would require, by February 14, 2015, the State Department of Developmental Services, the State Council on Developmental Disabilities, and the Association of Regional Center Agencies to select representatives to serve on the commission, as prescribed.*

*The bill would require the commission to develop a uniform data collection system that provides reliable, valid, and actionable data from multiple stakeholder perspectives to be consistently deployed at regional centers. This bill would require the commission to review current regulatory standards to better focus on reliable data to measure outcomes for individuals served and the impact of services on the lives of individuals and their families, in accordance with prescribed characteristics. The bill would require the commission, by March 30, 2015, to determine the best methods for collecting input on relevant regulatory standards and to request public input on those standards, as specified. The bill would require the commission to review and compile, by September 30, 2015, the input received and to submit, by December 30, 2015, its recommendations to the State Department of Developmental Services.*

*This bill would require the commission to create a process to review relevant regulations governing the Licensing and Certification Division of the State Department of Public Health and to report on that process to the Legislature by December 31, 2015.*

*This bill would require regional centers that seek consideration for participation in any program to pilot new quality enhancement systems to collect baseline data, as determined by the department, in programs and services for people with developmental disabilities that are licensed by the Community Care Licensing Division of the State Department of Social Services.*

~~This bill would, commencing January 1, 2014, and to the extent that funds are made available, establish a 4 ½-year Oversight Efficiency and Quality Enhancement Model pilot project in specified regional center catchment areas to implement a unified oversight and quality enhancement process, as specified, shifting the oversight of the service providers from the Community Care Licensing Division of the State Department of Social Services and the Licensing and Certification Division of the State Department of Public Health to the department and the pilot regional centers.~~

~~This bill would require the Legislative Analyst's Office to conduct a study identifying all of the financial and human resources expended in relation to current quality assurance activities for the licensed programs identified in the pilot project and to determine the amount of current quality assurance costs that are covered by federal dollars and what could be federally funded if the system and waiver were changed. The bill, by October 1, 2016, would also require the department to contract with an independent agency or organization to evaluate the pilot project and prepare a written report of its findings.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.~~

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 4571 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 4571. (a) The Legislature finds and declares all of the
- 4 following:
- 5 (1) Evaluation of the services that people with developmental
- 6 disabilities receive from both service providers and regional
- 7 centers is a critical component of the service system.
- 8 (2) There is evidence that the current system, in which three
- 9 state-funded entities, the State Department of Developmental
- 10 Services, the regional centers, and the Community Care Licensing
- 11 Division of the State Department of Social Services, are charged
- 12 with monitoring and maintaining quality services and supports
- 13 for people with developmental disabilities, is duplicative and
- 14 confusing and fails to produce data essential for service
- 15 improvement.
- 16 (3) The efficiency and efficacy of the oversight and quality
- 17 review processes can be significantly enhanced by unifying the



1 current duplicative quality review system, thus conserving limited  
2 state and service providers' resources while simultaneously  
3 improving the lives of people with developmental disabilities in  
4 California.

5 (b) The Commission on the Oversight Efficiency and Quality  
6 Enhancement Model shall be established to investigate methods  
7 of implementing a unified oversight and quality enhancement  
8 process. This process shall ensure the welfare, community  
9 participation, health, and safety of all those with developmental  
10 disabilities who are served in programs currently licensed by the  
11 Community Care Licensing Division of the State Department of  
12 Social Services. This process shall also enhance accountability  
13 and quality review processes for the services directly provided by  
14 regional centers. At the conclusion of the investigation, it is the  
15 intent of the Legislature that, based upon the information, analysis,  
16 and recommendations of the commission, the State Department of  
17 Developmental Services shall identify regional center catchment  
18 areas for voluntary participation in a pilot project consistent with  
19 the recommendations of the commission.

20 (c) (1) (A) On or before February 14, 2015, State Department  
21 of Developmental Services, the State Council on Developmental  
22 Disabilities, and the Association of Regional Center Agencies shall  
23 each select three representatives to serve on the commission, for  
24 a total of nine representatives.

25 (B) Each agency shall select each of the following types of  
26 representatives to serve on the commission:

27 (i) One representative who is a service provider, or an employee  
28 of a service provider.

29 (ii) One representative who is an individual served by a regional  
30 center, or the family member of that individual.

31 (iii) One representative who is a professional with experience  
32 in quality systems or reviews.

33 (C) The commission may select up to three additional public  
34 members to serve on the commission to meet representational or  
35 expertise needs.

36 (2) The commission shall examine existing regulations and  
37 recommend changes to the State Department of Developmental  
38 Services, as specified in subdivision (d).

39 (3) The commission shall develop a uniform data collection  
40 system that provides reliable, valid, and actionable data from

1 multiple stakeholder perspectives to be consistently deployed at  
2 regional centers. The data system shall include information on  
3 service provider and regional center performance, as well as  
4 outcomes consistent with individual program plan goals. The data  
5 system shall be flexible, and have the capacity to allow field-based  
6 data entry and analysis and to document, measure, and analyze  
7 the implementation of the model. To the extent possible, data  
8 currently being collected by regional centers or the department  
9 shall be utilized in the data system.

10 (4) The commission shall consider the experience and outcomes  
11 from the Agnews Developmental Center, Bay Area Quality  
12 Management System and from current quality reviews of unlicensed  
13 Lanterman Developmental Disabilities Services Act support  
14 models, including family home agencies and supported living, in  
15 developing the structure, standards, and data collection  
16 methodologies for the system.

17 (d) The commission shall review current standards in Titles 17  
18 and 22 of the California Code of Regulations to better focus on  
19 reliable data to measure outcomes for individuals served and the  
20 impact of services on the lives of individuals and their families.  
21 Recommendations for system design and regulatory change shall  
22 reflect the following characteristics:

23 (1) Be lean, simple, efficient, and understood by the people  
24 served and those who serve them.

25 (2) Avoid unnecessary redundancies of process, permissions,  
26 oversight, and enforcement.

27 (3) Base objective reviews on quality standards that, in  
28 accordance with Lanterman Developmental Disabilities Services  
29 Act principles, address individual outcomes, including, but not  
30 limited to, health, safety, independence, choice, empowerment,  
31 inclusion, and participation in community life. Outcome measures  
32 are to be consistent with performance measures for regional  
33 centers.

34 (4) Base subjective reviews of the impact on individuals and  
35 families on satisfaction data collected by an independent third  
36 party that surveys a statistically significant sample of service  
37 providers and individuals and families providing or receiving those  
38 services.

- 1     (5) *Shift the focus of quality efforts to a service enhancement*  
2 *model that encourages and recognizes service provider and*  
3 *regional center improvements.*
- 4     (6) *Include multiple options for proactive consumer protections,*  
5 *including screening for qualified providers, an emphasis on an*  
6 *evolving improvement system of coaching and mentoring service*  
7 *providers toward quality, and an immediate response capacity to*  
8 *address people in imminent danger.*
- 9     (7) *Report aggregate service and individual outcomes to*  
10 *highlight excellence, innovation, and satisfaction in the services*  
11 *provided and in the lives of individuals with developmental*  
12 *disabilities.*
- 13     (8) *Enhance transparency, accountability, quality standards,*  
14 *and measurement processes for the services directly provided by*  
15 *regional centers consistent with regional center performance*  
16 *contracts.*
- 17     (9) *Provide consumers, families, service providers, and regional*  
18 *center staff the opportunity to participate in system evaluation.*
- 19     (10) *Ensure that the results of oversight, quality enhancement,*  
20 *and assurance review activities are available in plain language*  
21 *to people with developmental disabilities and their families so they*  
22 *can be informed consumers of the services that they receive.*
- 23     (e) *On or before March 30, 2015, the commission shall*  
24 *determine the best methods of collecting input on relevant sections*  
25 *of Titles 17 and 22 of the California Code of Regulations.*
- 26     (1) *These methods shall include, but not be limited to, the*  
27 *following:*
- 28     (A) *At least two public meetings, with one meeting held in*  
29 *southern California and one meeting held in northern California.*
- 30     (B) *The electronic submission of comments.*
- 31     (2) *The commission shall request public input concerning the*  
32 *revision, retention, or removal of relevant sections of Titles 17*  
33 *and 22 of the California Code of Regulations.*
- 34     (A) *The commission shall solicit comment on issue areas*  
35 *including, but not limited to, the following:*
- 36     (i) *Certification and vendorization processes.*
- 37     (ii) *Complaints.*
- 38     (iii) *Quality oversight and monitoring requirements.*
- 39     (iv) *Decertification and devendorization processes.*



- 1     (B) The commission shall take comment on the following  
2 regulations:
- 3     (i) Articles 2 (commencing with Section 54302), 4 (commencing  
4 with Section 54370), and 5 (commencing with Section 54830) of  
5 Subchapter 2 of Chapter 3 of Division 2 of Title 17 of the  
6 California Code of Regulations.
- 7     (ii) Sections 56003, 56005, and 56009 of Article 2 of Subchapter  
8 4 of Chapter 3 of Title 17 of the California Code of Regulations.
- 9     (iii) Articles 3 (commencing with Section 56013), 5 (commencing  
10 with Section 56022), 8 (commencing with Section 56046), 9  
11 (commencing with Section 56053), and 11 (commencing with  
12 Section 56061) of Subchapter 4 of Chapter 3 of Division 2 of Title  
13 17 of the California Code of Regulations.
- 14     (iv) Sections 56712, 56732, and 56742 of Subchapter 5 of  
15 Chapter 3 of Division 2 of Title 17 of the Code of Regulations.
- 16     (v) Chapters 3 (commencing with Section 82000), 4  
17 (commencing with Section 83000), 5 (commencing with Section  
18 84000), and 6 (commencing with Section 85000) of Division 6 of  
19 Title 22 of the Code of Regulations.
- 20     (f) On or before September 30, 2015, the commission shall  
21 review and compile the input received based on its relevance to  
22 the criteria described in subdivision (d). On or before December  
23 31, 2015, the commission shall submit to the State Department of  
24 Developmental Services its recommended changes to Titles 17 and  
25 22 of the California Code of Regulations. The commission shall  
26 also recommend, based on input received, the most effective entity  
27 or entities for enforcing the regulations.
- 28     (g) On or before March 30, 2015, the commission shall create  
29 a process to review relevant regulations governing the Licensing  
30 and Certification Division of the State Department of Public  
31 Health, guided by the criteria described in subdivision (d). The  
32 commission shall report on this process to the Legislature on or  
33 before December 31, 2015.
- 34     (h) From January 1, 2015, to December 1, 2015, inclusive,  
35 regional centers that seek consideration for participation in any  
36 program to pilot new quality enhancement systems shall collect  
37 baseline data, as determined by the commission, on existing service  
38 quality and quality assurance processes in programs and services  
39 for people with developmental disabilities that are licensed by the

1 *Community Care Licensing Division of the State Department of*  
2 *Social Services.*

3  
4  
5  
6  
7  
8

**All matter omitted in this version of the bill  
appears in the bill as amended in the  
Senate, April 9, 2013. (JR11)**

O



**Tri-Counties Association  
for the Developmentally Disabled**

*Consider Becoming a Board member*

Tri-Counties Association for the Developmentally Disabled (TCADD) Board of Directors is looking for passionate, committed people to serve on the governing Board of Tri-Counties Regional Center.

TCADD Board members perform an important function in support of the agency mission to provide person and family centered planning, services and supports for individuals with developmental disabilities to maximize opportunities and choices for living, working learning and recreating in the community.

We welcome interested applicants from Ventura, Santa Barbara and San Luis Obispo counties to consider board service as a way to make a difference in the quality of life for 12,000 people living on the central coast.

*"I wanted to give back to the agency that was helping my son so much."  
- Robin, Board Member*





**Tri-Counties Association  
for the Developmentally Disabled**

*The Board*

The TCADD Board of Directors is comprised of individuals with a demonstrated interest in, or knowledge of, developmental disabilities – including persons with legal, management, public relations, and developmental disability program skills.

The Board includes representatives of the various categories of developmental disabilities served by the regional center and reflects the geographic and ethnic characteristics of the area.

*TCADD Board of Directors*

- Shape regional center policy
- Share talents and skills in a governance role
- Advocate for the needs of persons with developmental disabilities
- Actively participate in setting the future goals and direction of the regional center

**To learn more about becoming a TCADD Board Member**

please visit our TCRC website at [www.tri-counties.org](http://www.tri-counties.org)  
or contact Tri-Counties Regional Center Executive Office at (805) 884-7215 or [cberry@tri-counties.org](mailto:cberry@tri-counties.org)



**Tri-Counties Association**  
for the **Developmentally Disabled**

*Lo invitamos a unirse al Consejo Directivo*

El Consejo Directivo de la Asociación de los Tres Condados para la Atención a Personas con Discapacidades de Desarrollo (TCADD) está buscando gente apasionada, comprometida para servir en el Consejo Directivo del Centro Regional de los Tres Condados.

Los miembros del Consejo de la TCADD desempeñan una importante función de apoyo a la misión de la agencia para proveer planificación, servicios y apoyos enfocados en individuos y familias, para personas con discapacidades de desarrollo para maximizar las oportunidades y opciones para la vida, el trabajo, el aprendizaje y la recreación en la comunidad.

Damos la bienvenida a solicitantes interesados que vivan en el condado de Ventura, Santa Bárbara o San Luis Obispo. Servir en el Consejo le permitirá tener un impacto en la calidad de vida de 12 mil personas que viven en la costa central.

*"Para mí, servir en el Consejo me permitió contribuir a la agencia que tanto ayudó a mi hijo."*  
~ Robin, miembro del Consejo



**Tri-Counties Association**  
for the **Developmentally Disabled**

## *El Consejo*

El Consejo Directivo de la TCADD está compuesto por personas con interés o conocimientos demostrados en discapacidades del desarrollo. Incluye a personas competentes en las áreas de administración, legal, relaciones públicas y el programa mismo de discapacidades de desarrollo.

El Consejo incluye representantes de las distintas categorías de discapacidades de desarrollo atendidas por el Centro Regional y refleja las características geográficas y étnicas de la zona.

### *El Consejo Directivo de la TCADD*

- Tener un impacto sobre las normas del Centro Regional
- Comparte talentos y habilidades en administración
- Defiende las necesidades de las personas con discapacidades de desarrollo
- Participa activamente en fijar las metas para el futuro y el camino del Centro Regional

### **Para aprender más acerca de unirse al Consejo Directivo de la TCADD:**

Visite el sitio web del TCRC en [www.tri-counties.org](http://www.tri-counties.org), o Contacte la Oficina Ejecutiva del Centro Regional de los Tres Condados al: (805) 884-7215, o [cberry@tri-counties.org](mailto:cberry@tri-counties.org)