

October-December 2010

The

# INCLUSIVE TIMES



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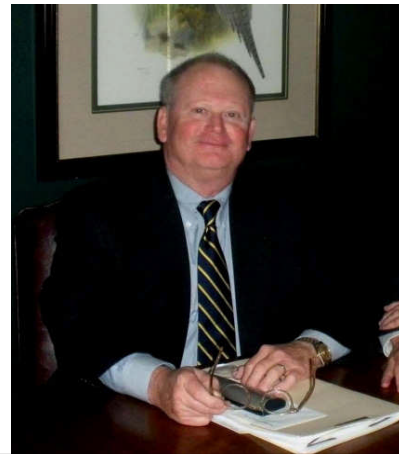
## LOCAL ATHLETE TIES NATIONAL RECORD AT NJDC IN CHICAGO

Chase Brossette from Gardner/Boyce, Louisiana was a part of Team GUMBO that traveled to the National Junior Disability Championship (NJDC) in Chicago on July 17-24, 2010. Chase tied the NJDC record with a lift of 265 pounds. Chase is a 21 year old student at LSUA. He has been involved in powerlifting since 2008. He is currently trained by Dr. Kyle Pierce at LSUS and coached by Mary Hodge, US Paralympic Head Powerlifting Coach. Chase has attended powerlifting competitions all over the United States. He is currently being groomed for the USA Team for the 2016 Paralympics in Rio de Janeiro. Chase is currently seeking a local trainer and spotters to assist him as he pursues his dream. Chase has been competing in disabled sports since he was 6 years old, participating in the GUMBO Games. GUMBO stands for "Games Uniting Mind & Body" and it is a sports program designed specifically for students with physical or visual disabilities. For more information about the GUMBO Program or to assist Chase in his training program, contact Pam Carev at 1-800-259-7200.

## **Planning for a Child with a Disability**

**By Greg Walker, Attorney**

Financial and future personal care planning for a child with a disability differs from customary planning because the needs of a disabled child are likely to be greater than other children and may last for a lifetime. Unfortunately, many parents wait until a crisis develops before trying to address the long term needs of their child with a disability. Some of the more common situations faced by parents of children with a disability are when the child turns age 18, upon the death of a parent and when the parents are notified of the loss of certain governmental benefits due to improper planning. However, with proper planning, parents can eliminate having to face a future crisis concerning their disabled child. In this series of articles we will address how families can avoid a crisis and be assured of the financial stability and proper care of their child with a disability.



**Greg Walker**  
**Cenla's Local Tutorship Attorney**

### **Continuing Tutorship**

In Louisiana, all children under the age of 18 are considered minors and do not have the legal authority to make decisions and take care of themselves. Parents are the natural tutors (guardians) of their children until the child reaches age 18. This means that all minor children, unless otherwise authorized by a court through emancipation proceedings, cannot handle their own affairs and must rely on a parent to exercise decision-making authority. However, a child who turns 18 is presumed to be competent under the law and fully capable of making his or her own medical and financial decisions. Because of this legal presumption of competency at age 18, parents lose the legal right to manage their child's affairs once the child becomes an adult at age 18, even if the child has a developmental disability and needs parental help to function. State law allows a competent adult to voluntarily give another person authority to act through what is called a mandate in Louisiana but otherwise known as a power of attorney in other states. As a result of Louisiana's presumption of competency at age 18, children who have turned 18 are presumed to be legally competent to sign a power of attorney authorizing their parents, or anyone else, to act on their behalf. This may or may not be an appropriate action depending on the particular mental and physical circumstances of a child who is turning 18.

When an 18 year old child is not competent to give their parents the authority to act on their behalf by a power of attorney, a parent may ask a state court for decision making authority over the child. This can be done by interdiction, limited interdiction or continuing tutorship legal proceedings. These court proceeding change the legal status of an individual over the age of 18 from someone who is presumed competent to make his or her own medical and financial decisions to someone who is decreed by the court as "incompetent" to manage their own affairs, consent to medical treatment and make decisions. Once found by a court to be incompetent, another individual is appointed by the court to act and make decisions for the incompetent individual.

Interdiction proceedings are in the nature of a traditional adversarial lawsuit by

one party against another party. Thus, parents of children with a disability over the age of 18 could find themselves having to “sue” their child seeking to have the child declared legally incompetent by interdiction. The child is appointed an attorney by the court. The attorney must personally meet with the child to discuss the case and to review any records that may aid the attorney in representing the child to oppose the interdiction. The appointed attorney must then file an answer to the interdiction petition on behalf of the child. At an adversarial court hearing, the parents must prove their case by producing evidence to the court just like any other lawsuit.

Continuing tutorship is an alternative to the harsh remedy of interdiction proceedings. If a child between the ages of 15 and 18 possesses less than two-thirds of the average mental ability of a normal person of the same age, the state court in the parish where the child is domiciled may enter a decree granting continuing authority to the parent tutor to act for the child after the child reaches age 18. The parent tutor will then have the authority to give consent for any medical treatment or procedure or any educational plan, to obtain medical, educational or other records and make financial decisions for the child even after the child turns age 18. Thus, while the authority of a parent as tutor for the child normally would end when a child becomes eighteen, through the continuing tutorship procedure, the parent’s tutorship continues until it is formally revoked by a court. A child with a disability under a continuing tutorship does retain certain restricted powers after age 18. However, once a continuing tutorship is granted by the court the parents will have authority to maintain custody of and manage the estate of their special needs child.

Parents wishing to be granted the continuing tutorship of their child with a disability should seek the services of an attorney experienced in such matters. This should be done far in advance of the child turning 18 years old to allow sufficient time to comply with the legal requirements which follow.

The child must undergo “standard testing procedures administered by competent persons” confirming “the child possesses less than two-thirds of the average mental ability of a normal person of the same age.” This testing is usually performed by a Psychologist or other professional with similar expertise. The professional will then issue a report of the test results along with evidence of the professional’s competence and expertise in administering the test and providing an opinion of the test results. The report must then be reviewed by the coroner in the parish of the developmentally disabled child’s domicile who must concur with the parent’s request that the child be placed under a continuing tutorship.

The report containing the testing results along with the concurrence by the coroner are then filed with the state court and reviewed by a judge who decides whether the continuing tutorship should be granted. The court order is then filed into the conveyance and mortgage records where the child is domiciled or owns property.

## **Next: Alternative Estate Planning**

This article has been written for general informational purposes only. It is not intended to, and does not constitute, legal advice. You should seek legal advice on your particular circumstances from a qualified attorney. Publishing this article does not establish an attorney-client relationship.

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**18-25 Year Olds May Be Able to Continue Health Care Coverage Under Parent Plans Without Waiting**

Several large insurance providers have indicated that they will honor some of the provisions of the Affordable Care Act (ACA) early. One of those provisions allow youth ages 18-26 to be on their parent’s health insurance plans now, instead of making the families wait until the first re-enrollment after September 23<sup>rd</sup>. Each year at open enrollment, your insurance is considered a “new plan.” The ACA provided for all new plans after September 23<sup>rd</sup> to allow parents to keep coverage on young adult children to age 26.

There are a few catches to the early inclusion on parent’s plans... the employer needs to agree to the early provision of insurance to those youth and larger employers are allowed to insist that the youth take their employer’s insurance instead if they are working and it is available to them.

If your employer agrees, your child may be eligible to stay on your health insurance plan to age 26. Worth checking out!

A list of some larger insurance companies allowing youth to remain on parent health plans early include Cigna, Aetna, United, WellPoint, Humana, Blue Cross/Blue Shield of Louisiana  
Learn more by visiting [www.HealthCare.gov](http://www.HealthCare.gov) or <http://www.blfhf.org/f2fhic/medicalCosts/index.php>

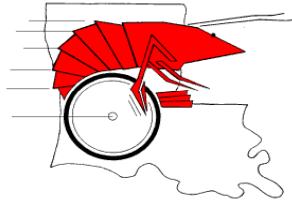
**Office for Citizens with Developmental Disabilities**

The OCDD Region VI Regional Advisory Committee is looking for members. The committee is looking for a parent with a child in an ICF/MR, a private provider and a self advocate. The committee meets every quarter. If you are interested contact Kristen Reed at 641-7373 or long distance at (800) 259-7200.

**Children’s Special Health Services**

Well it’s our favorite time of year, the Holidays, the music, the food and the best part, the presents. Don’t forget to keep your appointments. Bring orders for PT or OT for school to be signed. Hope everyone has a happy and safe holiday and don’t eat too much turkey!!! For more information or questions contact Melissa Harrison or Cathy Dove at 641-7373 or long distance at (800) 259-7200.

**ALL SERVICES ARE FREE TO CONSUMERS, FAMILY MEMBERS, PARENTS AND PROFESSIONALS**



## **GUMBO UPDATE**

**September 2010**

Every child deserves the opportunity to participate in a sports program. GUMBO stands for “Games Uniting Mind & Body”, and it provides athletic opportunities for students aged 5-18 years with physical disabilities or visual impairments who are cognitively age appropriate. Typically, these children do not qualify for Special Olympics because they do not have an intellectual disability, and they are unable to participate in sports on an equal basis with their peers due to their physical or visual limitations. GUMBO athletes participate using leg braces, wheelchairs, walkers, crutches, or they run exhibiting some form of mobility or visual impairment. GUMBO focuses on the “ability” of their disABILITY, encouraging each child to discover their ability within, try new things, and lead a healthy, active lifestyle.

GUMBO offers sports opportunities in track, field, slalom, and indoor boccia throughout the state. The student athletes are classified according to their age and ability; they only compete against others in the same age group and with similar or like impairments.

**Fund Raising:** GUMBO Inc. is selling “I ♥ GUMBO” t-shirts, sweatshirts, and cooking aprons and tie dyed “Peace, Love, & GUMBO” t-shirts. The Louisiana GUMBO Dog tags are in and they are selling for \$5.00 each. Please contact Pam Carey at [carey33452@aol.com](mailto:carey33452@aol.com) or call 1-800-259-7200 with your order, and thank you for supporting GUMBO. We also still have those wonderfully scented candles for sale.

**Team GUMBO Returns from NJDC:** GUMBO athletes raised funds to get to the National Junior Disability Championship (NJDC) was held in July in Chicago. Louisiana was well represented with 7 athletes and 4 coaches. Seventeen new national records were set with one an American record. The young athletes brought home 34 gold, 4 silver, and 3 bronze medals. The athletes had a wonderful time and are looking forward to raising funds and traveling to Saginaw, Michigan next year.

**2010 GUMBO State Invitational:** The State Meet will take place October 2 in Alexandria at the Alexandria Senior High School track. More than 130 athletes throughout the state qualified for the meet. On Friday, October 1, there will be a Fais do-do (social) as well as a GUMBO Educational session for all to enjoy. Good luck, GUMBO athletes.

**2010 State GUMBO Boccia Tournament:** SPAR will host the State Boccia Tournament in Shreveport on Saturday, November 6, 2010. It will be held at the Southern Hills Community Center. Students ages 5-22 years with physical or visual disabilities are eligible to participate. Pre-registration will be required. To register, contact Pam Carey at 1-800-259-7200 or E-mail at [carey33452@aol.com](mailto:carey33452@aol.com). Participation is free and lunch will be provided.

**2010 Paralympic Experience:** Paralympic Sports Club Louisiana will host a Paralympic event introducing the Paralympic sports of Equestrian and Archery. USEF Para-Equestrian Team Coach, Missy Ranshausen, will be the guest trainer. The event will take place on Saturday, November 20<sup>th</sup> in Port Allen at the Louis Mouch, Jr. Multi-Purpose Arena. The target audience will be youth with physical or visual disabilities. There is no charge and lunch will be provided for those who register. To register, contact Pam Carey at 1-800-259-7200 or E-mail at [carey33452@aol.com](mailto:carey33452@aol.com).

## 2010 Legislative Session Summary

LaCAN's advocacy led to significant reforms being made to Louisiana's system of serving people with developmental disabilities. Some positive accomplishments included in House Bill 1 ([ACT 11](#)) that were aligned with LaCAN's advocacy agenda include:

- 150 additional New Opportunities Waiver (NOW) Slots
- The closure of Northeast Supports and Services (Developmental) Center
- The downsizing of the remaining developmental centers by 20%
- 425 Children's Choice Waiver Slots
- \$4.2 Million to be used to speed up the processing of waiver slots and for one-time expenses for individuals with DD and their families (These funds were deposited into the Community and Family Support Fund from the sale of Metropolitan Developmental Center)

These accomplishments will move Louisiana forward in reducing its reliance on an outdated system of institutional care to provide services to individuals with developmental disabilities.

Unfortunately, massive budget deficits resulted in a 4.72% reduction to payments to Medicaid private providers. This includes providers of home and community based services. The Department of Health and Hospitals (DHH) will determine how the cuts will be distributed. LaCAN members contacted DHH Secretary Alan Levine to encourage him to minimize the impact of the cuts to home and community based service providers which have already sustained several rounds of cuts.

### Other legislation of interest from the 2010 Legislative Session

- House Bill 1185 ([ACT 305](#)) – Changes the policy on the allocation of waiver slots. Once someone's name reaches the top of the waiting list, instead of automatically receiving a NOW slot, they will be assessed to determine which waiver best meets their needs. This could include a Children's Choice Waiver, Residential Options Waiver, or a Supports Waiver. But this change will not take place until rules are promulgated and the implementation details are developed. Stakeholders are encouraged to submit suggestions on how the policy should be implemented by emailing Kevin Hill at [kevin.hill@la.gov](mailto:kevin.hill@la.gov) or calling 800 450-8108.
- [HCR 94](#) – Suspends the law providing for the Direct Service Worker Registry and requires DHH to publish new rules for the Direct Service Worker Registry by January 1, 2011.
- [SCR 77](#) - Directs the Department of Health and Hospitals to investigate, study, and develop a plan or strategy to modernize and improve the state developmental centers, focusing particularly on an assessment of the current operation and maintenance of the existing developmental centers.

### LaCAN's Advocacy Actions

LaCAN members' advocacy actions included:

- Providing testimony to the House Appropriations Committee and the Senate Finance Committee.
- Hundreds of LaCAN members calling, emailing, and making personal visits to their legislators to educate them on critical issues.
- Hundreds of LaCAN members convening on the Capitol Steps for the 2010 Disability Rights Rally.

Although the 2010 legislative session has ended, LaCAN will continue its advocacy efforts. If you would like to become actively involved in advocating for home and community based services, please contact your regional LaCAN leader, Kristen Reed (318) 641-7373.

## IMPORTANT NEWS

### Waiver Programs Undergo Changes

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Several changes are on the horizon in the home and community-based waiver programs serving people with developmental disabilities and those who are elderly and have adult-onset disabilities. The passage of HB1185 changed the policy on the allocation of waiver slots. When someone's name reaches the top of the waiver waiting list, their needs will be assessed to determine which waiver will best meet their needs, rather than automatically receiving a New Opportunities Waiver (NOW) slot (for people with DD) or Elderly and Disabled Adult (EDA) slot for the population served through the Office of Aging and Adult Services (OAAS). According to the Department of Health and Hospitals (DHH), the intent of this policy is to better match each individual with the services needed, reduce the overall costs per person, and use cost savings to serve additional people from the waiting lists. Allocating the type of waiver based on need will reserve access to waivers with more comprehensive services for individuals with the most comprehensive needs. This change will not take place until rules are promulgated and the implementation details are developed.

In addition to the NOW, there are three other DD waivers – Children's Choice, Supports Waiver, and the Residential Options Waiver (ROW) – each with a different menu of services to meet individual needs and preferences. The ROW is a new comprehensive waiver that will offer better options for many people. Although it is capped, the cap is high and includes several services that are not included in the NOW such as dental, host home, and companion care. Another service in the ROW is the shared living setting which is designed to encourage ICF/DD providers (up to 8 bed) to convert their existing community homes to a "waiver home," thereby giving the residents a waiver slot.

The population served by OAAS has access to the EDA waiver and the Adult Day Health Care (ADHC) waiver. OAAS and stakeholders have recently developed a replacement for the EDA waiver that will provide a more comprehensive menu of services at what they expect to be less cost. The care plans will better address individual circumstances, include cost-effective alternatives to one-to-one care, and include services that are designed to be preventive and maintain as much independence as possible. Cost savings are expected by providing waiver recipients with more flexibility in using their established budgets to manage services that target their needs. New services will include assistive devices and medical supplies, home-delivered meals, non-medical transportation, caregiver temporary support, personal assistance services, nursing and therapies. All current EDA waiver recipients will gradually transition into the new waiver once it is approved by the federal government, likely to be in early 2011.

Change is sometimes difficult, and one of the changes reported here – the policy on the allocation of waiver slots - was met with confusion and even anger by some individuals and families. These emotions are certainly understandable since people have been waiting for a "NOW slot" for many years. Their first thought was their NOW opportunity was being taken away and their family member's needs would not be met. In fact,

some people will not receive a NOW slot, but their needs will still be met through another waiver. The upside is that money saved reportedly will be used to serve more people on the waiting list – and as a result, many others support the policy. The DD Council has posted questions from families and answers from OCDD regarding this policy change on its website at [www.laddc.org](http://www.laddc.org) to help people better understand the issue. Stakeholders are encouraged to submit suggestions on this site on how the policy should be implemented or comment during the rulemaking process.



## LOCAL ATHLETE BREAKS NATIONAL RECORDS AT NJDC IN CHICAGO-

Mitchell Miles from Dodson was a part of Team GUMBO that traveled to Chicago on July 17-24 to participate at the National Junior Disability Championship (NJDC). Mitchell set a National Record in the Javelin with a distance of 22.35 meters. Mitchell also competed in and placed first in the Discus, Shot Put, Long Jump, 100m, 200m, and 400m. This was Mitchell's second out of state trip as

a GUMBO Competitor. Mitchell's mom, Melinda Miles, also attended NJDC as one of the coaches. GUMBO stands for "Games Uniting Mind & Body," and it is a statewide sports program for students with physical or visual disabilities. Pam Carey, from Atlanta, is the statewide coordinator of the program. Mitchell along with several teammates from Dodson will also be competing at the 2010 GUMBO State Invitational Track & Field Meet which will be held in Alexandria on October 2, 2010. Coach Miles has been working with qualified GUMBO students for 3 years. For more information about the GUMBO Program, contact Pam Carey at 1-800-259-7200.



### Team GUMBO:

Left to right:  
Coach Albert Lamperez (New Iberia), Kristian Bellard (Mamou), Dylan Faughn (Covington), Nicholas Badeaux (New Iberia), Mitchell Miles (Dodson), Alexandra Badeaux (New Iberia), Coach Melinda Miles (Dodson), Stephanie Martin (Kenner), Head Coach Stephanie Lamperez (New Iberia). Not pictured; Chase Brossette (Boyce) and Coach Melissa Brossette



# Region VI Legislative Roundtable



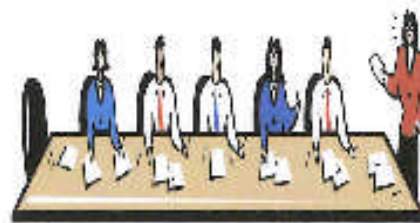
**Purpose of the Training:** to provide advocates the opportunity to update their knowledge of effective advocacy skills.

**Objectives:**

- \* How to write letters to legislators
- \* Attending legislative visits
- \* How to advocate for yourself and others
- \* Meeting legislators during legislative session
- \* Attending committee meetings during legislative session
- \* Giving personal testimony during legislative session

**Who should attend?**

- \* Self-Advocates
- \* Family Members
- \* Professionals
- \* Concerned community members



**Registration and Lunch:**

- \* Registration is FREE
- \* Lunch will be provided

Date	Location	Time
November 9, 2010	Main Street Community Center 708 Main Street Pineville, LA 71360	10 am - 2 pm

Seating is limited so registration is vital.

**To Register:**

Email or call Kristen Reed at [kristen091273@aol.com](mailto:kristen091273@aol.com) or (318) 641-7373 or long distance (800) 259-7200.

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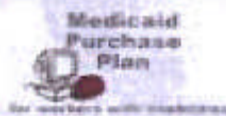
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DHH/Medicaid

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**This will be a great opportunity for persons with special needs (disabilities),  
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