

Disabilities

The Disabilities Work Group of the State Bar Equal Access Initiative (EAI) is pleased to sponsor this issue of the *Michigan Bar Journal*. The work group began its crusade on disabilities issues more than a decade ago as the Disabilities Committee of the Open Justice Commission (OJC), which was led by current Michigan Supreme Court Chief Justice Marilyn Kelly and Judge Harold Hood. Shortly after the OJC's work was concluded, the EAI Disabilities Work Group began.

Although our early work focused on physical disabilities (hearing, sight, mobility), we quickly moved to the arena of cognitive disabilities, with particular attention to the frustrations experienced by adolescents in school and beyond. Our presentation at the 2008 State Bar Annual Meeting featuring an expert panel and a keynote speaker from the Southern Poverty Law Center focused on how adolescents with cognitive disabilities frequently move from lack of success in school to juvenile court to a lifetime in and out of prisons. Breaking that cycle requires understanding their delayed responses and apparent inappropriate responses and recognizing physical outbursts as a manifestation of cognitive disability rather than attempted violence—not easy in an era of no tolerance for any signs of potential violence. Writing on that topic in this issue are co-authors Mark McWilliams of Michigan Protection and Advocacy and Mark Fancher of ACLU of Michigan.

A relatively new challenge for the work group relates to how our criminal justice system deals with people with specific disabilities (e.g., mental health, drug abuse). Many ask if it well serves

the offenders, society, or the corrections system to house prisoners with serious medical needs in the general population. Helping assure acceptance and regular use of specialty courts and possible diversion to treatment for people with disabilities is our newest concern. William J. Heaphy Jr. of the Wayne County Prosecutor's Office writes about this emerging effort.

Although not a new requirement under the Americans with Disabilities Act, one of the areas least understood by attorneys is their obligation to provide reasonable accommodations in their offices and elsewhere to clients and others with disabilities. David A. Bulkowski of Disability Advocates of Kent County and Donald P. Lawless of Barnes and Thornburg review that important topic.

Rounding out this issue are David Stokes of Madonna University and Mark Cody of Michigan Protection and Advocacy with an update on Michigan laws and regulations relating to persons who are deaf or hard of hearing.

State Bar members may encounter the Disabilities Work Group's activities in other ways. In 2001, the OJC Disabilities Committee, then chaired by Judge Paul S. Teranes, produced "A Report on Access to the Legal System in Michigan for Persons with Disabilities," covering access to courts, law firms, and law schools for people with disabilities. The report, available on the State Bar website at <http://www.michbar.org/programs/ATJ/pdfs/disabilities.pdf>, is being updated. We have surveyed State Bar members who represent persons with disabilities or who themselves have a disability as to the current experiences of persons with disabilities in



and the Law Theme Introduction

By J. Kay Felt and Hon. Paul S. Teranes

achieving access to the courts, law schools, and law firms. State Bar staff have conducted focus groups of people with disabilities who have had recent contact with the legal system, and the State Court Administrative Office has assisted in arranging focus groups with court administrative officers and judges.

One of the early projects of the work group was a colloquium with law schools in 2002 to evaluate the law school experience from the application process (whether involving the LSAT or not) through accommodations allowed in law school to the ability to take and pass the bar examination. Law schools are again being surveyed on their efforts, which will be covered in the updated report. The goals are to avoid having a disability block the path to a license to practice law and to demonstrate that disability does not detract from the ability of a skilled lawyer to represent clients. Those challenges continue.

Retired member Kathleen Harris urged the work group to produce periodic newsletters. Each issue covers a specific topic and features practical tips for attorneys representing clients with a disability. Initially, we thought we might produce a handful; over five years later, there are more than 20 quarterly editions of the *Disabilities Project Newsletter*, available on the State Bar website at <http://www.michbar.org/programs/equalaccess.cfm>. Most gratifying is that agencies from Michigan and elsewhere and bar associations from other states often ask to reprint our newsletters.

As the only two members of the original OJC Disabilities Committee now serving on the EAI Disabilities Work Group, we are

exceedingly grateful to the many lawyers who have served over the years and to our diligent State Bar staff. We are always recruiting people for the work group, for special projects, and as newsletter authors. We urge State Bar members with interests in these areas to make their availability known. ■



J. Kay Felt chairs the EAI Disabilities Work Group. Now retired, she practiced with Dykema Gossett PLLC for more than 39 years and founded its health care practice group. A graduate of Northwestern University and the University of Michigan Law School, she was the first president of the Michigan Hospital Lawyers and president of the American Academy of Health Care Attorneys. She teaches health law, values, and ethics at Oakland University.



Judge Paul S. Teranes graduated from the University of Michigan Law School in 1961. He was a Wayne County assistant prosecuting attorney for 20 years. In 1982, he was appointed to the Wayne County Circuit Court bench where he served for 20 years. He now acts as an arbitrator/mediator and serves on several nonprofit boards. He is married with four children, and lives in Grosse Pointe.

