

SSCIP's



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NEW BILLS TO AFFECT SOCIAL SERVICE PROVIDERS

The last session of the Arizona Legislature yielded a number of new bills that directly affect the social services industry. Each of these bills will become law on July 20, 2011.

- **Senate Bill (SB) 1038** transfers oversight of all assisted living facility training programs from the Department of Health Services (DHS) to the Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers ("Board"). The Board is responsible for licensing and regulating nursing care facility administrators, certifying assisted living facility managers, upholding industry standards and practices, and approving continuing education curriculum. The Board is also required to investigate all complaints against any assisted living facilities operating in Arizona.
- **SB 1082** expands security practices for the Temporary Assistance for Needy Families (TANF) program and Supplemental Nutritional Assistance Program (SNAP). Beginning December 31, 2012, any employee, contractor, licensee, or volunteer of the Department of Economic Security (DES) who provides services directly to vulnerable adults is required to keep a valid fingerprint clearance card on file with the Department. In an effort to prevent multiple enrollments, this requirement also extends to any adult who receives benefits through TANF or SNAP. All fingerprint clearance cards must be kept on file for 36 months after

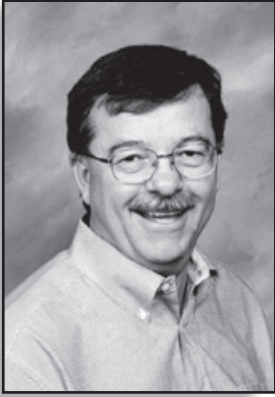
denial or termination of benefits or employment with DES.

- **SB 1190** requires that DES conduct meetings with individuals with cognitive or developmental disabilities, along with their parent or guardian, to discuss placement options. This bill states, as



session law, that meetings must be held with all individuals served by either intermediate care facilities or skilled nursing facilities. These meetings must take place before November 15, 2011, and must be followed by a report submitted to the Governor and the AZ Legislature by December 1, 2011. The report must detail any efficiencies gained from alternative placement, including placement with private service providers and the closing of state-operated facilities.

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Dear SSCIP Members:

Although change is inevitable in both our personal and professional lives, it is always difficult when an organization such as SSCIP says goodbye to individuals who have been instrumental in its success for quite a number of years. In addition to the challenge of replacing the expertise, institutional knowledge and professionalism of people whose opinions and judgment we've come to rely upon, we know we'll miss the personal enjoyment and camaraderie of working with individuals who have also become our friends.

On May 30th, Bruce Medvec notified the Board that he was resigning his position as a SSCIP Trustee. One week prior, David Paddison had notified the Board that he was resigning his position as a Trustee since he was no longer affiliated with an agency that was a Member of our Pool.

As many of you know, for over 20 years, Bruce Medvec was instrumental in helping build SSCIP into the largest insurer of social service providers in Arizona. As the longtime President of SSCIP's Administrator, Southwest Risk Services, Bruce's knowledge, energy and heartfelt dedication to SSCIP and its principles helped guide our organization from its formative early years as a start-up venture to a stable, financially sound company that nearly half our state's social service agencies now rely on for insurance coverage and risk management services. Following his two decades at Southwest Risk, Bruce continued to support SSCIP while serving as a Trustee and as a valuable member of the Finance Committee. Although the SSCIP Board will miss Bruce's insight and regular involvement in the direction of our organization, his 20 years of support and guidance have left a solid legacy on which we'll continue to build.

David Paddison had been a member of the SSCIP Board of Trustees since 2007 and Chairman of SSCIP's Finance Committee since 2009. In addition to the valuable financial insight and expertise David brought to the Board, he was also instrumental in helping to identify and retain the financial consultant who then assisted the Board in screening and selecting a new investment manager.

It is because of the vision and hard work of individuals such as these that SSCIP continues to thrive. On behalf of the Board, I'd like to extend our thanks and our best wishes for future success to both Bruce and David.

At its meeting on June 8th, the Board voted not to replace Bruce's Trustee position. However, I'm extremely pleased to welcome Marsha Ashcroft as the newest member of our Board of Trustees. Marsha was named to the Board at our June 8th meeting to serve the remainder of David Paddison's term through September of 2012. As the Risk Management Director for Horizon Human Services in Casa Grande, Marsha had previously served as the only non-Trustee on SSCIP's Loss Control Committee.

Marsha is joining the Board at a time when our Pool continues to build its financial strength in spite of strong competition in the soft insurance market which has continued through several challenging underwriting years. Although we are awaiting our second quarter 2011 financial results, I'm encouraged by the fact that SSCIP's first quarter results showed continued strength which resulted in an increase in Member surplus.

As most of you know, SSCIP's continued success is based on its Members taking an active role in its operation. We are fast approaching our Annual Members' Meeting and Board Elections in September. I would encourage any interested SSCIP Member representatives to attend that meeting and to provide the Board with any ideas you may have on how we can continue to improve our organization. And, I would encourage all SSCIP Members to participate in our election process once ballots are distributed later this summer. As a Member-owned, Member-directed organization, it is only through our loyal membership's active participation in the direction of our Pool that we can continue to grow and flourish.

Sincerely,

Richard W. Hill • President – SSCIP Board of Trustees

SSCIP'r

Featured Agency: **Hozhoni Foundation**

Hozhoni Foundation operates in the Northern Arizona communities of Flagstaff and Prescott, and is dedicated to providing residential, vocational, and educational services to the developmentally disabled.

The Hozhoni Foundation began in 1970 as a non-profit, private corporation called the Hozhoni Foundation for the Handicapped, Inc. The primary focus at that time was to serve as a charitable, scientific, literary, and educational advocate for the developmentally disabled. Since that time, the Foundation has continued to grow to meet the needs of men, women, and children with developmental disabilities through its three areas of focus: residential care, day programs and support.

When volunteer and other advocacy groups began to raise issues regarding the quality and dignity of care provided to developmentally disabled individuals, a lawsuit was initiated against the State of Arizona asking for the Bureau of Mental Retardation to significantly reduce overcrowding in state institutions and, when feasible, to return residents to their homes or as close to their homes as possible. Many families, however, due to emotional, social, or economic factors, would not -or could not- accept their children back into their homes, and alternate community housing and programming were needed. Hozhoni Foundation's residential program provides alternative living arrangements based on the specific needs of the individual, ranging from group home care to semi-independent care and home support.

In order to promote the growth of healthy social and living skills, all of Hozhoni's group homes are located in residential neighborhoods. Occupancy in the homes varies from one to six people, and the number of staff employed in each home is dependent on the specific needs of its residents. Aiding in social growth, individuals sharing common interests reside together.

Hozhoni's Medical Coordinators arrange medical and therapy appointments, and all group homes are licensed and monitored by the State of Arizona. All service provision is done in accordance with Arizona Revised Statutes, Arizona Division of Developmental Disabilities/Department of Economic Security and Tribal policies.

Hozhoni Foundation recognizes that some developmentally disabled individuals need less staff support than those living in group homes and can live more independently within the community. Hozhoni staff continually meet with and provide support to their clients where needed. Assistance to these clients may include budgeting and money management skills, meal planning and grocery shopping, and transportation assistance.

The Hozhoni Foundation maintains two facilities in Northern Arizona: a 16,245 sq. ft. facility in Flagstaff, and a 6,000 sq. ft. facility in Prescott. These buildings house Hozhoni's administrative offices, but also provide space for the Foundation's day programs. Realizing that there existed no day programming for developmentally disabled people who returned to the community, Hozhoni Foundation began working with various academic and work-related facilities to implement a 5-day-a-week day programming schedule for its residents. All individuals 16 years of age and older are provided with day program services. These services are tailored to meet the unique abilities and goals of each individual, and include:

- The Employment Related Program, which utilizes supervised work groups to help the developmentally disabled gain important job skills;
- The Job Development and Placement Program, which aids individuals in acquiring independent

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Medical Marijuana Act Sparks Employer Concern

While still an illegal substance under federal law, sixteen states and the District of Columbia have legalized marijuana for medical purposes. Proposition 203, or the Arizona Medical Marijuana Act (the "Act"), was passed by voters in November 2010, making Arizona the fifteenth state to legalize medical marijuana.

The Act allows qualified patients to obtain, possess, and ingest marijuana for medical use and prohibits employers, landlords, schools and others from discriminating against any individual who holds a valid medical marijuana registry card.

Who is eligible for a medical marijuana card?

On April 14, 2011, the Arizona Department of Health Services (ADHS) began accepting individual applications for medical marijuana cards from qualified patients. A cardholder may be a qualifying patient, caregiver or dispensary agent. A "qualified patient" is someone who has been diagnosed by a licensed physician as having a debilitating medical condition. Arizona Revised Statutes (A.R.S.) define "debilitating medical condition" as one or more of the following: cancer, glaucoma, positive status for HIV, AIDS, hepatitis C, sclerosis, Crohn's disease, Alzheimer's disease, or the treatment of these conditions. Also included in the definition are symptoms of treatment for chronic or debilitating disease such as cachexia (wasting syndrome), chronic pain, severe nausea and seizures. Through late June, ADHS had received just over 5,700 applications for medical marijuana cards; 5,600 of those applications have been approved. Over 85 percent of the applications received by ADHS have reported chronic pain, and a large proportion of conditions reported included back problems, severe headaches, injuries and arthritis.

What are cardholders entitled to?

Once a patient obtains a valid medical marijuana registry card, they are permitted to receive up to 2.5 ounces of marijuana every two weeks from an authorized dispensary. If a cardholder resides more than 25 miles from a dispensary, they may cultivate and keep up to 12 live marijuana plants in an enclosed, locked facility within their residential property. Cultivation rights are an additional designation and a "request to grow" must accompany the cardholder's original application. Seventy four percent of all applications received by ADHS have requested cultivation designation. Possession of a valid medical marijuana card grants a patient permission to

obtain marijuana for medical use. "Medical use" is defined by A.R.S. as "the acquisition, possession, cultivation, manufacture, use, administration, delivery, transfer or transport of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or associated symptoms."

How does this affect the workplace?

Under the Act, employers are prohibited from discriminating against potential or active employees in the areas of hiring, termination, imposing any term or condition of employment or otherwise penalizing a person based on cardholder status or solely on a failed drug test. However, use, possession or impairment while at work is prohibited and disciplinary action, up to and including termination, may occur.

The Act presents a number of issues and concerns for employers, specifically in the areas of drug testing and disciplinary action for employees who work under the influence of marijuana. In an attempt to offer flexibility and protection to employers dealing with problems stemming from employees' use of both legal and illegal drugs in the workplace, House Bill (HB) 2541 was drafted to revise drug and alcohol testing statutes. HB 2541 covers not only medical marijuana, but also prescription drugs and synthetics, such as K2 and Spice. Under HB 2541, employers are protected from state law claims when proper enforcement of lawful substance abuse policies occurs.

HB 2541 protects employers who make employment decisions based on a "good faith" belief that an employee was under the influence of drugs or alcohol at work. A good faith belief may be based on a positive drug test, but employers may not take action based solely on a positive test for marijuana if the employee is an approved medical marijuana cardholder. HB 2541 states that observations of the employee's behavior, reliable eyewitness reports of use or possession of marijuana or lawful video surveillance may be used to form a good faith belief. The law gives specific examples of symptoms that can be used to identify employee impairment. These symptoms include, but are not limited to: speech, coordination, carelessness, odor, unusual behavior, disregard for safety of self or others and involvement in an accident.

The Act does not provide any civil remedy for employees whose employer has discriminated. Employee claims of discrimination

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MEDICAL MARIJUANA ACT

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or wrongful termination filed pursuant to the Arizona Civil Rights Act or Employment Protection Act may subject an employer to compensatory and punitive damages. It should be noted, however, that the Federal Controlled Substances Act criminalizes the use of marijuana for any purpose, and, therefore, the Americans with Disabilities Act does not extend protection to an employee solely for the use of medical marijuana.

Important exceptions to non-discrimination rule

In some instances, employees are exempt from protection by the Act. Any government entity that receives federal licensing or grant money is most likely required to comply with all federal laws. Since The Federal Controlled Substance Act criminalizes marijuana use and preempts the Arizona Medical Marijuana Act, employees of agencies such as these –police departments, for example- are exempt from the Act’s protection.

Certain agencies have taken a position against the use of medical marijuana from a safety standpoint. The Department of Transportation, in 2009, issued a compliance notice stating that workers with CDL (commercial driver’s license) certification in safety-sensitive jobs, such as school bus drivers and truck drivers, could not be deemed “qualified drivers” if taking medical marijuana. Under federal motor carrier regulations, a positive drug test results in revocation of CDL certification. Therefore, while an employer is prohibited from terminating an employee solely due to a failed drug test, the employer may argue that as a result of the failed drug test, the employee was unable to perform job duties as a driver due to CDL revocation.

HB 2541 authorizes an employer to reassign or suspend a worker from a safety sensitive position if the employee is taking substances that could impair or lessen the ability to perform job duties in a safe manner. This includes over-the-counter and prescription medications and medical marijuana.

Discipline for workplace impairment

In order to take lawful disciplinary action, an employer must be able to prove that an employee used, was in possession of, or was under the influence of medical marijuana while at work. It is important to note that drug tests do not test for marijuana impairment. Currently, there are two types of tests used to detect marijuana:

- “Parent Drug” tests- which are used to detect the drug’s active ingredient or chemical compound (THC in marijuana), and
- Drug metabolite tests- which detect compounds produced by the body’s chemistry after a drug has been ingested.

Depending on the type of sample collected by the testing lab (urine, blood, saliva, or hair), detectable marijuana can appear in a drug test for up to 90 days. Because those with medical marijuana cards may have detectable marijuana in their system, the length of time since last ingestion cannot be shown by a test. Therefore, drug testing alone cannot be used to prove an employee’s impairment in the workplace. Supervisors should be trained to accurately detect and document signs of employee impairment.

Compliance

In an effort to aid in catching fraudulent cardholder claims, the law allows employers to use ADHS’ web-based cardholder verification system to check the validity of medical marijuana registry cards. Although HIPAA regulations prohibit an employer from asking an employee to produce a card, if one is willingly presented by an employee, it is recommended that employers verify validity with ADHS.

When dealing with medical marijuana issues as related to employees and the workplace, employers should keep in mind the Family Medical Leave Act, ADA, workers’ compensation legislation, and HIPAA. ❖

SSCIP to Offer Flash Drives

The SSCIP Loss Control Committee has approved the purchase of USB flash drives featuring the SSCIP logo in order to promote Pool membership and to provide an additional loss control tool for Members. The drives, which should be available later this summer, will be used by

SSCIP’s loss control consultants to disseminate manual templates, Webinar information and customized training material. For further information, contact Donna Chriswell at: dchriswell@berkleyrisk.com ❖

FEATURED AGENCY

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- or semi-independent employment within the local community;
- Day Treatment and Training for Adults, which focuses on daily living skills, communication, and therapy. Music therapy and the Hozhoni Art Program are used to encourage free expression. The Art Program’s staff members are all artists themselves, and offer guidance, while pledging never to interfere with the consumer’s creativity. Individuals work with paint, clay, traditional and Native American weaving, and leather tooling. Hozhoni Artists are showcased through various art shows, including the Hozhoni Gallery. Money from any artwork sold goes directly to the artist for their personal use.

The Hozhoni Foundation offers many social and recreational opportunities to enhance communication and relationship skills and general personal growth. Activities offered include:

- Speech Therapy
- Massage Therapy
- Relationship Classes
- Summer Day Camp

- Cultural Dinners
- Movie and Concert Attendance
- Exercise Classes
- Museum Trips
- Family Holiday Parties
- Northern Arizona University Sporting Events
- Arizona Cardinals Games
- Arizona Diamondbacks Games
- Special Olympics Summer and Winter Competitions

Hozhoni Foundation strives to offer and provide quality, enriching services to developmentally disabled Arizonans. The Foundation contracts with or has service agreements with numerous entities, and currently provides services to over 145 individuals. The Hozhoni Foundation believes every person has the right to experience life to the fullest, and grants each of its clients “Dignity through Opportunity”. ❖

Welcome NEW MEMBERS


SSCIP would like to welcome the following new members:

- | | | |
|-------------------------------|---------------------------------|---------------------------------------|
| ❖ Absolute HCBS, LLC | ❖ Happy Home Care, LLC | ❖ Phoenix Institute for Psychotherapy |
| ❖ AZI House, LLC | ❖ Shirley Harter | ❖ Tri-Care Medical Trans, LLC |
| ❖ CLTatum & Associates | ❖ Hearts & Homes, LLC | ❖ Triumph Counseling Services, Inc. |
| ❖ Fenix Group, LLC | ❖ Old Pueblo Community Services | |
| ❖ Mary V. Fox, PhD | ❖ Neal H. Olshan, PhD | |
| ❖ Gentle Care Transport, Inc. | | |

NEW BILLS

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- **SB 1232** extends the statutory life of the Developmental Disabilities Advisory Council. The Council’s term is retroactive to July 1, 2011, and is extended 10 years to July 1, 2021. The 12-person council is expanded to 17 members and now consists of:
 - One member who is the parent/guardian of a developmentally disabled child under the age of 18.
 - One member who is the parent/guardian of a developmentally disabled adult over the age of 18.
 - One member who is the parent of a child served by the Arizona Early Intervention program.
 - One member of the private sector who represents an agency that is contracted to provide in-home services to developmentally disabled persons.
 - Two members of the private sector who are contracted to deliver services to the developmentally disabled; one who represents a provider of residential services, and one who represents a provider of employment services.
 - Two members who are developmentally disabled and receive services from the division.
 - Two members each representing a different developmental disability advocacy group.
 - One member from the designated protection and advocacy organization.
 - One member representing a non-profit group that provides direct advocacy to families of the developmentally disabled.
 - The AHCCCS Program Director (who is a non-voting member).
 - The Assistant Director of the Division of Developmental Disabilities (DDD) (who is a non-voting member).
 - One member from the Developmental Disabilities Planning Council.
 - One member representing foster parents of developmentally disabled children.
 - One member from the Human Rights Committee on the Developmentally Disabled.
- The council’s duties are expanded to include review of new policies or major policy changes before DHS submits the changes for public comment, review of Auditor General reports concerning the DDD and services provided by the DHS, and submission of an annual report to the AZ Legislature by December 31st of each year.
- **SB 1240** modifies licensure requirements for behavior analysts. In order to be licensed by the Board of Psychologist Examiners, behavior analysts must complete 1,500 hours of supervised work experience, independent fieldwork, university practicum, or intensive university practicum. This additional training may run concurrently with coursework for any degree obtained after January 1, 2000, and must meet nationally recognized standards for behavior analysts as set by the Board. In turn, SB 1240 requires DHS to recognize licensed behavior analysts as behavioral health professionals, therefore making them eligible to receive reimbursement for services.
- **House Bill (HB) 2099** expands the list of services covered by AHCCCS to include hospice care. Hospice care is defined as “end-of-life medical, psychological, and/or spiritual support”, and extends to the family of the terminally ill or deceased patient. Covered hospice care may be provided at the patient’s home, hospice facilities, hospitals, or nursing facilities.
- **HB 2213** changes the terminology used to refer to developmental disabilities throughout the Arizona Revised Statutes. A developmental disability is defined as a severe, chronic disability which originated at birth or during childhood, is expected to continue indefinitely and substantially restricts the individual’s functioning. Developmental disabilities include, but are not limited to, autism, behavior disorders, brain injury, cerebral palsy, Down’s syndrome, fetal alcohol syndrome, mental retardation and spina bifida. To reflect this new legislation, “mental retardation”, for example, is changed to “developmental disability” or “intellectual disability”.

To read the full text of any of these bills, go to: www.azleg.gov. 

SOCIAL SERVICE CONTRACTORS INDEMNITY POOL

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SSCIP is a non-profit corporation created in 1987. Its primary purpose is to provide property and casualty coverages to social service providers contracted with the State of Arizona and other political subdivisions.

SSCIP is governed by a 15 member Board of Trustees elected by its members. The newsletter is published in a continuous effort to inform and educate its members. Suggestions for articles are welcome.