

# MARK YOUR CALENDAR

- April 21, 2001** Mind, Body & MS (conference), THE CENTER for the Physically Limited in Tulsa, \$5 per person including lunch, call 1-800-777-7814 or Tulsa metro (918) 488-0882
- April 23 & 24** Governor's Conference on Developmental Disabilities *Staking Your Claim* Advocacy in Oklahoma, 737 S. Meridian, Oklahoma City, call 1-800-627-6827
- April 26, 27, 28** The Oklahoma Classic Wheelchair Powerlifting Tournament , McAlester contact Mike Ward (918) 426-3245
- April 28, 2001** Ms Wheelchair Oklahoma Pageant, Ramada Inn Norman, contact Jackie Woommavovah at (405) 364-0006
- May 11, 2001** Life Without Limits Golf Tournament fundraiser for Spinal Cord Injury Association of Oklahoma, Fairfax Golf Course 2905 N. Sooner Rd. Edmond, for more information contact Rick Lewis at (405) 737-9739
- May 16, 17, & 18** Special Olympics State Games, Stillwater Oklahoma, contact April Morton at 1-800-722-9004
- June 8-10** Health South Endeavor Games for Athletes with Physical Disabilities, University of Central Oklahoma in Edmond contact Katrina Shaklee at (405) 722-8744 or email [sportsgroup@rgroupinc.com](mailto:sportsgroup@rgroupinc.com)

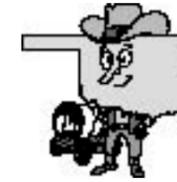
Make Promises Happen Camps and Special Events for individual with disabilities (year round events), contact Gary Wheeler at 1-800-299-2811 or metro (405) 282-2811

(additional other summer camps will be listed on our website under the public information icon of our Website [www.state.ok.us/~ohc](http://www.state.ok.us/~ohc))

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The Office Of Handicapped Concerns  
(The Best Kept Secret In Oklahoma)

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## Comments on Board of Trustees of the University of Alabama Et. Al. v. GARRETT

This morning I am right here in the offices of the Office of Handicapped Concerns at Shepherd Mall in Oklahoma City with Kara Morrow, our Disability Program Specialist who deals with federal laws which affect people with disabilities. Kara is available to field questions on the ADA (Americans with Disabilities Act), the Rehabilitation Act of 1973, and other federal legislation. She receives queries from the consumer's perspective as well as non-consumers who want to comply with federal legislation. Kara has been following a recent Supreme Court decision on the Garrett case in Alabama which will have implications for people with disabilities as an interpretation of the ADA. I'm going to ask Kara to take over here to give you some information about this important Supreme Court decision.

(Kara Morrow) First, let me begin by giving some background on the case. Patricia Garrett sued the University of Alabama's medical center in Birmingham for demoting and then transferring her from her position as Director of Nursing, OB/Gyn/Neonatal Services to another lower paying position as a nurse manager, after she was treated for breast cancer. In the other case, Milton Ash, a corrections officer with asthma, sued Alabama's youth

corrections agency for failing to accommodate him by enforcing the agency's no-smoking rule and servicing the cars he is required to drive, which emit noxious fumes.

Both were seeking money damages under Title I of the Americans with



Kara Morrow

Disabilities Act of 1990 (ADA), which prohibits the States and other employers from "discriminating against a qualified individual with a disability because of that disability...in regard to...term, conditions, and privileges of employment," 42 U.S.C. Section 12112(a).

In both suits, the state argues that Congress lacks the power to require States to pay money damages for injuries caused when States violate the ADA. The trial judge accepted Alabama's argument, but the U.S. Court of Appeals for the Eleventh Circuit reversed the trial judge's decision. The appellate court found that Congress has the power, under the Fourteenth Amendment to the U.S. Constitution, to require States to pay money damages for violation of the ADA. The Fourteenth Amendment, passed after the Civil War, guarantees all citizens equal protection of the law and due process of law.

The question according to Chief Justice Rehnquist, then, is "whether Congress acted within its constitutional authority by subjecting the States to suits in federal court for money damages under the ADA."

Congress made a general finding in the ADA that "historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem." Respondents in their brief cited half a dozen examples from the record that did in-

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volve States. Congress also found that 43,000,000 Americans have one or more physical or mental disabilities. In 1990, the States alone employed more than 4.5 million people. I would like to quote Judge Rehnquist at this point “we think, that given these large numbers, Congress assembled only such minimal evidence of unconstitutional state discrimination in employment against the disabled.” This was part of the Supreme Court’s rationale for their decision.

Part of the decision was based on the fact that the court did not believe there was a pattern of discrimination by the States which violates the Fourteenth Amendment. Their belief was that because these requirements were “not met” that to uphold the Act’s application to the States would allow Congress to rewrite the Fourteenth Amendment law.

The final decision was that State employees may not seek damages against a State under Title I of the ADA. In a footnote of the opinion the Justices stated “Our holding here that Congress did not validly abrogate the States’ sovereign immunity from suit by private individuals for money damages under Title I does not mean that persons with disabilities have no federal recourse against discrimination. Title I of the ADA still prescribes standards applicable to the States. Those standards can be enforced by the United States in actions for money damages, as well as by private individuals in actions for injunctive relief under Ex parte Young, 209 U.S. 123(1908). In addition, state laws protecting the rights of persons with disabilities in employment and other aspects of life provide independent avenues of redress.”

Although this does change one of the remedies available to State employees, it changes only a part of the ADA. Employees in the State of Oklahoma still can file complaints with the Merit Protection Commission, the Human Rights Commission and the Equal Employment Opportunity Commission and receive a remedy if they are able to prove a violation occurred. **(Oklahoma Merit Protection Commission 201 N.E. 38<sup>th</sup> Terrace ste. 5 Oklahoma City 73105 (405) 525-9144, Human Rights Commission 2101 N. Lincoln rm. 480 Oklahoma City 73105 (405) 521-2360, EEOC 210 Park Av. Ste. 1350 Oklahoma City toll free 1-800-669-4000)**

This decision is a disappointment to the disabled community. We need to make ourselves more aware of what is going on with laws and legislation regarding disability. This decision has the potential to be just what it is on its face or to have many negative and far reaching effects on the community as a whole. This is why voicing opinions to our Congressmen, Senators, and Representatives is so very important. 43,000,000 + people in this country are disabled. That is a lot of opinion that counts if it’s voiced.

**Kara Morrow fields questions of ‘technical assistance’ regarding federal legislation affecting individuals with disabilities. She may be reached at the Office of Handicapped Concerns Monday through Fridays from 7:30 a.m. until 4 p.m. at our toll-free number 1-800-522-8224, (405) 521-3756 V, (405) 522-6695 TDD. Her email address is Kara.Morrow@ohc.state.ok.us.**

## Senate Bill 772 Threatens to Destroy the Supreme Court Sponsored Mediation Program

The Oklahoma Dispute Resolution Act (1983) is legislation of vision that is intended “ to provide convenient access to conflict resolution proceedings that are fair, effective, inexpensive and expeditious for every citizen of this state.” (O.S. 12 § 1801 et seq.) The Legislature and the Oklahoma Supreme Court have worked together over the past seventeen years to assure that all Oklahomans have the highest quality mediation available at low (\$5 per party) or no cost.

Now a group of individuals who are engaged in the practice of for-fee mediation are trying to push SB 772 through the Legislature. The changes in the law that this group has proposed will no longer allow the Office of Handicapped Concerns to provide free mediation to Oklahomans with disabilities. The fees this self-interest group proposes to charge are not inexpensive. For example, one of the three drafters of SB 772 charges \$90 per hour per party — \$180 per hour.



Sue Tate

These same changes would prohibit the Early Settlement Mediation programs that are located throughout the state from providing mediation services for disputes over services to children with disabilities. Parents and schools in Oklahoma have utilized mediation for issues listed in the Individuals with Disabilities Education Act (IDEA) since 1994. Over the past seven years the statistics for IDEA mediation show that almost 9 out of 10 times (88%) that parents of children with disabilities and school personnel who are serving the children have been able to reach a mutually acceptable resolution. Those resolutions provide a foundation for working together for an education that is in the best interest of children with disabilities.

The Office of Handicapped Concerns and the Early Settlement Mediation programs assign mediators who have been

specially trained to conduct mediations for disputes involving disability issues. These mediators are supervised and monitored by the Administrative Office of the Courts to assure that the mediators follow the state-of-the-art training that is provided under the oversight of the Oklahoma Supreme Court.

Private, for-fee mediators are not monitored. SB 772 makes no provision for oversight on for-fee mediators. If Oklahomans are not happy with the services of a private, for-fee mediator there is no one to whom they can complain. The drafters of SB 772 respond that the marketplace will regulate them. How will this regulation happen? If you or your family member is disadvantaged through the actions of a for-fee mediator will you be satisfied to say that you will just not use that mediator again? Doctors, dentists, counselors, lawyers and other professionals are held accountable for the quality of service they provide to the public. Should

mediators who charge \$180 per hour be held accountable? Mediation is about giving the people of Oklahoma an opportunity to make choices and decisions for themselves. SB 772 takes away the low- or no-cost choice for mediation. Call your State Representative at (405) 521-2711, 1-800-522-8502 or TDD 1-877-299-3468. Call your State Senator at (405) 524-0126. Ask your Representative and Senator to VOTE NO on SB 772!

**Sue Tate, author of this article is Director of the Alternative Dispute Resolution System for the Supreme Court of Oklahoma and is an advocate for people with disabilities.**



*Little Stevy, age five, had an operation and had to be fed intravenously for a while. The nurse explained the situation to him and started to administer the glucose. “Wait a minute,” Stevy said, “Aren’t you going to say grace?”*

# Calling All Oklahoma Women!

## Take Charge!

The Oklahoma State Department of Health invites women to Take Charge! of their health. The *Take Charge!* program can provide breast and cervical cancer screening for Oklahoma women who are between the ages of 35-64, who have no insurance, including Medicaid and Medicare and are low income.

The mission of the *Take Charge!* program of the Oklahoma State Department of Health is to inform women about early detection of breast and cervical cancer to prevent unnecessary suffering and death. Methods to accomplish this goal include: education, breast and cervical cancer screenings, mammograms for women 50-64 years of age and referral/follow-up.

Oklahoma is ranked 10th in the nation for cervical cancer deaths. Cervical cancer is 99.9% preventable if found in a pre-cancerous stage. In order to prevent cervical cancer, women should have an annual Pap smear. Oklahoma is ranked 40th in the nation for breast cancer deaths. If breast cancer is found early, there is a higher rate of survival. All women over the age of 20 should have an annual clinical breast exam.

The *Take Charge!* screening services are delivered by registered nurses at local county health departments across Oklahoma. The *Take Charge!* program is available in most county health departments. To see if you qualify for services and for an appointment, patients should call their local county health departments. The examination includes: Pap smear, pelvic exam, clinical breast exam and education to lower cancer risks. The patients are taught how to



do breast self-examination. Case management is also available for women who have abnormal test results. The case manager will help women to find resources for treatment.

Tia Yancey, Health Educator of the *Take Charge!* program said "We want to empower women with the knowledge and skills to maintain their own health. We need to think about prevention not just treatment of disease. So many Oklahoma women put decisions about their healthcare into the hands of someone else. We need to be responsible for our own health issues. Women put off their own health care because of family need and other responsibilities. We need to be our own self-advocate. *Take Charge!* is the statement we're making."

The *Take Charge!* program strongly encourages women to do monthly breast self-exams. It is important to remember that not all lumps are cancerous. If a woman finds a lump, she should contact her healthcare provider to schedule a clinical breast exam.

The *Take Charge!* program also offers an educational component. The educational component includes assistance in planning women's health forums and providing entertaining educational skits.

For more information or to schedule your appointment call your local county health department. If you experience difficulty locating Take Charge! services call toll free at 1-888-669-5934. To plan your community's women's health forum or have an educational skit, please contact Tia Yancey. Her phone number is (405) 271-4072 ext. 57109 or email address at Tiay@health.state.ok.us.

## Self-Empowerment

I recently had the opportunity to visit the Oklahoma Mental Health Consumer Council in Oklahoma City and had some new ideas thrown my way which I would like to share with you. The Consumer Council is a private, non-profit agency of education and advocacy composed of consumers of mental health services. Both staff and consumers have at one time received mental health services. They have formed their own agency to deal with their own issues in ways which help them to maintain good mental health in their daily lives. I met two delightful people, Judi Fretwell and Dan Smalley who shared with me about the **WRAP** program, an acronym for **wellness recovery action program**.

"Judi, what exactly is the wellness recovery action program?"

"Glad you asked that. Wellness recovery action is taking charge of your own recovery. It is identifying your own symptoms and devising a plan to manage those symptoms in healing ways."

"Sounds good Judi, but I am not a professional in the mental health arena. I don't have a clue on this sort of thing."

"Will, you may not have a degree in the mental health field, but you are the top authority about yourself. You know what's going on inside of you—many times to a greater extent than the professional. You live with yourself day in and day out. You see a professional much less than that even in times of crisis."

"Are you saying that the mental health consumer should abandon their therapist and seek to do it all on their own?"

"No, I am saying that in addition to depending on a professional, they can come to depend on themselves and can take some responsibility for their own recovery. This is called self-empowerment and self-empowerment is what the **WRAP** is all about."

Also with me this morning is Dan Smalley. "Dan, what do you think about this program? Can it be effective in

improving mental health?"

"You bet your life it can. We're starting a new **WRAP** session next week. Why don't you join us and see for yourself?"

"Well, I suppose I could. Hey, I've got an idea. We do a newsletter at the Office of Handicapped Concerns. Maybe I could do an article to let other people know about this idea. If this thing could really help people out there who are suffering, then let's go for it. Let's tell them there is hope for them and show them what they can do to help themselves.



Judi Fretwell

I began attending meetings of consumers for two hours on Thursday evenings once per week in February. These meetings continued for eight weeks. After giving us a background on the self-advocacy movement, Judi and Dan challenged us to go inside ourselves. We had homework. Each of us was to create a baseline of how we felt when we were at our best. If possible, I might also get the

perspective of another person who knows me who could comment on how that person saw me at my best. I had a long list. Then we were asked to do the same thing at the opposite end of the continuum. List things about how I felt and others perceived me when I felt really bad. This is a hard thing to do because it stirs up feelings which are very painful, but this exercise will give me an idea of where I am on any given day. **Self awareness is the beginning of recovery.** Another good exercise is identifying triggers in my life which may bring up old issues and cause mental health symptoms again. Triggers may be anything—a siren which reminds me when a loved one was taken to the hospital or a demanding person who does not respect my boundaries.

Judi and Dan talked about developing a support group of peers who could be with me on a daily basis. Dan shares that he has seven in his support group, one supporter for each day of the week so that he will not excessively bur-

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# A Bill for Your Consideration

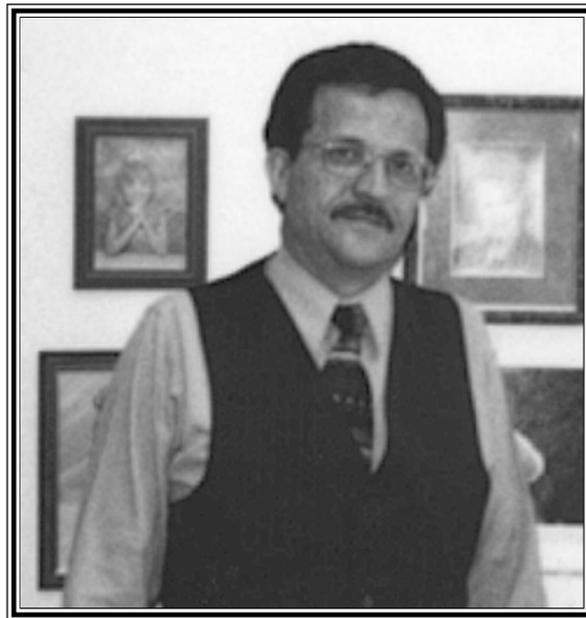
(part of a continued series of articles on the Ticket to Work and the Medicaid Buy-in)

This morning I am at the State Capitol in the office of Representative Al Lindley. Representative Lindley from a district in South Oklahoma City has introduced House Bill 1484 into the current session of the Oklahoma state legislature.

“Representative Lindley, I am visiting you from the Office of Handicapped Concerns for our newsletter to the disability community in Oklahoma. We have a mailing list of about 2300 individuals and organizations in our state who are interested in disability issues. What exactly is HB1484 which you introduced into the current session?”

“Most people with disabilities in Oklahoma cannot buy medical insurance from regular sources because of a pre-existing condition. Many people with disabilities who are receiving SSI and SSDI disability payments may have fears of returning to work because of

losing their Social Security income and subsequently their Medicaid health insurance. HB1484 is a state response to the federal Ticket to Work legislation signed into law in December 1999. Our state response authorizes the Department of Rehabilitative Services to issue tickets to Oklahomans receiving Social Security benefits. These tickets could then be taken to providers for employment services to assist a disabled individual to return to work. The other part of this legislation authorizes Medicaid in Oklahoma to continue to provide health insurance to individuals with disabilities after they have returned to work and for as long as they should need that insurance. Depending on the salary the individual earned, there could be a charge for this insurance. If the person were working and not covered by insurance, they could buy into Medicaid and receive the health coverage they need.”



Representitive Al Lindley

“Do you feel this legislation may benefit Oklahoma?”

## Continued from page 3

den one person. Dan calls that supporter each day. The conversation may be short or it may be longer if Dan is not feeling well. The support people may be consumers, they may be family members, they may be friends who are not consumers. Having individuals who you are committed to and who are committed to you can be of immense benefit to an individual who feels marginalized. It can be of benefit to any individual regardless of connection to disability.

The WRAP can address or guide your recovery if you suffer from diabetes, multiple sclerosis, addictions, unemployment, or even recovery from an automobile accident. In each of these situations, we can learn to take charge of our recovery by becoming aware of what is going on with ourselves and planning to meet eventualities. Dan and Judi share that many times having detailed plans on who will do what for you if you have to go to the hospital in itself eases anxieties so that you do not have

to go to the hospital in the first place. Feeling that we are in control of what is happening to us and not helpless victims can be a part of our own recovery. Doing things in everyday life such as gardening, cooking a meal for a friend, journaling, or hugging a special person are things which we can do to deal with our own feelings and bring about a positive change from within. This list is not exhaustive. What works for you? You have an opportunity to customize your own program.

Dan and Judi share that they have begun the WRAP in the Oklahoma City area but are willing to go throughout the state if they are sponsored by a local group. The Oklahoma Mental Health Consumer Council is located at 5131 Classen Boulevard, ste. 200 in Oklahoma City, zip 73118. They may be reached at (405) 840-0607 in the metro or 1-888-424-1305 toll free. Call if you would like further information. They do publish a newsletter. They also maintain a lending library of videos, cassette tapes, and books dealing with mental health issues. People helping people. People helping themselves. What could happen?

“Yes I do.”

“How.”

“HB1484 offers a win/win situation for the citizens of our state. First, it has specific language that the Oklahoma Legislature recognizes that it is possible for individuals with disabilities to lead productive lives. In many circumstances and for various reasons, people have not always had this hope. This bill goes on record for fostering hope. It also recognizes the immense psychological benefit from becoming a taxpayer and contributing to the general welfare. I anticipate that the initial money we spend upfront to fund this bill will have enormous longterm benefits as people who are currently receiving SSI and SSDI contribute taxes to the economy and experience a greater economic impact because of their larger incomes.”

“Representative Lindley, why you? Why are you sponsoring this legislation affecting the disability community?”

“I’m glad you asked that question. Issues of disability directly affect my family. Some of us have a genetic condition known as neurofibromatosis. In my case, fibrous masses developed externally on my skin and cause only cosmetic inconveniences. Sometimes, however, the fibrous masses may develop internally on organs and on

**“...HB1484 offers a win/win situation for the citizens of our state...”**

the spinal cord which can lead to serious disabilities. My sister and two brothers died from complications of this disease. Even closer to home, my daughter Wendy also died as a result of this thing. I saw her go from a healthy, happy six-year old through various stages of disability with death coming to our home in only six short years. The loss of my daughter has sensitized me to issues of people with disabilities. I want to use my time in the Oklahoma House of Representatives to improve the quality of life for Oklahomans with disabilities.”

“Representative Lindley, where is HB1484 currently in the legislative process?”

“On March 13 we made it through the House of Representatives with a vote of 99-0 in favor of the bill. Now the bill will be assigned to a Senate committee and even-

tually be considered by the full Senate. If passed by the Senate, it will go back to the House for funding and the eventual signature by the Governor.”

“Has the bill remained in tact so far without amendments and language changes.”

“There has been one minor change which has basically left the original intent of the legislation unaltered.”

“Representative Lindley, if people would like to express their support of this bill, or their objections, or just want to find out more information, who would they contact?”

“I suggest interested Oklahomans contact their state representative or state senator about HB1484. If they do not know their legislators, they may call their local county election board. Tell the election board where you live and they’ll let you know how to contact your legislators.”

“May people contact you?”

“Of course. My telephone in the State Capitol is (405) 557-7371. The State House of Representatives has a toll-free number 1-800-522-8502. The Senate has a regular number, (405) 524-0162.”

“Do you believe interested Oklahomans can actually have an affect on the passage of legislation?”

“There is no doubt in my mind. Years ago, before my years in the Oklahoma Legislature, I wrote a letter to Congressman Glenn English in support of federal legislation for medical research for neurofibromatosis. Congressman English became a supporter of this medical research and later told me he became a supporter because of just one letter from a constituent. That one letter was from me, and it made a difference. Current funding for this genetic disorder has grown tremendously from those days and uncovered specific genetic information about this particular condition—the research adding to our knowledge of various types of cancer as well. Someone took the time to contact their legislator and a good resulted which could have scarcely been imagined originally.”

**The federal Ticket to Work legislation as well as our state legislation in HB1484 are volunteer programs. Individuals receiving SSI and SSDI have the choice of accepting a ticket to work and seeking the employment services or not. If they choose not to return to work, benefits will remain unchanged as a result of this legislation.**