



Disabilities Rights Center

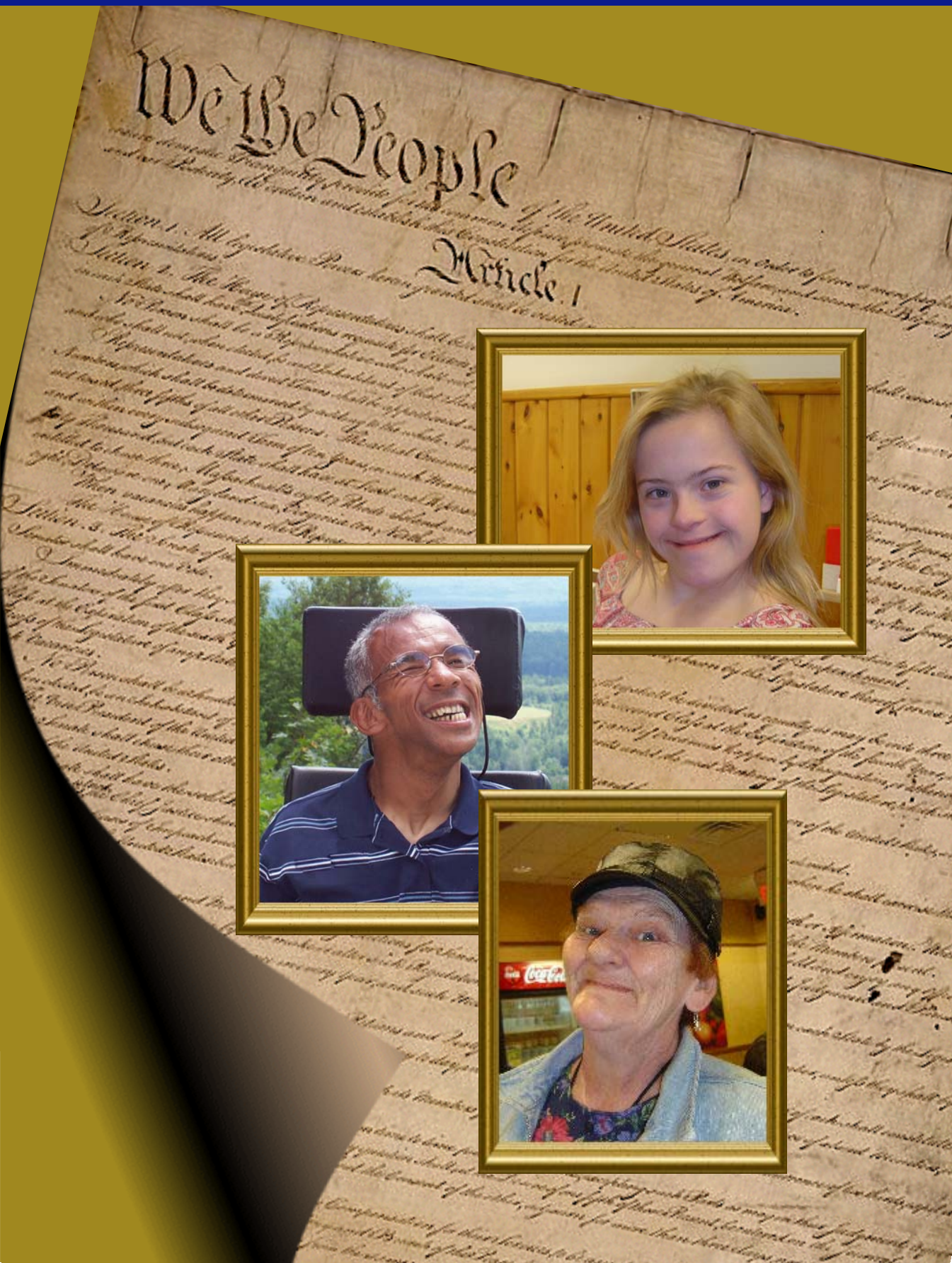
Protection and Advocacy System for New Hampshire

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2005

10/1/2004-9/30/2005



Message from our Executive Director and President

Among DRC's 26 full and part time staff, there is a great diversity of interests, strengths, backgrounds, and experiences. The common characteristic that joins us all is commitment to the mission of DRC and to working with and on behalf of individuals with disabilities. Building on our historic commitment and 27 year track record, this past year DRC accomplished much on both a case by case and a systemic basis.

One of our major federal funding sources, the Administration on Developmental Disabilities (ADD), of the U.S. Department of Health and Human Services, conducted a week long review of DRC in May 2005. The ADD team's findings were highly complimentary of DRC's performance and found no compliance violations. The review was part an effort by ADD to review each state's Protection and Advocacy agency, DD Council and University Center for Excellence.

The ADD report commended DRC's priority setting process and core operating principle and found that:

*...DRC on a periodic basis...reviews its goals, priorities and activities to determine what changes are needed. A priority process is essential for any organization, but particularly for...DRC in which the resources it receives are not nearly enough to provide individual advocacy for all eligible individuals... It is estimated that...150,000 to 200,000 individuals have a disability in New Hampshire...Because of the challenges presented by limited resources...DRC has adopted a multi-faceted approach to advocacy...*** This approach enables the DRC to maximize its resources in order to have a positive and significant impact for as many people as possible, including individuals who are unaware of DRC or who are unable to directly contact DRC.*

DRC's Board of Directors has undergone significant changes in the past year as the Board increased the number of members and decided on term limits. While DRC lost several long time and highly committed members, additions have added to the strength and the diversity of the Board. The Board continues its tradition of effective management, oversight, and support.

The year also marked the passing of five year Board member Laurie DeMayo. Laurie had muscular dystrophy, and was a leading advocate in the disabilities rights movement in New Hampshire until her untimely death at age 42. She left a lasting legacy. DRC dedicated the Rolling Gourmet, NH's online Guide to Restaurant Accessibility, to Laurie (See page 5). As an added incentive, an award certificate was established in Laurie's name to be given to restaurants fully accessible to individuals with disabilities.

The Rolling Gourmet is also representative of how DRC has expanded its advocacy and social

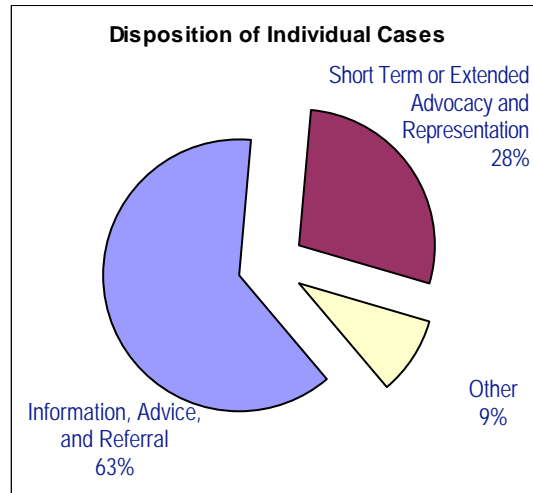
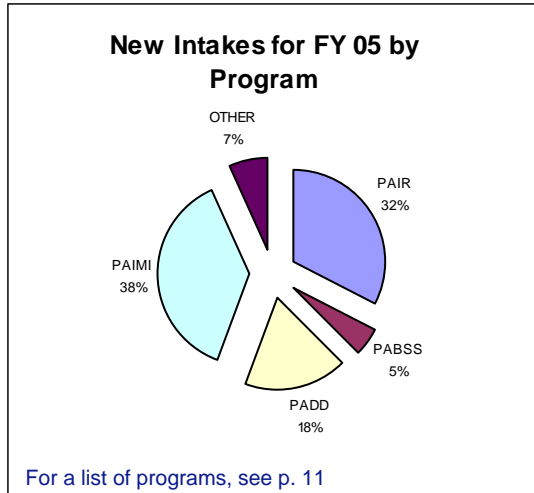
(Continued on page 3)

DRC Advocates Through:

- Short-term assistance for cases that can be resolved quickly
- Full representation on cases that cannot be resolved quickly and fall within DRC priority areas
- Information and Referral for all callers
- Policy work before executive and legislative branches of government
- Education and training of consumers, families, professionals, lawyers and the public
- Collaborative special projects: system change work in the policy arena; working with other consumer, private, and government organizations on issues of common interest
- Outreach through the website, listserv, RAP Sheet, informational pamphlets and materials, and information dissemination at conferences, trainings, and other gatherings.

DISABILITIES RIGHTS CENTER: ADVOCATING FOR LIBERTY AND JUSTICE FOR ALL

In 2005 the Disabilities Rights Center responded to almost 2,000 new individual calls for legal advice and assistance in addition to the many individuals receiving ongoing advocacy or legal representation. DRC provided information and advice concerning problems with discrimination, services, benefits, employment, housing, assistive technology, and many other disability-related issues.



change approaches in recent years while at the same time continuing to use more traditional legal remedies where necessary.

We are well into our three-year strategic plan, and have made considerable progress, but face old as well as new challenges caused by continuing bias, discrimination and stigmatization towards individuals with disabilities – attitudes and actions that run counter to basic values of support, inclusion, and independence.

A benefit to our multi-faceted approach has been increased visibility and credibility. Increasingly we are asked to play key roles in shaping policy and participating in government task forces, commissions and committees, such as the Governor’s Commission on Area Agencies, Mental Health Commission, and the special education ad hoc legislative task force.

It is essential that we continue to exercise our core role in vindicating rights of individuals with disabilities and addressing barriers to the full enjoyment of those rights. Our resources provide the only internal limitation. We are constantly looking for ways to expand our capacity and staff and to partner and leverage other resources to help carry out our mission. To that end we have included a contribution insert, and would ask you to consider making a contribution to our efforts.

Richard A. Cohen, Esq.
Executive Director

Joseph A. Dickinson, Esq.
President



Priority I: Freedom from Harm

Rights to self-determination and freedom from abuse and neglect, inappropriate restraint and seclusion, coercion, and other harm

Protecting a child from dangerous restraint

A child with severe learning and behavior problems was repeatedly restrained in school by untrained staff who did not have a behavior plan in place, and did not know how to provide positive interventions. As the behavior became increasingly unmanageable, the restraints used were more and more dangerous. DRC represented the parent and obtained a change of placement, where the child became the best-behaved student in the class.

Reducing restraint and seclusion in all schools

As a result of the above case, the NH Department of Education formed a task force on restraint and seclusion. DRC advocates worked closely with the Department of Education, educators, and other advocates to develop the Guidance on Considering the Use of Physical Restraints in New Hampshire School Settings. This Guidance was released by the NH Department of Education for all schools to use when developing responsible, safe, and humane policies in addressing behaviors.

Guardianship for minors Probate Court protocol

DRC advocates worked extensively this year with other advocacy groups and the Probate Court to assist in the revision of procedures for appointment of guardians when parents are temporarily or permanently unable to care for their children. The new procedures are designed to provide more extensive and accurate information to parents, especially parents with mental illness or in crisis. They will better ensure informed decisions by the courts and parents. In the upcoming year, DRC will participate in the planning and execution of training for court personnel in the new procedures.

Involuntary psychiatric commitment

DRC works to protect the rights of individuals with mental illness to be free from undue control and coercion, through legislative, policy, and individual education and advocacy.

DRC has been involved with involuntary commitment cases at the trial and appellate levels this year, raising legal issues on appeal such as the adequacy of legal representation by appointed counsel, the constitutionality of New Hampshire's scheme for forced outpatient treatment, and the sufficiency of evidence required for a probate commitment order. In the legislature, DRC advocates have supported revision of the procedures which follow findings of incompetency to stand trial in criminal cases and reduction of the permitted length of commitment.

I found the support very helpful and empowering as it became clear that I was justified in my feelings.

- from satisfaction survey



Coalition for Family Law and Mental Health

The Coalition provided training to more than 300 individuals as part of its charge to end discrimination against parents with mental illnesses in family law matters. The Coalition provided six training sessions for guardians *ad litem* and developed a guide for parents with mental illness on durable powers of attorney.

Priority II: Prevention of Discrimination

Access to, or prevention of discrimination in, public accommodations including: transportation, government, government-funded services, voting and assistive technology

Communication access at hospitals

After DRC was contacted by members of the Deaf community concerning the lack of communication access at medical facilities, DRC worked closely with Deaf advocates to train Deaf consumers about their rights to reasonable accommodations in medical settings, including access to interpreters. Through a series of statewide meetings, DRC and Deaf advocates met with groups of individuals, learned about the problems encountered, and gave information and advice. DRC has also counseled or represented a number of people who were denied communication access in hospital settings, and provided technical assistance and support to the Manchester Deaf community in its discussions with a local hospital concerning problems with communication access. Active in many public policy forums, the DRC Executive Director serves on the Board of Licensure for Deaf Interpreters. The DRC has been an active member of the Medical Interpretation Advisory Board of the Endowment for Health, advocating for improved access to interpreter services, and on the Legislative Task Force on Deafness and Hearing Loss.

Access to transportation

DRC represented a Concord woman with a guide dog who was refused taxi service. After a complaint was filed with the Human Rights Commission, the taxi company agreed that it would transport her in the future and would train all drivers in the policy of nondiscrimination so that they would not refuse service to other customers with disabilities .

The Rolling Gourmet

The Rolling Gourmet, New Hampshire's online Guide to Restaurant Accessibility, was "rolled out" in July on the 15th anniversary of the Americans with Disabilities Act. DRC collaborated with the NH Chapter of the National Spinal Cord Injury Association to create the Rolling Gourmet, an interactive guide diners can use to report on the accessibility of restaurants and to find accessible restaurants. The rollout was a win-win event supported by the Governor's Commission on Disability, the Common Man restaurant, and the NH Lodging and Restaurant Association.

Hampton District Courthouse

DRC and other stakeholders advocated successfully with the New Hampshire Court Accreditation Commission to make the Hampton District Court accessible. The court was moved to an accessible location.

Voter access

DRC is a member of the Disability Access and Voting System Task Force of the HAVA State Plan Committee, which researched and provided input and recommendations to the NH Secretary of State on accessible voting machines for use in New Hampshire.



Assistive Technology outreach

When it comes to assistive technology, knowledge is power. DRC has participated in many AT and other forums to educate people about AT that might allow them to live more independently. They also learn about funding sources and legal rights to AT in education, employment, and services.

Priority III: Access to Services

Access to necessary services, including health, mental health, and vocational services in the least restrictive and most integrated environment

Holding the line: needed home and community-based services

When the Medicaid program tried to terminate an older woman with a developmental disability from the Home and Community-Based Care Waiver program, DRC successfully represented her and her sister/guardian in an administrative due process hearing. The Department of Health and Human Services was ordered to maintain her eligibility.

The judge ruled in our favor - my sister could remain on the HCBC program. I cannot possibly tell you just what a relief that news was to us... I sincerely believe that none of this could have happened without the help of the DRC.

- from satisfaction survey

Eligibility for services

When his mother died, "Bill" was unable to care for himself due to his developmental disability. He bounced between family members for two years without support services because the area agency had found him ineligible, claiming his disabilities were due to a mental illness rather than a developmental disability. After DRC filed an appeal of the decision, the Area Agency reversed its decision and found him eligible. Unfortunately, he was placed on the waiting list and did not receive services immediately.

Access to health care

When a man with a traumatic brain injury was barred from a community health center due to his objectionable behavior, DRC negotiated with the center and, with the assistance of the man's neurologist, showed that the behavior was related to the man's disability. The center agreed to provide him with a reasonable accommodation and reinstated the man.

Waiting list for Developmental and Acquired Brain Disorder services

DRC continues to vigorously oppose waiting lists for needed Medicaid services through legislative and policy work as well as through individual and/or class action representation. The brain injury waiting list class action lawsuit filed in 1999, Bryson v. Stephen, is scheduled for trial in October 2005.

Holding the line: Katie Beckett Medicaid

When the state attempted to further limit eligibility for the Katie Beckett Medicaid program, DRC was on the forefront in educating and mobilizing families and policymakers to successfully halt the state's attempt to further erode services for some of the most vulnerable citizens. The Katie Beckett program is designed to keep children at home and out of institutions.

Obtaining medically necessary services

When Medicaid refused to pay for medically necessary disposable diapers for Emily, a severely disabled young woman, after she turned 21, DRC represented her at a due process hearing. After the hearing, but prior to the hearing officer's ruling, the Department of Health and Human Services reversed its decision.

Health care in jails and prisons

DRC has joined forces with New Hampshire Legal Assistance in its efforts to enforce the Laaman consent decree, which requires the state prison to provide adequate health care including mental health treatment. In addition, DRC is an active member of the NH Medical Society's Task Force on Correctional Health Care.

Priority IV: Education

Access to quality education and services to enable children to lead healthy, independent and productive lives

Special education pro bono referral and mentoring program

In 2005, a fourth of all calls to DRC for help concerned problems with complex special education matters. While all callers receive information and referral services from the DRC, the need for competent legal representation for parents in special education matters is overwhelming. Established in 2003 in collaboration with the NH Bar Association, the special education pro bono referral and mentoring program continues to develop the skills of private attorneys interested in special education law. DRC provided training, both formally and informally, to lawyers on the Individuals with Disabilities Education Act and recent changes to the law.

Once the school found out I contacted DRC, all of a sudden they were nice to me...my son...just got his first report card with nothing below a C!

- from satisfaction survey

Improved education planning process

After two years of development, in which DRC played an instrumental role, the NH Department of Education has adopted a standardized Individual Education Plan (IEP), which it will begin piloting in 2006. The IEP incorporates and promotes best practices in education, special education and transition and is in a form, to enable parents as well as educators, to know and implement required and sound practices and procedures.

Holding the line: independent educational evaluations

When parents contacted DRC concerning a school district's attempts to pass new rules limiting the district's responsibility for independent educational evaluations, DRC worked successfully with the school board and parent groups to modify the objectionable rules. Because it appeared that other school districts were considering passing similar rules, the DRC made information available on its website regarding legal issues with the proposed rules so that parents and advocates from other districts could have access to full information.

Bryan M v. Litchfield School District

DRC represented Bryan M against the Litchfield School District, which attempted to discharge the 9 year old boy from special education before conducting a thorough evaluation. The U.S. District Court found that the school district's evaluation was incomplete and thereby inappropriate, and ordered the school district to continue to provide him with special education and reimburse the parents for the independent evaluation they obtained. The court held: "[A] finding that a child is performing at an average level on the regular curriculum for his grade does no more than show that the intent of specially-designed instruction is being accomplished."



Priority V: Employment

Right to equal employment opportunities and needed social security benefits



Reasonable accommodations in college

“Joanne” still wanted to finish her bachelor’s degree after a brain injury left her with short term memory problems and difficulty processing her thoughts. When the college failed to provide Joanne with the accommodations she needed to go back to school, Joanne contacted DRC for help. A call from the advocate was all it took to ensure that Joanne received the needed accommodations to finish her degree and move closer to her goal of employment.

Holding the line: Medicaid for Employed Adults with Disabilities (MEAD)

When the state attempted to reduce benefits and incentives under the MEAD program, DRC worked with other advocates to maintain the program, including testifying before the Legislature. The Legislature decided not to make the cuts.

Nondiscrimination in employment

DRC was contacted by a young man who was being treated unfairly by the store where he worked. The supervisor had disciplined him for actions that other employees were not disciplined for, and it appeared the discrimination was due to the man’s mental retardation. Due to concerns that his job might be jeopardized, the DRC advocate provided information and coaching to the man about how to handle the situation but did not intervene directly. The unfair treatment stopped.



Legislative advocacy for reasonable accommodations in employment

DRC has advocated vigorously to amend New Hampshire’s antidiscrimination law to provide for reasonable accommodations to employees with disabilities, when they are needed. Legislation is currently pending.

*Without your help I
wouldn't have health care.
Thank you.*

- from satisfaction survey

Priority VI: Outreach and Advocacy Support

Promotion of self-advocacy, collaboration, and diversity through education and outreach

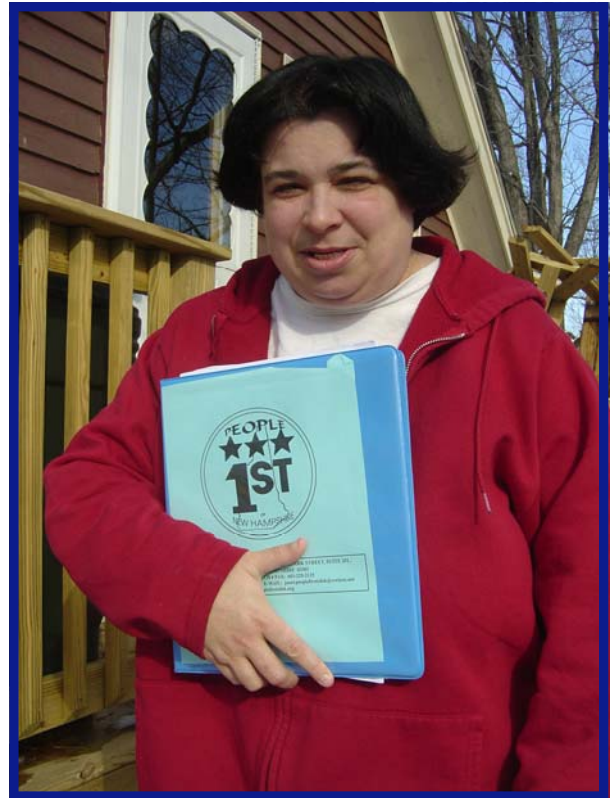
2005 Highlights:

The RAP Sheet

“The latest in disability research, advocacy, policy, and practice”. In its second year of publication, the RAP Sheet has taken off with a circulation of over 5,000. This popular and informative newsletter is a collaborative work of DRC, the Institute on Disability, and the NH Developmental Disabilities Council.

Self advocacy support

Outreach to groups of consumers and self advocates has increased as part of our commitment to support people to understand and assert their rights. DRC provided on-demand training to groups of individuals with disabilities and their advocates, created and delivered flyers with understandable information about rights, and participated with self advocates in the Alliance for Full Participation national conference.



Outreach and training on legal rights and advocacy

DRC provided education to over 1,000 consumers, families, lawyers, and other advocates through presentations and trainings. DRC reached out through DRCNH News, a regular column in the Headway newsletter, press releases, radio, public television, public information booths, and Assistive Technology expos.



The website continues to grow

DRC website continues to be a source of current and useful information, and usage has once again doubled in the past year, with 85,752 “hits” in September 2005 alone.

En Español

DRC has had many of its educational brochures and webpages translated into Spanish as part of its commitment to make rights information available to all New Hampshire residents.

***Y**our assistance to our family was very much appreciated. Your website is a valuable and informative resource for disabled residents in NH – also, easy to use!*

- from satisfaction survey

A SAMPLE OF DRC'S PUBLIC POLICY ADVOCACY

Waitlist Funding. DRC, in collaboration with others, worked to make sure that funds were allocated to take additional individuals with developmental disabilities off the waitlist, though not all that was needed was allocated.

Additional State Special Education Funding for Schools. DRC worked with several key legislators in getting the Legislature to reinstate targeted state funding to school districts for students with disabilities. In recognition of the fact that the costs of educating students with disabilities are about twice that of general education costs, the Legislature reinstated the "weight of one" for students with disabilities into the state adequacy funding formula to school districts. This meant an extra approximately \$3,500 to school districts for each student with a disability.

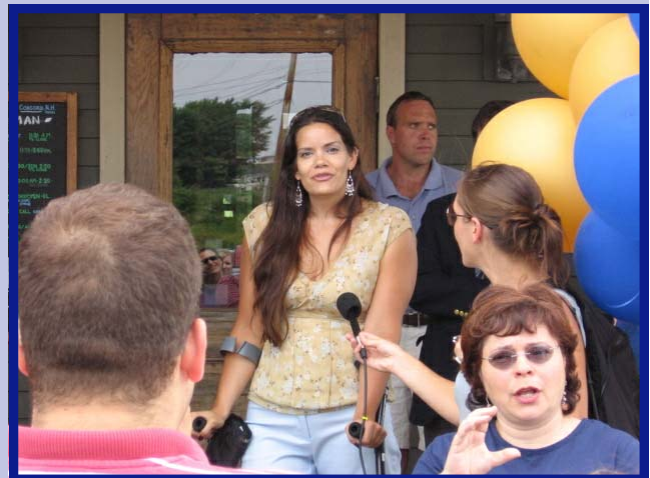
Governor's Commission on Area Agencies. DRC worked on the regulatory and legislative front, and ultimately on a Commission established by Governor Lynch to review proposed consolidations of Area Agencies and to determine whether reforms were needed. Area Agencies serve persons with developmental disabilities and acquired brain disorders. The Governor appointed DRC's Executive Director as chairperson. The Commission made a number of critical recommendations to improve the system of services to persons with developmental disabilities and acquired brain injuries. The final report is on DRC's website at <http://www.drcnh.org/AAstudycomm.htm>.

Preventing Cuts and Imposition of Caps on Essential Health and Medicaid Services. DRC, along with many other advocates, successfully continued its efforts, this year in the legislative arena, to block efforts to cap and cut essential Medicaid-funded system of services proposed by the DHHS Commissioner.

Legislative Task Force on Deafness and Hearing Loss. DRC coordinated the Task Force's support of legislation to require health insurance coverage for hearing aids, an effort which will continue into the 2006 legislative session. The Task Force also oversaw development of training materials for law enforcement officers who encounter persons with hearing impairments.

Input on rule changes. DRC provided input and comments on DHHS proposed Rule Changes, with the result that essential rights and services were safeguarded, preserved or enhanced. These include:

- ◆ **Day Services Regulations for Persons with Developmental Disabilities And Acquired Brain Disorders (He-M 507)** DHHS incorporated a number of DRC comments, including assuring that day service providers were developing and implementing methods and strategies to achieve individual employment and other life skills, goals and objectives of individuals.
- ◆ **Supported Employment Services to Persons with Developmental Disabilities and Acquired Brain Disorders (He-M 518)** DRC's comments strengthened the final DHHS regulations. The regulations now specify more clearly that employment service providers must have a sufficient number of trained job coaches and job developers; and service plans must clearly specify the methods, services and role of the staff in assisting individuals in achieving his or her employment goals.
- ◆ **Medicaid-Covered and Community-Based For Persons With Developmental Disabilities and Acquired Brain Disorders Regulations (He-M 517)** DRC's comments prevented adoption of regulations which would have illegally restricted eligibility services and thus have kept some individuals with acquired brain disorders institutionalized. DRC's comments also led to a strengthening of the responsibilities of the case manager in service coordination.



FINANCIAL HIGHLIGHTS

October 1, 2004—September 30, 2005



FUNDING	2005
Federal Funding	
PADD	430,284
PAIMI	406,700
PATBI	55,917
PAVA	38,020
PAIR	161,930
PAAT	61,471
PABSS	120,002
Total Federal Funding	\$1,274,324
Program Revenue (restricted)	119,524
Other Grants and Revenues	47,151
Total Revenues	\$1,440,999
EXPENSES	
Wages and Benefits	1,235,125
Occupancy	88,882
Supplies and Materials	68,345
Client/Program Costs	70,906
Systems and Equipment	23,317
Development/Training/Education	36,426
Other Expenses	58,373
TOTAL EXPENSES	\$1,581,374
TOTAL OPERATING LOSS	(\$140,375)

A NATIONAL NETWORK OF PROTECTION AND ADVOCACY AGENCIES

DRC is part of a federally created protection and advocacy system and thus receives most of its funding and direction from seven federal grants:

Protection and Advocacy for Persons with Developmental Disabilities (PADD) is authorized by the DD Bill of Rights Act and funded by the U.S. Department of Health and Human Services.

Protection and Advocacy for Individuals with Mental Illness (PAIMI) is authorized by a statute of the same name and funded by the U.S. Department of Health and Human Services.

Protection and Advocacy for Individual Rights (PAIR) is funded by Rehabilitative Services Administration of the U.S. Department of Education.

Protection and Advocacy for Assistive Technology (PAAT) is funded by the National Institute on Disability and Rehabilitation Research within the U. S. Department of Education.

Protection and Advocacy for Beneficiaries of Social Security (PABSS) is funded by the Social Security Administration.

Protection and Advocacy for Persons with Traumatic Brain Injury (PATBI) is funded by the Human Resources Services Administration of the Department of Health and Human Services.

Voting Rights Protection and Advocacy (PAVA) was enacted as part of the Help Americans Vote Act of 2002. It is funded by the U.S. Department of Health and Human Services.

Disabilities Rights Center: dedicated to eliminating barriers existing in New Hampshire to the full and equal enjoyment of civil and other legal rights by people with disabilities.

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