



Allegheny County Chapter

OF THE PENNSYLVANIA ASSOCIATION FOR RETARDED CHILDREN, INC.

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President
Dr. Norman Mulgrave
Executive Director
C. A. Peters

October 25, 1972

TO: ACC Board of Directors

FROM: Dr. Norman Mulgrave, President

SUBJECT: Relationship with State Organization relative to possible legal action against the Commonwealth of Pennsylvania and this agency.

At the September Board Meeting the President was directed to contact PARC at the Board Meeting in Harrisburg on Saturday, September 23. PARC, at that time, requested a meeting between ACC legal counsel, PARC counsel and officers of both groups. This meeting occurred on Saturday, September 23.

A three hour discussion with the following primary points emerged: (1) A proposed ACC "Civil Rights" action (directed primarily against interim care facilities) would not jeopardize the contemplated PARC "Right to Treatment" suit. There was even some feeling that the added pressure on DPW might be beneficial and lead to negotiated concessions from DPW that would render the PARC action moot. (2) ACC, to prepare for its possible action, was to send an inspection team to the most offensive interim care facilities to gather evidence. Jean Isherwood would be liaison to the ACC team from PARC. (3) Once evidence was produced, ACC would consult with counsel to determine if sufficient evidence existed to warrant legal action. If, in the opinion of counsel and the Executive Committee, such action was warranted, a second conference would be held with the PARC people.

From the second ACC/PARC conference a decision would emerge:

- 1) A joint PARC/ACC action.
- 2) PARC action.
- 3) An ACC action.

Based on this ACC/PARC conference (and the evidence produced by the inspection team) a recommendation would be made to the ACC Board.

All concerned understood that no legal action would be entered into without prior consultation between ACC/PARC.

On Wednesday, October 18, our team visited two interim care facilities in the N.E. Region. The second facility was Mountain Top which had received perfunctory attention on July 12. The team interviewed 10 residents without facility staff surveillance and tape recorded the conversations.

The team was convinced that there were glaring program and plant deficiencies and that routine physical brutality occurred. An over-riding concern, however, was possible retaliation, Wednesday night, against those residents who had been interviewed.

This fear was perceived to be so real that shortly after 7 p.m. on Wednesday, October 18, they contacted the Executive Director at home to solicit his advice on how to obtain immediate intervention. They wanted those ten residents protected. The Executive Director was unable to reach the President who was teaching. He then attempted to get in touch with legal counsel. They were not available.

On his own initiative he telegraphed the Governor, the Secretary of Welfare and sent a staff person to contact the Governor who was speaking in Belle Vernon, Fayette County. The telegram was cleared over the phone with the team in Wilkes Barre before it was sent. When counsel was reached, they advised that a telegram also go to the Attorney General.

By 11:00 George Schumacher, legal counsel, and the President had been in communication with the team. By that time it was also apparent that State Officials could not intervene before morning.

The President then directed that the Executive Director and legal counsel would go to Wilkes Barre on Thursday, October 19, 1972. They arrived at noon and immediately began preparing a court action designed to protect the 50 residents of Mountain Top. Simultaneously, DPW workers from the N.E. Region and the Office of Mental Retardation arrived at Mountain Top. Late in the afternoon the team met with Elliot Knauer and his staff which had just returned from Mountain Top. Legal counsel and the Executive Director, accompanied by Ken Winograd of Allegheny County MH/MR went to Mountain Top. The two parties regrouped at the Scranton Airport and contacted the President.

The President requested a meeting with the Executive Committee. The meeting was held at 10 p.m. Thursday, October 19 at the Pittsburgh Airport. At that time it was decided there was insufficient evidence to move legally and, as an alternative, to request a meeting with the Secretary of Welfare prior to Monday, October 23. A meeting of the Board to determine whether to proceed legally would be convened Monday evening.

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THESE ACTIONS BECAME UNNECESSARY WHEN MOUNTAIN TOP WAS CLOSED BY ORDER OF THE DEPARTMENT OF PUBLIC WELFARE ABOUT 3:30 p.m. Friday, OCTOBER 20.

However, an interesting sidelight is the concern that ACC might have become involved in a legal action with DPW over Mountain Top without prior consultation with PARC. This is a possibility that definitely existed and might have occurred on either Wednesday or Thursday. However, if it had, it would have been motivated solely by a decision to protect the Mountain Top residents and prior consultation would have been impossible with either PARC or the ACC Board.

This action would have been taken even if it had thwarted a larger ACC attack on the entire interim care system. We must stress again that unilateral legal action on Thursday would have been motivated solely by anxiety for the 50 residents.

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