April 9, 2013

Dear Citizens of South Carolina:

South Carolina pays for thousands of citizens with disabilities to live in Community Residential Care Facilities (CRCFs), but what is the state getting for its money? Far too often these funds provide grossly inadequate care with little oversight.

In 2009 Protection and Advocacy for People with Disabilities, Inc. (P&A) released its investigative report, "No Place to Call Home: How South Carolina Has Failed Residents of Community Residential Care Facilities." As we stated then, "Far too many of these individuals live in squalid and dangerous conditions because of inconsistent and ineffective oversight." Now, almost four years later, P&A has found no improvement—in fact, because of reductions in enforcement staff, residents are at more risk of harm. P&A’s new report, Still...No Place to Call Home, http://pandasc.org/wp-content/uploads/2013/04/still-no-place-to-call-home-2013.pdf, is based on inspections of 14 CRCFs; three of those facilities were included in the 2009 report.

Still...No Place to Call Home summarizes the substandard conditions in CRCFs where publicly funded residents live. P&A has again found CRCFs that are dirty, do not provide enough food, do not appropriately administer physician prescribed medications, violate resident rights, and fail to protect residents from harm. The fragmented system of oversight of CRCFs has not changed since 2009; if anything there is less oversight because of significant reductions in the number of DHEC inspection staff.

P&A has been inspecting CRCFs since 1986 through its state-established Team Advocacy Program. In addition to having conducted over 1250 unannounced inspections, P&A has been closely involved in efforts to enforce the Department of Health and Environmental Control’s (DHEC) regulations. P&A focused on those CRCFs that are Optional State Supplement providers, accepting publicly funded residents. Three of the 15 CRCFs in P&A’s study were included in P&A’s 2009 report; sadly, conditions in these three CRCFs had not improved since 2009. The unsafe conditions in the 14 CRCFs visited had continued for months and in some cases years. These CRCFs are still no place to call home.

The facilities discussed in this report serve residents with disabilities and low incomes, usually government benefits such as Social Security Income and Social Security Disability Income. Most residents have no family or friends to speak for them. The facilities are often in rural areas or poor urban neighborhoods with little or no access to public transportation (although residents probably could not afford to pay for transportation). The isolated residents have almost no choice in any aspect of their lives—food, activities, even something as personal as roommates—and have little if any access to shopping, churches, restaurants or involvement in their communities.
P&A’s 2009 report outlined five recommendations to significantly improve protection for people with disabilities who live in CRCFs statewide. The recommendations concluded, “The state and individual residents are paying for services that do not meet the standard of care established by regulation. It is past time to ensure safety and accountability in these facilities.” **Not one of the five recommendations outlined in P&A’s 2009 report was ever implemented.**

During the last four years P&A has become increasingly concerned by the segregation and separation from the community that most residents experience. This report includes recommendations for the state to implement the Americans with Disabilities Act as interpreted by the United States Supreme Court in *Olmstead v. L.C.*, 527 U.S. 581 (1999).

**Conditions in CRCFs will not improve without significant changes in state policies and enforcement of regulations governing CRCFs.** P&A recommends that South Carolina:

I. **Revise the statutes and regulations governing CRCFs** to give licensing agencies more enforcement options against frequently cited facilities and administrators such as:

   - **Power to suspend new admissions to CRCFs** with repeated, uncorrected violations that significantly jeopardize residents' life or health while the appellate process to suspend or revoke a license is pending;
   - **Power to make suspension of operations automatic** when a license has been revoked, followed by an emergency hearing to determine whether the facility should remain closed during the appeal or be allowed to resume operations;
   - **Ability to suspend the license of an administrator**, prior to a hearing, based upon frequent or egregious violations that significantly jeopardize residents' life or health;
   - **Creation of an expedited appeal process** to review license suspensions or bar to new resident admissions; and
   - **Consideration of information relating not only to the current license period**, but of all pertinent information regarding the facility and the applicant when considering applications and renewals of licenses.

II. **Provide public access to DHEC information about problem facilities** including facility inspection reports and corrective actions on DHEC’s website (without personal information identifying residents).

III. **Create an Adult Abuse Registry of individuals who have substantiated allegations of abuse or neglect of vulnerable adults** against them and require that facilities check the Registry before hiring a prospective employee.

IV. **Fully fund enough DHEC inspection staff** to provide for periodic unannounced visits and full, timely investigation of allegations of regulatory violations.

V. **Fully fund the SC Department of Labor, Licensing and Regulation** to enable prompt investigation of complaints against CRCF administrators.
VI. Implement the new DHHS initiative, Optional Supplemental Care for Assisted Living Programs (OSCAP). The goal of OSCAP is to promote and advance high quality, evidence-based, person-centered care, and services for CRCF residents. OSCAP will provide a much needed procedure to identify inappropriately placed residents in CRCFs and prevent future inappropriate placements.

VII. Implement DHHS plans to provide Targeted Case Management services, with choice of provider, to residents of CRCFs.

VIII. Change DHHS personal need allowance policies to provide that residents of CRCFs may retain their allowance like residents of other facilities. Annually assess the personal needs allowance of OSS recipients to ensure that residents have adequate funds to purchase essential medications, toiletries, clothing, shoes and other medically equipment such as eyeglasses and dentures, which are not covered under Medicaid.

South Carolina must fulfill the goals of the Americans with Disabilities Act and protect the health and safety of residents of CRCFs. Compliance with the ADA is a responsibility of the entire state, not only of each individual agency. The state must develop a master plan to transition individuals in CRCFs into less restrictive environments. People with disabilities must be provided the opportunity to live and participate fully in the community of their choice. For those residents who will still need the services of CRCFs, agencies must have adequate resources to protect their health and safety. P&A calls on the Governor, Lieutenant Governor, and members of the General Assembly to act promptly on these issues.

P&A’s two reports show a depressing lack of progress in improving conditions in CRCFs. It has been over 20 years since the passage of the ADA and nearly 14 years since the Olmstead decision. The time is long past for South Carolina to recognize its obligation to provide people with disabilities with the choice of services in the community, and for those services to be safe and homelike. Like other South Carolinians, people with disabilities have every right to have a place to call home.

This report provides the information begin the needed process of change. P&A is ready to assist in this process and looks forward to exploring the next steps. Thank you for working with P&A to assure that all South Carolinians with disabilities have a place to call home.

Please contact me at prevost@pandasc.org or 803.217.6713 if I may provide any additional information.

Very truly yours,

[Signature]

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