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Patients For Sale

The Plight of Minnesota's Mentally Ill & Retarded

PRELIMINARY REPORT

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EXECUTIVE SUMMARY

I. The Current Challenge

A. Substantial Harm if DPW Institutions are Cut

1. Most Severely Disabled Patients
2. False Economies
 - a. Over \$4 million for state-paid unemployment, severance pay, and continued health benefits
 - b. \$Millions probably lost in Federal Medicaid Funds
 - c. Substantial legal costs for violating Welsch decree
 - d. Sales and income tax loss in hospital-area communities
 - e. Retraining and loss of trained staff

II. The Failure of Deinstitutionalization

- A. Nursing Home Abuses
- B. Other Problems
- C. Portrait of a "Consumer" Advocate
- D. The Real Reason for Deinstitutionalization
- E. Conclusion

PATIENTS FOR SALE:
THE PLIGHT OF MINNESOTA'S
MENTALLY ILL AND RETARDED

I. The Current Challenge

The Governor has proposed a \$17.6 million cut in state hospitals and nursing homes operated by the Department of Public Welfare (DPW). This cut would be primarily in the form of 900 staff layoffs over the biennial budget period.

These layoffs would be penny-wise and pound-foolish. They represent a false economy because of substantial offsetting costs:

- o over \$4 million in state-paid unemployment insurance, severance pay, and continued health insurance (DPW calculates that 258 of the 902 proposed layoffs would be necessary to achieve sufficient expenditure reductions to offset these costs.^{1/} This translates to offsetting costs of over \$4 million).
- o the probable loss of the 54% federal share of state hospitals' Medicaid reimbursement (which was about \$41 million in FY 1979), as well as millions of dollars in Medicare and third-party insurance payments, due to violation of staffing and treatment regulations and accreditation standards
- o substantial legal costs for violation of the Welsh class-action consent decree requiring particular staffing levels at 8 state hospitals
- o millions of dollars in sales tax and income tax losses in hospital-area communities due to reduction in income and commerce (a 1979 DPW study estimated that state hospitals directly contribute a total of from \$25.3 million to \$54.6 million to the nine hospital-area economies)^{2/}
- o the cost of retraining for new employment of former state employees, and the loss of a skilled work force trained at substantial cost to the state

State hospital and nursing home staff treat those citizens who are most in need of a safety net: the infirm elderly, the severely mentally ill, and the severely and profoundly mentally retarded, who have a mental age of less than four years and who are often physically as well as mentally disabled. If state institutions are cut, these citizens would either be dumped out or remain under worse conditions, and people who need institutional care would be denied admission. For the institutionalized elderly, the mentally ill and the retarded, budget cuts would mean hardship, less treatment and a giant step backward.

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Therefore, AFSCME recommends that the revenue, shortfall be offset by suspending state income tax indexing, and by reducing federal tax deductibility on state income taxes by two-thirds.

The Legislature must ensure that Minnesota's most vulnerable citizens - the severely mentally ill and retarded in state institutions - are not harmed by budget cuts. It must direct itself to maintaining the institutional safety net rather than allowing the past failures of deinstitutionalization to be repeated when institutional cuts invariably result in patient dumping.

II. The Failure of Deinstitutionalization

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Under this policy, DPW has transferred thousands of mentally ill and retarded persons from state hospitals to often-inadequate nursing and boarding homes. The number of mentally ill state hospital residents dropped from 8,709 in 1962 to 1,530 in 1980,^{3/} while the number of mentally retarded state hospital residents declined from 5,532 in 1962 to an estimated 2,600 today,^{4/}

A 1977 DPW report on deinstitutionalization cited a study which concluded that "the sudden and dramatic influx of (mentally ill and retarded) persons... to urban areas of our state has been met by unplanned, non-responsive service."^{5/} Four years later, enormous problems still exist, as this report documents.

Nursing Home Abuses

DPW estimates that 14,500 mentally ill persons now reside in Minnesota nursing homes.^{6/} There are also thousands of mentally retarded persons in such facilities. Under federal laws governing Medicaid reimbursement, there is no requirement that nursing homes provide mental health or retardation services. Nor are nursing homes prohibited from mixing mentally ill and retarded with elderly residents, even though the needs of each group are different and even though some young mentally ill and retarded residents are aggressive. The result has been tragedy:

- o One resident was killed and 28 were injured in a 1978 Minneapolis nursing home fire set by a former state mental hospital patient with a long history of arson. This patient never received any mental health services at the nursing home, which had 22 substantiated complaints for violation of nursing home regulations in the year in which the fire occurred. 7/

- o One resident was killed when she jumped from the third story of her St. Paul nursing home in response to the bizarre behavior of her roommate, a former mental patient. Other residents suffered psychological breakdowns when they were placed with bizarrely-behaving mental patients.8/

Many other nursing homes have been cited for fire-safety and other life-safety violations, and additional tragedies could occur.9/ In addition to the absence of mental health and retardation care, nursing homes often provide inadequate physical health care. In 1979, the most frequent complaints received by the Minnesota Office of Health. Facility Complaints were for negligent nursing care and inadequate staffing.10/ In addition, there is evidence that the profit motive leads to the unregulated use of tranquilizers rather than provision of more costly services.11/

Adequate regulation of nursing and boarding homes is difficult because of the lack of adequate numbers of inspection staff, possible retaliation against residents or staff who report problems, and the decentralized nature of the facilities. Fraud and conflict-of-interest have resulted:

- o A St. Paul nursing-home operator was convicted in 1980 of four felony counts for diversion of funds income tax falsification, possession of controlled drugs, and possession of a sawed-off shotgun. The operator pleaded guilty in exchange for the dropping of 40. other felony counts. The facility was cited for 17 substantiated complaints in the previous year, and the president of the drug company from which the facility purchased most of its drugs was also on the facility's board of directors.12/
- o A 1979 audit of the books of a Hibbing nursing home led to charges of misappropriation of \$93,990 in the form of payment for personal bills and inflated management salaries.13/
- o A Richfield nursing home operator received \$44,543 in increased Medicaid reimbursement, which was to be spent for additional staff, but no staff were hired. The operator also used \$5,614 in Medicaid funds for personal bills.14/

Other Problems

Problems of deinstitutionalization have not been limited to nursing homes- DPW estimates that of every twenty mentally ill persons requiring a supervised living situation, only one resides in a licensed residential program.15/

- o With a few exceptions, community programs for the chronically mentally ill are a disgrace.16/ Rule 36 facilities have not been adequately developed or funded. Licensure and regulation of board and care, board and lodging facilities is thus minimal. Many mentally ill reside in the community without recourse to treatment.
- o The need for chemical dependency treatment and prevention services, especially for groups such, as adolescents, is expanding. Because some DPW institutions provide these services, and because private alternatives are limited by high cost and insurance availability, the role of the state is critical.
- o Already enacted and proposed Federal and State budget cuts and tax shifts give every indication that there will be an increased demand for state-funded mental health, services. Local levels of government predict that as financial resources dry up, the pressure of providing treatment will shift more heavily to the state.17/
- o The Governor's Task Force on Health. Care has called for \$22.2 to \$37.5 million cost savings from cuts in medical assistance, waivers on care standards and new management practices.18/ These policies, if enacted would have the effect of reducing already marginal care in some community facilities and in turn placing greater pressure on state facilities.
- o Community facilities for the profoundly retarded do not exist in adequate numbers, at adequate levels of funding or with sufficiently trained staff.

Unlicensed boarding homes for the mentally ill are operating without detection, and some illegally administer drugs.19/ Only 15 percent of Minnesota citizens reside in areas covered by community mental health centers.20/ And a study of a Minnesota

general-hospital psychiatric unit concluded that it served the less disabled, while the area's state hospital cared for the most impaired patients.21/

Portrait of a "Consumer" Advocate

As the state has shifted to contracting-out for services, many "consumer" groups, which should guard against provider abuses, instead become providers, while still claiming to represent consumers. Although not all these groups may be guilty of provider abuses, they have a vested interest in continuing their own state-funded programs, and are not going to attack the very policy (deinstitutionalization), which keeps them in business.

Archie Givens, Jr. of Minneapolis is President of the National Mental Health Association and served several terms as President of its Minnesota affiliate. The Association considers itself an advocate for consumers of mental health services.

But Mr. Givens is also the proprietor of Willows Convalescent Centers, Inc., which owns and operates three Minneapolis-area nursing homes, whose residents include former state hospital patients, as well as a group home for the retarded. Mr. Givens is active in the Minnesota Health Care Association, a provider group which represents for-profit nursing homes.

These facilities have a total of 445 beds, and their primary source of income is public funds. During recent state inspections, each nursing home was found to have violated Medicaid regulations.22/ In 1977, an early-morning fire at the Willows Central facility killed one resident and injured several others. While the facility met fire codes, only eight staff were available to evacuate the 172 disabled patients.23/

In view of Mr. Givens' business interests, it is hardly surprising that the Mental Health Association has vocally supported deinstitutionalization, while being conspicuously silent about the dumping of state hospital patients into nursing homes. Unfortunately, Mr. Givens' interests are not widely known, while the Association has received extensive publicity for activities like Christmas parties for the mentally disabled. But Christmas parties are no substitute for adequate services, which is the overriding need of the mentally disabled.

The Real Reason for Deinstitutionalization

In light of these pervasive problems, why has DPW continued to deinstitutionalize patients? Often it is for economic rather than treatment reasons. DPW must pay for most of the cost of state hospital care, while federal and county governments must pay most of the cost of care in non-state facilities. "Deinstitutionalization" allows DPW to appear fiscally prudent, at the expense of both taxpayers (who must pay higher federal and local taxes) and recipients (who receive worse services). It also allows the state to dump its responsibility onto hard-pressed and ill-prepared local governments.

Allied with DPW are private nursing home and boarding home operators, who must fill their beds in order to stay in business. These businesses obviously want to make the largest possible profit, and this means providing the minimum level of services. "Non-profit" providers can make hidden profits in the form of exorbitant management salaries and benefits (real estate and other self-dealing transactions which are not "at arms length").^{24/} "Consumer advocates" are silent about these abuses because, as providers, they also benefit from the current system.

Conclusion

How can the needs of the mentally disabled be served? The immediate need is to maintain the state hospital safety net. In view of the current revenue shortfall, this can be accomplished by the equitable budget package described in the Appendix.

The long-term need is for a system of publicly-provided institutional and community services to assure accountability for public funds and provide clear responsibility for adequate services. Rather than decimating state institutions and dumping their residents, strengthening of existing programs and the use of trained state employees in a wide variety of additional programs, including community-based residences and treatment facilities, needs to be encouraged.

For example, in Wisconsin, state hospital staff have been re-trained and redeployed to an award-winning community mental health program.^{25/} Former hospital staff now work to provide mental health treatment and support services which help released patients stay out of the hospital. If re-hospitalization becomes necessary, these state workers can initiate action in a timely manner. Because the state operates both the hospital and the community programs, patients are discharged or admitted to the hospital only when appropriate. There is no dumping of patients onto other agencies.

In Iowa, institutional staff provide outreach services to retarded persons in rural and urban areas throughout the state. In Massachusetts, staff from several state hospitals have been redeployed to several public and private community mental health centers in rural, suburban and urban areas. In Rhode Island, New York State, and the District of Columbia, workers at institutions for the retarded have followed discharged residents to provide services in group homes.

As Hubert Humphrey noted so eloquently, a society must be judged by the way it treats those in the shadow of life - the elderly, the ill and the infirm. Rather than allowing hospitals to become human warehouses, the Legislature must assure that these truly needy people continue to have conditions which promote human dignity. Rather than cutting services, it must assure that they continue to receive the treatment which allows many to become productive, tax-paying citizens.

Notes

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5. Report of the Occupational Training Center, p. 69, cited in W. Bock, "An Analysis of Minnesota's Effort to Reintegrate its Mentally Retarded Citizens into the Community," Mental Retardation Program Division, Minnesota Department of Public Welfare, February 1977, p. 26.
6. Minnesota State Register, Vol. 6, p. 251.
7. D. Oberdorfer, "Nursing-Home Patient Charged with Fatal Fire Has Long Arson History," Minneapolis Tribune, September 28, 1978; Testimony of Daphne Krause, Minneapolis Age and Opportunity Center, Before U.S. Senate Aging Committee, Subcommittee on Long-Term Care, October 17, 1979; C. Boyd, "Inadequacies cited at Nursing Homes," St. Paul Pioneer Press-Dispatch September 22, 1979; S. Newland, "Complaint Filed by Nurse Home Employees," Minneapolis Tribune, October 5, 1978.
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16. Young, R., M.D. Report on Budget Projections by the Assistant Commissioner for Mental Health, Minnesota Department of Public Welfare, October 29, 1981.
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