Still...

No Place to Call Home

*How South Carolina Continues to Fail Residents of Community Residential Care Facilities*

April 2013
About Protection and Advocacy for People with Disabilities, Inc. (P&A)

Since 1977 Protection and Advocacy for People with Disabilities has been an independent, statewide, non-profit corporation whose mission is to protect and advance the legal rights of people with disabilities. P&A’s volunteer Board of Directors establishes annual priorities, including investigation of abuse and neglect; advocacy for equal rights in education, health care, employment and housing; and full participation in the community. P&A’s goal is that South Carolinians with disabilities will be free from abuse, neglect, and exploitation; have control over their own lives and be fully integrated into the community; and have equal access to services.

Contact P&A by telephone at 866-275-7273 (statewide) or 803-782-0639 (local and out of state), by email at info@pandasc.org, and on the internet at www.pandasc.org and Facebook/pandasc.org.
ACKNOWLEDGEMENTS
Protection and Advocacy for People with Disabilities, Inc. (P&A) is indebted to the volunteers who assist during P&A's Team Advocacy community residential care facility (CRCF) site visits. This year 18 individuals volunteered to conduct the CRCF visits with P&A staff. These volunteers come from a variety of backgrounds including engineers, college professors, retired state employees, parents of children with disabilities, retired US Armed Forces, and social work and law students. Volunteers spend many hours interviewing residents, touring the facilities, and observing residents' meals. Some have been working with P&A for many years, including one who has volunteered for 10 years. These volunteers are essential to P&A's work in CRCFs to ensure the rights of people with disabilities living in CRCFs.

P&A would also like to express deep appreciation to the residents in CRCFs statewide who take the time to talk with P&A staff and volunteers and who share information about their living conditions, their needs, and their hopes.

DISCLAIMER
This report was prepared by staff of Protection and Advocacy for People with Disabilities, Inc. (P&A). It was funded in part by the US Department of Health and Human Services (Substance Abuse and Mental Health Services Administration and the Administration on Community Living) and by the US Department of Education (Rehabilitation Services Administration). The views expressed are solely those of P&A.

PUBLIC DOMAIN NOTICE
All material appearing in this report is in the public domain and may be reproduced or copied without permission from Protection and Advocacy for People with Disabilities, Inc., with acknowledgement of the source.

ELECTRONIC ACCESS AND COPIES OF PUBLICATION
This publication can be accessed electronically at www.pandasc.org.
[This page intentionally left blank.]
Table of Contents
EXECUTIVE SUMMARY .................................................................................................................. 2
INTRODUCTION ................................................................................................................................. 5
METHODOLOGY ................................................................................................................................. 8
FINDINGS ............................................................................................................................................... 10
   FIRE & LIFE SAFETY ....................................................................................................................... 12
   EXTERIOR ......................................................................................................................................... 16
   HOUSEKEEPING, FURNISHINGS, & MAINTENANCE ................................................................. 18
   ACCESSIBILITY & RAMPS ........................................................................................................... 29
   MEALS & FOOD STORAGE ........................................................................................................ 30
   MEDICATION ADMINISTRATION & STORAGE ....................................................................... 33
   ADAPTIVE & MEDICAL EQUIPMENT ...................................................................................... 35
   ACTIVITIES OF DAILY LIVING ................................................................................................. 36
   RESIDENT RIGHTS .................................................................................................................... 37
   AMERICANS WITH DISABILITIES ACT .................................................................................. 40
   RECREATION ............................................................................................................................... 43
   RESIDENTS’ PERSONAL NEEDS ALLOWANCES ................................................................... 44
   RESIDENT RECORDS .................................................................................................................... 45
   SUPERVISION OF STAFF & ADMINISTRATOR ..................................................................... 45
   STAFF TRAINING & PERSONNEL RECORDS .......................................................................... 46
LICENSING ........................................................................................................................................... 47
RECOMMENDATIONS ....................................................................................................................... 50
APPENDIX A: BILL OF RIGHTS FOR RESIDENTS OF LONG-TERM CARE FACILITIES .......... 52
APPENDIX B: CRCF DENIES P&A ACCESS SIX TIMES .............................................................. 56
APPENDIX C: ROLES OF OTHER AGENCIES IN CRCFs ............................................................ 58
[This page intentionally left blank.]
EXECUTIVE SUMMARY

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 P&A released its investigative report, "No Place to Call Home: How South Carolina Has Failed Residents of Community Residential Care Facilities.” Community Residential Care Facilities (CRCFs) are homes of last resort for thousands of South Carolinians who are poor and have disabilities. Residents rarely have family or friends to assist them.

The report documented serious problems in nearly all areas reviewed, including insect infestation, failure to deliver medications, lack of heat and air-conditioning, inadequate food, contaminated food, untrained staff, and yards filled with garbage. Inspections by P&A staff found mouse droppings on pantry shelves; roaches throughout the facility; electrical wires dangling from the ceiling; and numerous problems with medication administration. The unsafe conditions in the six CRCFs visited had continued for months and in some cases years.

In 1977 P&A was designated as the protection and advocacy system for South Carolina. P&A has broad authority under state and federal law to advocate for the rights of people with disabilities and to investigate allegations of abuse and neglect. Since 1986 P&A has conducted over 1,250 unannounced visits to CRCFs across the state through its Team Advocacy program.

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.

Now, almost four years later, the same unsafe and deplorable conditions still exist. This new report, Still...No Place to Call Home, summarizes the substandard conditions in CRCFs in which publicly funded residents continue to live. P&A has again found CRCFs that are dirty, do not provide enough food, do not appropriately administer physician prescribed medications, violate residents’ rights, and do not provide protection from potential harm. These CRCFs are still no place to call home.

P&A focused on those CRCFs that are Optional State Supplement providers, accepting publicly funded residents. P&A made unannounced visits to 15 CRCFs across the state during a period of five months. 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.

---

1 The Department of Health and Environmental Control (DHEC) licenses and regulates CRCFS, DHEC Reg. 61-84. As of March 1, 2013, there were 477 licensed CRCFS with 16,999 beds. The South Carolina Department of Health and Human Services (DHHS) pays part of the cost of care of some residents through the Optional State Supplement (OSS) program. DHEC’s listing of CRCFS is found at http://www.scdhec.gov/health/licen/hrccf.pdf (March 21, 2013).
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 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 needs allowance policies** to provide that residents of CRCFs may retain their allowance like residents of other facilities and annually assess the personal needs allowance of OSS recipients. **Annually assess the personal needs allowance** of OSS recipients to assure individuals have enough funds each month to purchase essential toiletries, clothing, shoes, recreation activities, and needed medical equipment such as eyeglasses, dentures, and hearing aids, which are not covered under Medicaid.
State agencies must work together to fulfill the goals of the Americans with Disabilities Act (ADA) and to 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. Simply being in the community is not sufficient. For those residents who will still need the services of CRCFs, adequate resources are needed to protect the residents’ health and safety.

P&A’s two reports show a depressing lack of progress in improving conditions in CRCFs for publicly funded South Carolinians. 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.

INTRODUCTION

In July 2009 P&A released a 14-month-long investigation report, “No Place to Call Home: How South Carolina Has Failed Residents of Community Residential Care Facilities,” profiling six CRCFs. The P&A report documented serious problems in nearly all areas reviewed, including insect infestation, failure to deliver medications, lack of heat and air-conditioning, inadequate food, contaminated food, untrained staff, and yards filled with garbage. Inspections by P&A staff found mouse droppings on pantry shelves; roaches throughout the facility; electrical wires dangling from the ceiling; and numerous problems with medication administration. The unsafe conditions in the six CRCFs visited had continued for months and in some cases years.

The 2009 report recommended:

- The statutes and regulations governing CRCFs should be revised to give licensing agencies more enforcement options against frequently cited facilities and administrators.
- The Department of Health and Environmental Control (DHEC) should inform the public and concerned parties about problem facilities, including posting inspection reports and corrective actions on the DHEC website.
- The state should create an Adult Abuse Registry of individuals who have substantiated allegations of abuse or neglect of vulnerable adults against them. Facilities should be required to check the Registry before hiring a prospective employee.
- The General Assembly should fully fund enough DHEC inspection staff to provide for periodic unannounced visits and full, timely investigation of allegations of regulatory violations.
- The General Assembly should adequately fund the SC Department of Labor, Licensing, and Regulation (LLR) to enable prompt investigation of complaints against CRCF administrators.

Now, almost four years later, P&A conducted a follow-up study to review the care and treatment provided to residents in 15 CRCFs statewide. P&A also reviewed whether corrective actions had been taken since the 2009 report.

A community residential care facility offers room and board and a degree of personal assistance for persons 18 years old or older. According to DHEC’s Regulations 61-84 Standards for Licensing Community Residential Facilities, CRCFs are designed to accommodate residents’ changing needs and preferences, maximize residents’ dignity, autonomy, privacy, independence, and safety, and encourage family and community involvement.” CRCFs are to provide residents with personal care including, but not limited to, assisting and/or directing the resident with activities of daily living, being aware of the resident's general whereabouts, and monitoring the resident's activities while on the premises of the residence to ensure health, safety, and well-being. Activities of daily living may include, but are not limited to walking, bathing, shaving, brushing teeth, combing hair, dressing, eating, getting in or out of bed, toileting, ambulating, doing laundry, cleaning bedroom, managing money, shopping, using public transportation, writing letters, making telephone calls, obtaining appointments, and administration of medications. CRCFs may also be referred to as assisted living facilities.

---

CRCFs are licensed by DHEC's Division of Health Licensing. DHEC can utilize inspections, investigations, consultations, and other documentation regarding a licensed facility in order to enforce CRCF Regulation 61-84: Standards for Licensng Community Residential Care Facilities. CRCF administrators are licensed by the Board of Long Term Health Care Administrators of the SC Department of Labor, Licensing and Regulation (LLR).5

As of March 2013 there are 477 licensed CRCFs in South Carolina with 16,999 licensed beds.6

According to the Bill of Rights for Residents in Long Term Care Facilities,7 residents' rights include:

- The right to be treated with respect and dignity.
- The right to be free from mental and physical abuse.
- The right to manage their personal finances.
- The right to be assured security in storing personal possessions.
- The right not to perform services for the facility that are not for therapeutic purposes.
- The right to associate and communicate privately with persons of the resident's choice.
- The right to privacy in sending and receiving mail.
- The right to meet with and participate in activities of social, religious, and community groups at the resident's discretion unless medically contraindicated by written medical order.
- The right to keep and use personal clothing and possessions as space permits.

According to DHEC's regulations for CRCFs, residents' rights also include:

- The right to provide input into changes in facility operational policies, procedures, and services, including house rules.
- The right to be assured freedom of movement. Residents cannot be locked in or out of their rooms or any common areas.
- The right to use the telephone and be allowed privacy when placing or receiving telephone calls. Access to telephones includes from 7:00 a.m. - 8:00 p.m., seven days a week and other times when appropriate.

CRCFs can be operated by a non-profit organization or for-profit by an individual, a partnership, or a corporation. Some CRCFs are operated by the SC Department of Disabilities and Special Needs Boards (DDSN) and other organizations that work with people with intellectual disabilities and a few are operated by the SC Department of Mental Health (DMH).

CRCFs range in size from four to 184 beds. CRCFs also vary significantly by funding. A private for-profit CRCF can charge private pay residents any amount, often in excess of $2,500 per month. A CRCF serving residents who receive public funding can charge a maximum of $1,132 a month for room, board, and personal care services. P&A's study focuses on those CRCFs serving publicly funded residents. In most cases, these individuals pay the monthly rate utilizing Supplemental Social Security Income (SSI) and/or Social Security Disability Income (SSDI). The majority of SSI/SSDI recipients also receive Optional State Supplement (OSS),

6 Currently licensed CRCFs are available at http://www.scdhec.gov/health/licen/hr_crcf.pdf.
which is administered by the SC Department of Health and Human Services (DHHS). The OSS amount received by each qualified resident is the difference between their SSI/SSDI and the maximum room/board rate. The OSS payment goes directly to the CRCF.⁸

A small number of CRCFs also participate in an additional supplemental program called Integrated Personal Care (IPC). This program is administered by DHHS and provides qualifying CRCFs with additional funds for serving specific residents who require more assistance and care. Each resident must be evaluated by DHHS to determine if the individual meets criteria for additional funding. This funding averages $300 per month, over and above the $1,132 room/board rate.

While there are nearly 17,000 licensed CRCF beds in the state, more than half (58%) are in CRCFs that do not accept OSS. In addition, more than half (56%) of the large CRCFs (40+ licensed beds) that are OSS providers rarely accept an individual with only SSI/SSDI and OSS. Essentially, individuals who are publicly funded have access to approximately 300 CRCFs statewide, with approximately 5,200 licensed beds. These licensed beds represent 31% of the 16,999 licensed CRCF beds in South Carolina.

PROTECTION & ADVOCACY FOR PEOPLE WITH DISABILITIES, INC.
In 1977 P&A was designated as the protection and advocacy system for South Carolina in 1977. P&A has broad authority under state and federal law to advocate for the rights of people with disabilities and to investigate allegations of abuse and neglect.

P&A’s Team Advocacy Project began in response to repeated concerns about the quality of life for people in institutions and CRCFs. The Team Advocacy Project started in 1986 and is authorized by South Carolina Code Section 43-33-350 (4) to conduct surprise inspections of CRCFs in South Carolina. P&A staff and trained volunteers have been conducting these inspections since the project was approved by the South Carolina General Assembly. Since 1986 P&A has conducted over 1,250 unannounced visits to CRCFs across the state through its Team Advocacy program.⁹

During the inspections P&A staff and volunteers tour the CRCF, meet with staff and the administrator, and interview residents. During most visits, a meal is also observed. In addition, a P&A staff reviews resident records, medications and medication administration records, and reviews personnel records. A brief exit interview is provided to the administrator. A report summarizing the findings is sent to the CRCF administrator within five working days. The report is also sent to all agencies serving people living in CRCFs including the Department of Health and Environmental Control, Department of Health and Human Services, Department of Labor Licensing and Regulation, Department of Mental Health, Department of Social Services, Department of Disabilities and Special Needs, Lieutenant Governor’s Office on Aging, and the Attorney General’s Office. The report is also sent to organizations representing people with disabilities, including National Alliance on Mental Illness, Mental Health America, and SCSHARE. The CRCF administrator is asked to address the report's findings and submit a plan of correction to P&A. If a plan is submitted, P&A sends the CRCF administrator’s plan to each of the agencies and organizations receiving the initial report.

---

⁸ According to SCDHHS, in December 2012 there were 3,611 recipients in the OSS program. SCDHHS paid nearly $1.4 million.
METHODOLOGY

P&A’s study focused on those CRCFs that are OSS providers and accept publicly funded residents. P&A attempted to make unannounced site visits to 15 CRCFs during a period of five months. All 15 CRCFs in the sample were OSS providers and four (27%) of the 15 were approved to participate in DHHS’ IPC program. This sample of 15 CRCFs included six small (16 or less licensed beds), four medium (17 - 40 licensed beds), and five large (40+ licensed beds) facilities. The number of small, medium and large CRCFs selected is representative of the total number of CRCFs that accept publicly funded residents and OSS. For example, there are nearly 200 small CRCFs accepting publicly funded residents and OSS, 54 medium sized CRCFs, and 54 large CRCFs accepting publicly funded residents. (See Figure I.)

Forty percent of the 15 CRCFs were located in rural areas and 60% were in urban areas. The urban/rural distribution is similar to the US Census Bureau’s report stating 34% of SC residents live in rural areas and 66% live in urban areas.10

Three of the 15 CRCFs in the sample were included in P&A's 2009 report, No Place to Call Home. Notably, the conditions in these three CRCFs had not improved from P&A’s 2009 report to this 2013 report. For example, at one of these facilities during both reviews CRCF staff were not trained in first aid or CPR and smoke detectors were not operating appropriately. At another CRCF visited for the 2009 and the 2013 reports several of the bedrooms had strong odors and there were problems with medication storage and administration. At a third CRCF in both of P&A’s reports, water temperatures in resident bathrooms were above the DHEC maximum allowed temperature of 120 degrees Fahrenheit, there were problems with medication storage and administration, and resident bathroom floors were dirty during both visits.

One of the 15 facilities refused to permit P&A to complete a full inspection, including resident interviews. (See Appendix B for a summary of P&A’s efforts to inspect this facility.) South Carolina law specifically provides that DHEC may assess a monetary penalty against a facility for failing to allow a Team Advocacy inspection.11 In 2010 the South Carolina Administrative Law Court upheld a $5,000 penalty against a CRCF that refused admission to Team Advocacy.12

Many of the 14 CRCFs visited had very serious problems. In these facilities there were widespread deficiencies in the area reviewed or the problem identified appeared to present an imminent danger to the health, safety or well-being of the residents. In most cases these problems were long standing. In some of the CRCFs visited there were significant problems noted. In these facilities there were some positive features in the area reviewed, but also some significant problems noted. Finally, in a few CRCFs visited, there were either no problems noted in the area reviewed or simply minor problems that could be easily corrected, and in some cases, the problems were corrected during the site visit.

---

During these unannounced site visits P&A staff and trained volunteers talked with staff and if available, the administrator, toured the CRCF, and interviewed residents. P&A staff also reviewed resident records, medications, and medication administration records, and personnel records. At 13 of the 14 CRCFs a meal was also observed.

**FIGURE I: Characteristics of CRCFs Visited**

- Large, 5
- Small, 6
- Medium, 4
- Rural, 6
- Urban, 9
- IPC, 4
- OSS, 15
A total of 83 resident records were reviewed at the 14 CRCFs. The inspections included reviewing the residents' individual plans of care, financial ledgers, medications, medication administration records, and incident reports. Nearly two-thirds (64%) of the 83 residents reviewed were male and 30 (36%) were female. The majority (76%) had a psychiatric diagnosis and 81% had a medical diagnosis (e.g. diabetes, hypertension, chronic obstructive pulmonary disease, asthma, muscular dystrophy, and anemia). In addition, eight (10%) of the residents had a diagnosis of an intellectual disability and four had a diagnosis of dementia. Two of the 83 residents reviewed were blind. More than half (60%) of the 83 residents were 55 or older, 31% were 35 - 54, and 9% of residents were 35 or younger. The youngest resident interviewed was 24 years of age, and the oldest was 84. Notably, 8 (10%) of the 83 residents were over 75 years of age.

At the conclusion of each visit, an exit interview was provided to the administrator or the staff person acting on the administrator's behalf. A written report was sent to the administrator within five business days of the visit. As discussed in the introduction, the written report was also sent to each agency and organization that works with residents living in CRCFs. In addition, if very serious problems were identified that appeared to put residents in imminent danger, a telephone call or an email alert was immediately sent to DHEC's Division of Health Licensing. At the majority (71%) of the 15 CRCFs visited, an alert was sent to DHEC requesting their immediate follow-up and assistance. The alerts were also sent to DMH and DHHS.

The CRCF is asked to submit a plan of correction to P&A within 15 business days of receiving the report. As of March 1, 2013 administrators from four (29%) of the 14 CRCFs had sent a plan of correction to P&A.

Finally, during the course of this study, one of the CRCFs in the sample closed due to the death of the CRCF operator. This CRCF was still included in the sample as it is representative of CRCFs visited.

**FINDINGS**

With the exception of one of the 14 CRCFs in the sample, all CRCFs visited had very serious problems in at least one of the 15 areas reviewed. Nearly two-thirds (64%) of the CRCFs had very serious problems in six or more of the 15 areas reviewed and in six CRCFs (43%) there were very serious problems in seven or more of the 15 areas reviewed. In two of the CRCFs reviewed, there were very serious problems in 12 of the 15 areas reviewed.

As further detailed in Figure 2, many of the 14 CRCFs visited had very serious problems. In these facilities there were widespread deficiencies in the area reviewed or the problem identified appeared to present an imminent danger to the health, safety or well-being of the residents. In most cases these problems were long standing. In some of the CRCFs visited there were significant problems noted. In these facilities there were some positive features in the area reviewed, but also some significant problems noted. Finally, in a few CRCFs visited there were either no problems noted in the area reviewed or simply minor problems that could be easily corrected, and in some cases, the problems were corrected during the site visit.
FIGURE 2: Areas Reviewed\textsuperscript{13}

\begin{itemize}
\item Fire and Life Safety: 11
\item Housekeeping, Furnishings & Maintenance: 10
\item Recreation: 8
\item Exterior: 8
\item ADLs: 6
\item Accessibility & Ramps: 7
\item Resident Rights: 5
\item Medication Administration & Storage: 6
\item Meals & Food Storage: 6
\item Staff Training & Personnel Records: 7
\item Adaptive & Medical Equipment: 6
\item Resident Records: 7
\item Appropriate Placement: 7
\item Supervision of Staff & Administrator: 10
\item Personal Needs Allowance: 10
\end{itemize}

\begin{itemize}
\setlength{\itemsep}{-1em}
\item No or Only Minor Problems
\item Significant Problems
\item Very Serious Problems
\end{itemize}

\textsuperscript{13} The Personal Needs Allowance portion of Figure 2 totals 13 due to on-site CRCF staff at one of the 14 CRCFs not having access to resident personal needs allowance records.
FIRE & LIFE SAFETY

In the majority (78%) of the 14 CRCFs P&A found very serious problems in fire and life safety. In the remaining three CRCFs some significant problems were noted. The fire and life safety problems were found both inside and outside of the facilities. In the exterior of the CRCFs problems ranged from loose hand railings at the entrance of the building, trash in the yard (e.g., metal gutters, an old box spring mattress, empty soda cans, and cigarette butts), exposed wires on an exterior wall and in the door frame of a front door, a large hole in a front yard, an unlocked storage area containing hazardous chemicals and trash, live fire ant mounds, and outdoor furniture in disrepair.

CRCF Backyard

In more than half (57%) of the 14 CRCFs visited fire extinguishers were not serviced and monitored as required by DHEC regulations,14 in four (29%) of the 14 CRCFs batteries in smoke detectors needed replacement, and in half of the 14 CRCFs hazardous cleaning products were not secured and were accessible to residents. At more than one-third (36%) of the CRCFs the water temperatures in resident bathrooms exceeded 120 degrees,15 with the highest water temperature noted as 166 degrees Fahrenheit. According to the Burn

Foundation,\textsuperscript{16} when tap water reaches 140 degrees Fahrenheit it can cause a third degree (full thickness) burn in just five seconds. Hot water at other temperatures can also cause third degree burns. For example, hot water causes third degree burns in one second at 156 degrees, in 2 seconds at 149 degrees, in 5 seconds at 140 degrees, and in 15 seconds at 133 degrees Fahrenheit.

In contrast, at four (29\%) of the 14 CRCFs water temperatures in resident bathrooms were below the minimum temperature of 100 degrees Fahrenheit. In these facilities the temperatures in resident showers ranged from 82 to 97 degrees.

In addition, temperatures in bedrooms in four of the CRCFs visited were very warm, ranging from 79 – 84 degrees Fahrenheit. (See Figure 3.)

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{figure3}
\caption{Fire & Life Safety Concerns}
\end{figure}

\textsuperscript{15} S.C. Code Ann. Regs. §61-84 Section 2403.A (2012) requires resident water temperature be controlled at a temperature of at least 100 degrees and not exceeding 120 degrees. Available at http://www.scdhec.gov/health/licen/hlrcfinfo.htm

Upon arrival at one CRCF P&A staff found the fire extinguishers in the kitchen and hall had been inspected by a fire extinguisher service in August 2012, but there was no documentation on the back of the inspection tags indicating CRCF staff were monitoring the fire extinguishers monthly to insure the fire extinguishers were not discharged and did not have any leaks; the fire extinguishers were secure and the wall brackets were not displaced; and there was no obvious damage to the fire extinguishers externally. The lack of the staff's initials was reported to the administrator during the inspection. At the end of the visit, the administrator told P&A staff the fire extinguishers were checked monthly. P&A then rechecked the hall and kitchen extinguisher and found that staff had filled in the monitoring tag for four months during the visit.

![Fire Extinguisher Tag - Upon Arrival](image1)

![Same Fire Extinguisher Tag - End of Visit](image2)
CRCF Visit Findings - Fire & Life Safety Hazards

- At a 36-bed CRCF particle board was used to replace glass in some of the exit doors. The alarm sensors on an emergency exit door were not properly secured to the door and door frame. Two of the fire extinguishers were overcharged and had not been monitored monthly. An emergency light on one resident hallway was not working. Several heat sensors for the sprinkler system were rusted or painted over. The entrance door was missing a hinge preventing proper closure. Another entry door would not close properly. The glass in several windows was cracked and repaired with duct tape.

- The storage shed next to a CRCF’s parking lot was unlocked and accessible to residents. Inside the shed there was an old rusted chainsaw, several rusted circular saw blades hanging from the wall, three old mattresses, an open can of paint, several garbage bags filled with used clothing, a toilet seat, a bath seat, and three walkers. Near the front of the shed there was an open plastic container that was half full. The label on this container was partially worn off and read “___ic acid.”

- At an 18-bed CRCF one resident pointed to his dresser drawer and said, “There is a roach in there.” The inside of the drawer was littered with roach droppings. The resident did not keep any belongings in the drawer because of the roaches.

- At a 20-bed CRCF part of the front doorbell was missing. There were loose wires hanging from the door frame where the doorbell used to be.

- At one CRCF with more than 50 beds the smoke detector in a resident bathroom was constantly beeping, indicating the battery needed replacement.

- The fence on one side of the facility is made of barbed wire.

- Hot water temperatures throughout the facility were below 100 degrees Fahrenheit. Several residents reported taking cold showers. The hot water temperature in one of the facility’s bathrooms was 87.4 degrees Fahrenheit.

- Hot water temperatures in the facility were high. The hot water temperature in the residents’ bathroom was 142.2 degrees Fahrenheit. There was only one bathroom for residents in this eight bed facility.

- In the front yard there is a large hole approximately 2’ x 3’. The perimeter of the hole is bricked. The hole is more than one foot deep.
EXTERIOR

In the majority (71%) of the 14 CRCFs very serious problems were found with the exterior of the facilities. At these facilities a variety of problems were noted including: large piles of trash; an old, unlocked van with one door partially open and trash inside including old chairs, a tire, a rake, seven long pipes, and soda cans; old, worn, and sometimes broken outdoor chairs; and cigarette butts and soda cans littering the yard or porch. At one facility there were three swings in the yard. The cushions on the swings were dirty and torn, exposing the stuffing in the cushions. The metal tubing on the side of the swings was rusted.

At another there was an area on the back porch for residents to sit. One of the "seats" was an old shower chair. The upholstery on several of the chairs was ripped. In the center of this area there were two broken end tables filled with trash. Cigarette butts littered the ground below the porch.
Chair for Residents on Accessible Ramp

Outdoor Swing in Disrepair
HOUSEKEEPING, FURNISHINGS, & MAINTENANCE

In the majority (71%) of the 14 CRCFs very serious problems were found in housekeeping, furnishings and maintenance of the facility. In one additional CRCF some significant problems were identified in these areas. In some facilities there were strong, rancid, and stale odors and bathrooms with strong urine odors. Bathroom walls, floors, and fixtures were dirty and some were in disrepair. Toilets were not secured to the floors, making the toilets wobble back and forth when used.

Resident Bathroom
Resident Bathroom Vanity, Mouse Trap, Dead Roaches

Resident Bathtub
Resident bedrooms were dirty. Linens, towels, and blankets were worn and dirty. The residents' mattresses were worn and some were in need of replacement. The mattress coils could be felt in the worn mattresses and in one case, the metal coil of the resident's mattress was sticking straight out of the top of the center of the mattress.

In some facilities visited furnishings were also stained and some were in disrepair. Some residents could not open their dresser drawers as they were off-track. When one resident pulled his dresser drawer open to show P&A staff his clothing, the drawer fell apart in three pieces in his hands, with his clothing and personal belongings falling onto the dirty floor. The resident explained this was not the first time the drawer had fallen apart like this.

In many of these facilities common living areas and bedrooms were often dimly lit, light bulbs did not work, dead bugs were found in the light fixtures, and some light fixtures did not contain shields as required by Section 1601.A of DHEC Regulation 61-84.\(^7\)

---

Resident Pillow

Bedroom for Four Adults
Resident Beds, Very Close Together, No Personal Space

Resident Dresser in Disrepair, Missing Drawers
Resident Closet Door with Nails Sticking Out

Resident Dresser in Disrepair, Missing Drawers
Resident Drawer Fell Apart When Opening

Resident Broken Dresser, Lack of Storage
Resident Stained Mattress/Box Spring

Resident Mattress - Metal Coil Sticking out of the Center
Closet Shared by Four Residents

Stained Living Room Furnishings
CRCF Visit Findings - Housekeeping, Furnishings, & Maintenance

- A bathroom shared by several women in a large facility had one roll of toilet paper for three stalls. The roll was sitting on the floor. There was a bar of soap on the sink and no soap in the soap dispenser. There were no paper towels. The light was out in one shower and one toilet seat was loose. (Note: According to DHEC Regulation 61-84 Section 2704.D, “Communal use of bar soap is prohibited.”)\(^{18}\)

- Several residents in a large facility were missing bed linens or had linens that were torn, dirty, and ripped. Many of the beds did not have mattress pads.

- In a resident bedroom, the fans were coated in dirt and dust. The floor tile was mismatched and coming apart at the edges. The blinds were filthy. There were dirty clothes on the floor. The three residents shared one closet. There were bags of clothes piled on the closet floor about two and a half feet high. The closet doors were difficult to open because the bags piled on the floor were pressing on the doors. The residents’ pillows were very stained, worn, and thin. The top of one of the dressers was sticky and the finish was coming off. In another dresser, the drawers were broken and did not close all the way.

- In a resident bedroom, there was a terrible odor. One of the two light bulbs in the light fixture was missing and the room was dimly lit. The dresser had no drawers and the residents' clothes were stored in a pile on top of a chair. There were four cardboard boxes in a pile in the corner covered with loose plastic shopping bags, a cup, paper, and additional pieces of clothing. In the resident bathroom the toilet had no tank cover and the toilet ran continuously. There was no soap or paper towels in this bathroom.

- The window air conditioning unit in a resident bedroom was not sealed tightly and cold air was coming in the bedroom through the cracks. One of the resident’s sheets was worn and the bottom sheet was ripped. In another bed the mattress was ripped and a metal spring was sticking straight up in the center of the mattress. The box spring was also broken down and very stained.

- The resident common living area was dimly lit. There were not many windows in the room and the facility left most of the lights turned off while residents were sitting in the room. Residents were not allowed to turn lights off/on.

- In a bathroom shared by several residents, the tub was dirty and stained. A garbage can was sitting on a shower chair. The shower curtain rod was not attached to the wall; it was resting on top of the tub. A section of the wall behind the toilet had been painted brown. The red tile on the floor had been painted brown. The brown paint was worn off in several areas, exposing parts of the original tile.

- A resident bedroom smelled very musty. The shelf was in disrepair and falling down. There was a dead roach on the bedroom floor. There was only one dresser in the room and no nightstand. The residents' pillows were thin and worn.

In contrast, at three of the 14 CRCFs most of the bedrooms were clean, nicely decorated, and contained personal belongings. Some bedrooms and hallways were freshly painted and bright. At one facility there were area rugs on the floors and in resident bedrooms there were attractive comforters on the residents’ beds. At another facility there were several sitting areas with upholstered furniture, colorful curtains and pictures hanging on the walls. At the third CRCF one building was nicely decorated with holiday crafts made by the residents.

**ACCESSIBILITY & RAMPS**

At the majority (86%) of the 14 CRCFs visited residents utilizing wheelchairs, walkers or other mobility devices or who had difficulty walking would have encountered problems entering/exiting the facility. Specifically, at five (36%) of the facilities there were very serious problems noted and at 50% there were some significant problems with safely accessing the facility.

At one CRCF, when P&A arrived two CRCF staff were assisting an older male resident up the stairs of the building. The resident used a walker to ambulate and he did not have the strength to go up the stairs. A staff member stood on each side of him to pull him up the four steps. It took the staff several minutes to get the resident up the stairs. The CRCF had a ramp which was located at the front entrance to the facility. Staff explained that the front entrance was kept locked and was only used by staff. If the ramp had been used, the resident would have been able to use his walker to enter the facility independently.

At another CRCF, one resident utilized a wheelchair to ambulate and two residents used walkers. The ramp leading to the back door of the facility was very narrow and had no handrails. The ramp leads to a sliding glass door which goes into a resident bedroom. Inside the bedroom, the door is blocked by a dresser, bags of food, several cases of soda, and a bed. This is the only entrance to the facility with a ramp. (See photos below.)
CRCF Visit Findings - Accessibility

• The wooden handrails on the ramp were not sanded or stained and the wood was very rough and splintered. If residents used the handrails to steady themselves while walking, it appeared they would get splinters in their hands. There were chairs on the ramp making it impossible for someone using a wheelchair to fully use the ramp. There were also a lot of leaves on the ramp, making it slippery.

• The metal handrail at the main entrance for residents was very rusty. The handrail was also not secure and wobbled back and forth when touched.

• The wooden railing on the ramp leading into the facility was uneven and rotting. The beginning of the ramp was in a grassy area of the yard, making it difficult for a resident who utilizes a mobility aid to ambulate.

• The ramp going into the facility led into the staff bedroom. A staff person and her young children were staying in this room.

MEALS & FOOD STORAGE

DHEC regulations require that a minimum of three nutritionally-adequate meals be provided to residents each day. Snacks must also be available and offered between meals. Menus must be planned and written a minimum of one week in advance and the menu must be posted in one or more conspicuous places in a public area. The regulation also states, “The dining area shall provide a congenial and relaxed environment. Table service shall be planned in an attractive and colorful manner for each meal and shall include full place settings with napkins, tablecloths or place mats, and non-disposable forks, spoons, knives, drink containers, plates and other eating utensils/containers as needed.”

DHEC regulations also require menu planning to be appropriate to the special needs (e.g., diabetic, low-salt, and low-cholesterol) of the residents. At more than half (57%) of the 14 CRCFs visited very serious problems (36%) and some significant problems (21%) were observed with meals and food storage. In six (75%) of these eight facilities foods were inappropriately stored and in five (63%) foods stored in refrigerators and pantries had gone beyond their “best by” date, in some cases by many years. In 38% of these eight facilities the menu was not posted and in five (63%) residents’ physician-prescribed diets were not posted as required by DHEC Regulations.

---

During 13 of P&A's site visits meals were observed and, at three (23%) of these 13 CRCFs residents with physician-prescribed special diets (e.g., diabetic, low salt, low cholesterol) received the same meal as other residents. At eight of these 13 CRCFs there was not enough food for residents to have seconds at meal time if they wanted. At two facilities residents reported going to bed hungry as there was often not enough food provided. At another facility some residents were hungry at the end of the meal, but there was not enough food for seconds. One resident also reported the meals were not served at the right temperature. At still another facility the lunch meal served was minimally adequate in portion size and there was only enough food left over for the staff to eat. Finally, at some CRCFs visited snacks were not always provided to residents.

In addition, some refrigerators and freezers were dirty with spilled foods and without thermometers inside as required by DHEC Regulation 61-25 Retail Food Establishments.²¹

---

Dirty Freezers, Spilled Foods
At six of the 14 CRCFs visited there were no or minor problems found with food storage and resident meals. In these six facilities, kitchens were clean and foods were neatly stored in the pantry, refrigerator and freezer. The meals served looked and smelled appetizing, there was attention to residents' physician prescribed diets, and there were seconds available, if requested. At one CRCF if a resident requested assistance during the meal staff was very attentive and helpful. At another facility, during lunch, one staff talked to residents as they ate their lunch. At another facility, staff reported they enjoy baking fresh cakes for residents. The lunch menu was also posted in an area accessible to residents and residents reported the food was served warm and they could have seconds if they wanted.

**MEDICATION ADMINISTRATION & STORAGE**

During each site visit medications and medication administration records (MARs) were reviewed for the 83 residents randomly selected for review. Sixty-seven (67) of these 83 residents had a medical diagnosis such as diabetes, hypertension, chronic obstructive pulmonary disease, asthma, muscular dystrophy, and anemia. Seventy-six percent (76%) also carried a psychiatric diagnosis such as schizophrenia, bipolar disorder, and/or depressive disorder.

At more than half (57%) of the 14 CRCFs visited very serious problems (35%) and some significant problems (21%) were identified in medication administration and storage. As detailed in Figure 4 medication problems included:

- medication administration records were not signed by staff and it was unknown if residents were administered their physician prescribed medications;
- physician prescribed medications were not in stock; and
- medications were not secured as required by DHEC Regulations.

Also, at three (21%) of the 14 CRCFs staff had not documented when inhalers were opened. These inhalers stated in the directions that the inhaler must be discarded within a certain number of days of opening, even if there is medication remaining. At two (14%) of the 14 CRCFs physician prescribed creams were not administered and at two (14%) physician’s orders were not on-site. At three (21%) facilities other medication problems were found (e.g., medications not labeled correctly, no medication administration records for one or more residents, and residents not supervised when taking medications.)
FIGURE 4: Medication Administration & Storage Problems

- Medication administration records not signed by staff
- Medications not in stock
- Other
- Medications not secured
- Physician prescribed inhalers not documented
- Physician prescribed creams not administered
- Physician orders not on-site
At one of the 14 CRCFs visited there were no problems noted in the seven residents’ medications and medication administration records reviewed. At four facilities there were minor problems noted including: staff not signing the key on the back of the medication administration record as required by DHEC regulation; the medication administration records for one to two medications not initialed by staff to document medications were administered; and an “as needed” medication not in stock.

At the remaining facility, while there were no medication errors noted, the morning, afternoon and evening medications for the first two weeks of the month for each of the six residents reviewed were initialed every day by the same staff person. This raised questions as to whether medications were being pre-poured by the medication staff person and administered by various direct care staff. It seems a staff person would have at least one day off in 14-days. DHEC regulations state, “Doses of medication shall be administered by the same staff member who prepared them for administration. Preparation shall occur no earlier than one hour prior to administering.”

ADAPTIVE & MEDICAL EQUIPMENT

Residents in CRCFs may be prescribed adaptive or medical equipment such as wheelchairs, shower chairs, canes, braces, communication devices, eyeglasses, orthopedic shoes, hearing aids or incontinency products. At 13 (93%) of the 14 CRCFs residents utilized adaptive and/or medical equipment. In nine of these 13 facilities the equipment needed was not available, did not meet the needs of the resident and/or was in disrepair. As further detailed in the chart below, residents needed a variety of equipment including a walker, eye glasses, hearing aids, dentures, cane, wheelchair, shower chair, special shoes for people with diabetes, and leg braces.

<table>
<thead>
<tr>
<th>CRCF Visit Findings - Adaptive Equipment Needed</th>
</tr>
</thead>
<tbody>
<tr>
<td>• A 51-year-old man with a diagnosis of hypertension, insomnia, and schizophrenia explained his vision was very blurry, making it difficult to read. He stated, “My eyes are in real bad shape,” and he asked for assistance in obtaining an eye examination.</td>
</tr>
<tr>
<td>• A 55-year-old woman had a diagnosis of schizoaffective disorder and diabetes. Her diabetic shoes were too small and too tight and they made her feet hurt. She was unable to wear them. She needed new diabetic shoes.</td>
</tr>
<tr>
<td>• A 65-year-old man with a medical diagnosis of blindness, hypertension, and schizophrenia used a cane to assist him in navigating the CRCF. The cane was in disrepair with the aluminum coating worn off in several places and the foot cover and handle were missing. The resident had not received training on how to use the cane.</td>
</tr>
<tr>
<td>• A 61-year-old woman with a diagnosis of hypertension, schizophrenia, and chronic obstructive pulmonary disease had lived in the facility for seven years. She had difficulty showering as she was unable to stand for the length of time needed to take a shower. She said she needed a shower chair.</td>
</tr>
</tbody>
</table>

---

In addition to the above, some of the 83 residents reviewed needed some type of medical examination including dental (11 residents), eye examination (11 residents), podiatry (2 residents), and an orthopedic evaluation (2 residents).23

**ACTIVITIES OF DAILY LIVING**

At the majority (79%) of CRCFs visited very serious problems (43%) and some significant problems (36%) were identified in residents' activities of daily living. These problems included residents not having needed toiletries such as toothpaste, toothbrush, deodorant, and shampoo to residents dressed in stained, ill-fitting clothing and shoes. According to DHEC Regulations the CRCF must provide to each resident a bar of soap and bath towels and an adequate supply of toilet paper must be maintained in each resident bathroom.24

---

CRCF Visit Findings - Activities of Daily Living

- A 51-year-old man with a diagnosis of hypertension, insomnia, and schizophrenia: His fingernails were long and yellowed. His clothing was stained and dirty. His beard and hair looked dirty and greasy. He had two pairs of pants and needed socks.

- A 69-year-old man with a diagnosis of chronic obstructive pulmonary disease, hypertension, and schizophrenia: He was wearing a dirty sweatshirt, worn and pilled sweatpants, no underwear, and a dirty sports jacket. His skin was very dry. He did not have any toiletries.

- A 62-year-old man with a diagnosis of diabetes, schizophrenia, and hypertension: He was wearing a stained plaid flannel shirt and dirty striped pants with no hem. He did not have a toothbrush.

- A 46-year-old woman with a diagnosis of bipolar disorder, hypothyroidism, and gastroesophageal reflux disease (GERD): Her left sneaker was completely torn down the side, leaving her foot exposed.

- A 70-year-old woman with a diagnosis of hypertension, diabetes, asthma, and schizophrenia: She has only two pairs of underwear. Her toothbrush and toothbrush holder were caked in toothpaste. The toothbrush was discolored. Her wet bar of soap was stored in a cardboard soap box which was inside an old candy bag. The bag was very dirty.

RESIDENT RIGHTS

As discussed in the report’s introduction, according to DHEC regulations and the Bill of Rights for Residents in Long Term Care Facilities, residents in CRCFs have a number of rights. In nearly two-thirds (64%) of the 14 CRCFs visited there were very serious problems (five facilities) and some significant problems (four facilities) identified. Violations of residents’ rights included residents not being provided a telephone to use in a private area, staff not treating residents with respect and dignity, windows in common living areas and bedrooms not having curtains or shades to provide privacy, residents not being able to go into their bedrooms to lie down during the day, and residents reported being locked out of the facility.
In addition, at one CRCF residents reported that each day they must leave the facility by 9:00 a.m. and they are transported by CRCF staff to the administrator's other CRCF. The residents are brought back to their facility between 5:00 and 6:00 p.m. each night. At this same facility, the administrator explained residents are not allowed to go in the living room unless the resident has a visitor. The administrator further explained when a visitor arrives, residents are "trained" to go to their bedrooms, unless the visitor is there to meet with them.
CRCF Visit Findings - Resident Rights Violations

- At one CRCF the upper building is surrounded by a fence with a padlocked gate. This building is certified as an Alzheimer's unit and is designed for people with Alzheimer's. Two of the residents do not have a diagnosis of Alzheimer's yet are living in the locked building.

A 56-year-old woman who has a diagnosis of schizophrenia and chronic obstructive pulmonary disease (COPD) has been living in CRCFs since she was in her late teens. She does not have a diagnosis of Alzheimer's. CRCF staff reported she was moved from the lower building to the Alzheimer's Unit because she was stealing. On the day of P&A's visit she was crying as she explained how much she wanted to move back to the lower building. She explained she was working hard to take her medications properly, wear clean clothes, and shower properly in hopes she would be allowed to live in the unlocked lower building. She told Team, "I am doing the best I can but my nerves can’t take it."

A 60-year-old man with a diagnosis of schizophrenia, hypertension, and diabetes, also does not have a diagnosis of Alzheimer’s. He expressed he was not happy in the locked building, and he wanted to move to the lower building so he could walk to the store.

- At an 18 bed facility residents did not have privacy when talking on the phone. The phone was located outside the staff office in the main living area.

- Several residents at a large facility explained that the administration did not treat them with respect. One resident stated, “I don’t talk – even to staff because they gossip.” Another resident said the administration, “threatens me.” A third resident explained if he could change one thing about living at the facility it would be the administration.

- A 47-year-old man with a diagnosis of depression and diabetes returned to the CRCF from a doctor's appointment. He reportedly left the facility prior to 7:00 AM to take the bus for an appointment at the local mental health center (MHC). From the MHC he went to the emergency room due to pain in his wrist and back. The resident arrived back at the facility after 2:00 PM. The resident did not receive his 8:00 AM medications that morning and he had not eaten. When asked if a snack or lunch could be provided for this resident the operator appeared very annoyed and spoke very loudly at the resident telling him that if he misses meals and “goofs off” without telling anyone they could not stop everything and make him something to eat. The resident attempted to explain he did tell the staff where he was. The operator loudly told him the staff did not know where he was. The resident again explained that the two staff currently there were not on shift when he left. The operator then loudly explained residents had to “stick to a schedule,” and they could not stop and make food for residents at any time. The staff did provide a meal to the resident. The resident thanked the staff for the meal.

- At a 10 bed facility the men’s and women’s bathroom curtains were open and there were no shades on the windows.
At one of the five facilities where there were no or minor problems noted in residents’ rights, very kind, respectful interactions were observed between the staff, assistant administrator, and the residents. At this facility it appeared there was a good rapport between the residents and staff. At another facility one staff member was exceptionally kind and attentive to residents and they were treated with dignity and respect.

**AMERICANS WITH DISABILITIES ACT**

The Americans with Disabilities Act\(^{25}\) and the US Supreme Court’s *Olmstead*\(^ {26}\) decision state a person with a disability has the right to live in the least restrictive setting that meets the person’s needs and choices. "The preamble discussion of the 'integration regulation' explains that 'the most integrated setting' is one that enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible..."\(^ {27} \) "In the years since the Supreme Court’s decision in *Olmstead*, the goal of the integration mandate in Title II of the Americans with Disabilities Act – to provide individuals with disabilities opportunities to live their lives like individuals without disabilities – has yet to be fully realized."\(^ {28} \)

Integrated settings provide individuals with disabilities opportunities to live, work, and receive services in the community, like everyone else, yet many people who live in CRCFs are still waiting for the promise of the ADA and *Olmstead* to be fulfilled.

In the CRCFs visited residents were, for the most part, segregated from the communities in which they lived. While they lived in the community, they were not a part of the community. Essentially, the majority of residents in the sample were living in segregated settings. According to the ADA and its regulations, segregated settings include, but are not limited to: (1) congregate settings populated exclusively or primarily with individuals with disabilities; (2) congregate settings characterized by regimentation in daily activities, lack of privacy or autonomy, policies limiting visitors, or limits on individuals’ ability to engage freely in community activities and to manage their own activities of daily living; or (3) settings that provide for daytime activities primarily with other individuals with disabilities.\(^ {29} \)

Many of the residents in P&A’s sample discussed this segregation and the lack of opportunities to become part of the community. During the P&A visits residents reported a lack of community activities; not having transportation to the movies, stores or restaurants; not being able to talk on the telephone for more than a couple of minutes; not having the opportunity to work due to lack of transportation; and not having the opportunity to attend church in town, and do things like everyone else. One resident said he spends his day sitting on the porch as there is nothing to do. When asked where he would like to go, he simply replied he wanted to go to his church in town.

Many residents also stated they wanted to move, not to other congregate settings, but to their own apartment or home where they could have their own bedroom and bathroom. Many wanted just to be with their family


\(^{28}\) Ibid.

\(^{29}\) Ibid.
and friends. Some wanted to have their own belongings and room to store their things. In CRCFs residents receive a closet, a bureau consisting of at least three drawers, and a nightstand to store their personal clothing and belongings. In most cases, residents share the closet with at least one roommate, and in some cases more than two residents share one closet.

Most residents in CRCFs did not choose to live there. Rather, they were referred to the facilities by local medical hospitals, psychiatric hospitals, emergency rooms, and state agencies. Some are sent to CRCFs by elderly family members who can no longer provide adequate care for them and some simply can no longer afford to provide their family member with food and shelter. Some simply have nowhere else to live and no one to assist them.

<table>
<thead>
<tr>
<th>CRCF Visit Findings – Resident Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>&quot;If I had money, I'd done move...I don't want 62 to catch me here.&quot;</td>
</tr>
<tr>
<td>~ A 61-year old man with a diagnosis of schizophrenia</td>
</tr>
<tr>
<td>&quot;I don't get to go nowhere.&quot;</td>
</tr>
<tr>
<td>~ A 65-year-old man with a diagnosis of schizophrenia, hypertension and blindness</td>
</tr>
<tr>
<td>&quot;I would rather be home.&quot;</td>
</tr>
<tr>
<td>~ An 80-year-old man with a diagnosis of hypertension and dementia.</td>
</tr>
<tr>
<td>&quot;I lie around, talk to friends, watch TV and sleep....I want to get my GED and work in construction.”</td>
</tr>
<tr>
<td>~ A 26-year-old man with a diagnosis of asthma and Crohn’s disease.</td>
</tr>
<tr>
<td>&quot;We go out once a month when we get our check...I sit on the porch and watch the cars go by.”</td>
</tr>
<tr>
<td>~ A 70-year-old woman with a diagnosis of hypertension, diabetes, and schizophrenia</td>
</tr>
<tr>
<td>&quot;I am tired being here...they hurt my feelings by the way they talk to me.&quot;</td>
</tr>
<tr>
<td>~A 58-year-old man with a diagnosis of schizophrenia</td>
</tr>
<tr>
<td>“I would have to walk a mile or three to get a job...I want a job in a restaurant... I want to move into my own trailer.”</td>
</tr>
<tr>
<td>~A 55-year-old woman with a diagnosis of anxiety, depression, hypertension and diabetes.</td>
</tr>
<tr>
<td>“I spend my day eating breakfast, sleeping, eating lunch, sleeping, eating dinner and sleeping.... I would like to get out of these walls (and be) around people.”</td>
</tr>
<tr>
<td>~A 56-year-old woman with a diagnosis of osteoarthritis, low blood pressure, bipolar disorder, and schizophrenia.</td>
</tr>
<tr>
<td>“There really isn’t too much to do here...save go out and smoke...”</td>
</tr>
<tr>
<td>~ A 47-year-old man with a diagnosis of depression.</td>
</tr>
<tr>
<td>“I went to activities in the community when I went to mental health... since the staff person is gone, we don’t do it no more...Now I get up, take a shower and watch TV.”</td>
</tr>
<tr>
<td>~A 60-year-old man with a diagnosis of hypertension, hypercholesterolemia and schizophrenia</td>
</tr>
<tr>
<td>“We have not been out in a long time...we don’t do anything but sit around and watch TV and take naps.”</td>
</tr>
<tr>
<td>~A 74-year-old man with a diagnosis of chronic kidney disease, hypertension, congestive heart failure and schizophrenia.</td>
</tr>
</tbody>
</table>
In addition, at two of the 14 CRCFs visited observations of two residents, discussions with staff, and a review of the two residents’ records raised a question as to whether the residents needed more care than can be provided at a CRCF. These individuals were unable to feed themselves, ambulate independently, and care for their daily needs such as bathing and toileting.

<table>
<thead>
<tr>
<th>CRCF Visit Findings – Two Residents Needing More Care Than Can Be Provided in a CRCF</th>
</tr>
</thead>
</table>
| • A 62-year-old man is blind and has a diagnosis of schizophrenia. He also has a long history of abusing prescription pain medicine. He needs assistance with all activities of daily living including eating, dressing, and bathing.  
Staff reported he wears adult diapers but sometimes he goes to the bathroom in the hallway of the CRCF. During P&A’s visit, CRCF staff walked the resident to the dining room for lunch. The staff then fed him the meal. After lunch he was observed screaming in the halls. There was no one bothering him at the time. When interviewing him he ate imaginary potato chips and an imaginary drink. |
| • A 75-year-old man has a diagnosis of dementia, hypertension, chronic obstructive pulmonary disease, and stroke. He is unable to toilet himself, feed himself or dress himself. He utilizes a wheelchair to ambulate and his care plan states he is incontinent and is groomed daily by staff. At the CRCF he was sitting at a table with his elbows on the table and his arms bent towards his shoulders. His hands were clutched tightly into a fist. His fingernails were long and packed with black dirt. He was wearing a wrist brace on his left hand. The brace was old and dirty. He appeared emaciated and his face, shoulders and back were especially thin. He is unable to open his hands. Staff explained they attempt to open his hands when bathing him. His fingernails on his right hand were stabbing into his palm. He could not extend his arms on his own.  
He remained at the kitchen table with his elbows on the table until staff wheeled him to the sofa. Staff then lifted him out of his wheelchair by grabbing him under his arm pits. There was no support provided to his legs. His legs remained bent at the knee, in a locked position. Staff brought him a foot stool and lifted his feet onto it. When staff picked up his legs, they remained bent, locked in position. His legs never moved.  
For more than five hours he was never brought to the bathroom to use the toilet or to be changed. The CRCF did not have an accessible shower and staff reported they give him “bed baths.” |
RECREATION

According to DHEC regulations, "The facility shall offer a variety of recreational programs to suit the interests and physical/cognitive capabilities of the residents that choose to participate. The facility shall provide recreational activities that provide stimulation; promote or enhance physical, mental and/or emotional health; are age-appropriate; and are based on input from the residents and/or responsible party, as well as the information obtained in the initial assessment." DHEC Regulation 61-84 also states:

- "There shall be at least one different, structured recreational activity provided daily each week that shall accommodate residents' needs/interests/capabilities as indicated in the individual care plan."

- "The recreational supplies shall be adequate and shall be sufficient to accomplish the activities planned."

- "The facility shall designate a staff member responsible for the development of the recreational program, to include responsibility for obtaining and maintaining recreational supplies."

- "A current month's schedule shall include activities, dates, times and locations. Residents may choose activities and schedules consistent with their interests and physical, mental and psychosocial well-being."

At 79% of the 14 CRCFs visited very serious problems (eight facilities) and some significant problems (three facilities) were found in recreation. The problems ranged from residents not being offered recreational activities to the recreational supplies not being available.

At one facility the recreational calendar posted listed a sing-along as the 11:00 a.m. activity. The activity was never conducted. At another facility the activity board listed an exercise class at 10:00 a.m., chess at 11:00 a.m., and a card game at 1:00 p.m. These activities were never offered to the residents. One facility listed popcorn night on the schedule, but staff reported there was no popcorn in stock and residents reported they have never had popcorn at the facility. On another date "movie night" was listed as the activity. The facility had no movies or a DVD player.

At another facility the Activity Board listed a 10:00 a.m. "beach ball fun" activity and a 1:00 p.m. "Bingo" game. Neither of these activities was offered to residents. Alternative activities were also not provided to residents.

At one CRCF the activity calendar included activities such as Bingo, Monopoly, and checkers. The facility had checkers, but no checker board. There was a Bingo cage for numbers, but it had never been used. The bag of red Bingo markers was in the unopened box.

In a large facility in a rural area 36 residents were living in a converted school building. During a site visit to the facility, all 36 residents were present. The facility was on a highway with no stores nearby and no public transportation. There was no living room in the facility. The only large room with seats in the facility was the

---

dining room. The dining room doors were kept closed most of the time. The TV in the dining room could only be used to watch DVDs. There was no other TV in the facility for residents. During the site visit the facility’s operator reported there used to be a television in the vending machine room but a resident broke the TV a week before. The TV had not been replaced. The vending machine room had seven chairs in it. Several residents were sitting or standing in this room during the site visit. A resident who was standing in front of the soda machine said, “There ain’t nothing to do. Just watch the walls.” Other residents were standing in the hall waiting for the next smoke break.

RESIDENTS' PERSONAL NEEDS ALLOWANCES

DHEC Regulations state, "There shall be an accurate accounting of residents' personal monies and written evidence of purchases by the facility on behalf of the residents.”31 Publicly funded CRCF residents receiving OSS receive a monthly allowance of either $61 or $81. (The additional $20 is determined by the type of entitlement the resident receives.) Most residents in CRCFs receive the standard $61 per month.

Historically publicly funded CRCF residents receive a 3% increase in their personal needs allowance every January 1, a total of $2.00 per month. However, in 2009 - 2011 residents did not receive a cost of living increase and their monthly allowance remained constant at $57 per month. On January 1, 2012 residents received a $2.00 increase, bringing their monthly personal needs allowance to $59. On January 1, 2013 CRCF residents also received a $2.00 increase.

Residents use their personal needs allowance to pay for:

- Medication co-pays
- Medical appointment co-pays
- Clothing
- Toiletries (except soap and toilet paper which are to be provided by the CRCF)
- Recreational activities off-site
- Snacks
- Transportation into the community
- Eyeglasses
- Dentures

An allowance of $61 cannot pay for all needed items and often residents of CRCFs do without needed essential toiletries and even sometimes medications and other medical equipment such as eyeglasses and dentures.

At the majority (71%) of the CRCFs visited, the administrators recorded the residents' personal needs allowances and the monthly disbursements to residents. At one CRCF staff did not have access to the residents' financial records as the administrator was not on-site.

In the three remaining CRCFs there were some significant problems with resident personal needs allowances including:

• At one CRCF a resident did not have a personal needs ledger.
• At one CRCF visited in October 2012, residents were receiving the 2011 personal needs allowance which was $2.00 less per month. The residents were owed $20.00 each for 2012.
• At one CRCF some residents were underpaid from January - November 2012 and some were overpaid. The new administrator at this CRCF explained she was correcting the discrepancies and documentation for December 2012 was accurate.

RESIDENT RECORDS

In half (50%) of the 14 CRCFs there were very serious problems (21%) and some significant problems (29%) noted in reviewing resident records. The review of resident records was conducted to determine if residents' care plans were complete and up-to-date, needed assessments were completed on a timely basis, admission agreements and other DHEC required documentation was accurate and complete, and identifying photographs were available.

Problems identified included:

• Admission TB tests were not conducted.
• Resident photographs were outdated or not clear. As a result, it would be difficult to locate a missing or lost resident.
• Rental agreements not containing accurate room/board fees.
• Individual care plans not updated every six months or more often if needed.
• Individual care plans not completed.
• 72-hour admission assessments not completed.

At seven of 14 CRCFs visited there were no concerns noted with resident records and needed evaluations were documented in the resident’s record along with other DHEC required paperwork. In most cases, the records were also neatly organized.

SUPERVISION OF STAFF & ADMINISTRATOR

At the majority (71%) of the 14 CRCFs visited there were no or minor problems noted with the supervision of staff and the administrator. In these CRCFs the administrator was on-site or there was a staff person designated to be in charge in the absence of an administrator. Staff were usually knowledgeable of when the administrator would be on-site and they knew how to reach the administrator in the event of an emergency.

In contrast, at one 18-bed CRCF the administrator was unable to state how many residents were on-site when P&A arrived. In response to this question, the administrator stated, “I don’t know how many people are here now. We cannot control them.” This individual had been a licensed CRCF administrator since July 1992. According to DHEC Regulations personal care services provided by the CRCF include "monitoring of the activities of the resident while on the premises of the residence to ensure his/her health, safety, and well-being."32 At this same facility, there was question regarding whether the supervision staff were able to provide

to residents as one staff person did not appear to understand English. In response to questions about the availability of seconds at lunch time, the staff person responded "No." However, at the end of the meal, there was a lot of food leftover in the kitchen for residents that requested seconds.

At another facility residents expressed concerns about the administrator. One resident explained if he could change one thing about the CRCF it would be the administrator. Another resident reported the administrator "threatens everyone." The resident further stated he had been yelled at by the administrator and residents did not like the way the administrator treated them. At a third CRCF the staff did not know when the administrator would be in the facility.

**STAFF TRAINING & PERSONNEL RECORDS**

At half (50%) of the 14 CRCFs there were no or minor problems with staff training records and personnel records, including the presence of criminal background checks. At two CRCFs the administrators were not on-site and CRCF staff did not have access to personnel records and they could not be reviewed.

At five (35%) of the 14 CRCFs there were very serious problems (four facilities) or some significant problems (one facility) with staff training documentation and personnel records. These included lack of criminal background checks for CRCF staff, no CPR or First Aid training, lack of medical examination prior to working with residents, and lack of a tuberculosis skin test.

<table>
<thead>
<tr>
<th>CRCF Visit Findings - Staff Training &amp; Personnel Records</th>
</tr>
</thead>
<tbody>
<tr>
<td>• A review of one CRCF staff’s criminal background check revealed the employee was charged with and convicted of felony unlawful neglect of child/helpless person in 2007 and charged with felony kidnapping in 2005.</td>
</tr>
<tr>
<td>• One staff member had been employed by the CRCF since 1999 and never received a background check as required by DHEC Regulations.33</td>
</tr>
<tr>
<td>• Two staff at a 10-bed CRCF were required to live at the facility. They both worked 24/7 for two weeks straight without a break. They did not know when their shift ended and remained at the facility until the operator told them they could have a day off.</td>
</tr>
<tr>
<td>• One staff member had only received an in-state criminal background check. The staff member lived and worked out-of-state from 2003 - 2011 and under DHEC Regulations was required to have a federal criminal background check. This same staff member did not have a current CPR or First Aid card on file.</td>
</tr>
<tr>
<td>• The administrator was designated as the “activity staff person.” However, the training in activities was not current.</td>
</tr>
<tr>
<td>• A staff person was hired in 2011 and more than one year later her physical evaluation clearing her to work with residents was never completed. The required tuberculin skin test was also never conducted.</td>
</tr>
</tbody>
</table>

LICENSING

A number of state and federal agencies are responsible for licensing, monitoring, and/or enforcing DHEC Regulations 61-84. These agencies include Department of Health and Environmental Control, Department of Labor Licensing and Regulation, State Long Term Care Ombudsman, Department of Health and Human Services, Attorney General's Office, Department of Mental Health, Department of Disabilities and Special Needs, Department of Social Services, Veteran's Administration, US Department of Homeland Security, and the Social Security Administration. DHEC and LLR are the primary agencies as DHEC licenses the facilities and LLR licenses the CRCF administrators. (See Appendix C for the roles of other agencies in CRCFs.)

Department of Health’s Division of Health Licensing (DHEC)

DHEC licenses and inspects CRCFs through Regulation 61-84. DHEC Regulation 61-84 Section 100 provides “All facilities are subject to inspection/investigation at any time without prior notice by individuals authorized by SC Code of Laws.” The types of inspections conducted by DHEC include comprehensive general, fire and life safety, kitchen and sanitation, and resident focused inspections. The kitchen sanitation inspection and fire and life safety inspection usually occur annually. The frequency of other DHEC inspections is based on the CRCF’s compliance history with DHEC Regulations. For example, if a facility is doing very well and is in compliance with DHEC Regulations a visit by DHEC may be conducted once or twice a year. In contrast, if a CRCF is having problems complying with DHEC Regulations they may have four or more inspections by DHEC annually.

DHEC's Division of Health Licensing has six inspectors. These individuals are responsible for licensing and monitoring 477 CRCFs and 78 Intermediate Care Facilities. Approximately five years ago, the Division had 10 inspectors. Due to budget cuts positions were eliminated.

DHEC is also responsible for investigating complaints about conditions in CRCFs. DHEC utilizes a tiered system as a guideline on when to conduct on-site complaint investigations. DHEC's complaint guidelines include five tiers, P1 -PTR. (See DHEC Complaint Guidelines Chart below.)

During the course of visiting CRCFs P&A has filed dozens of complaints with DHEC about the conditions and care observed at these facilities. Complaints were also filed for many of the CRCFs visited for this study. In response to the complaints, DHEC sends P&A the complaint number and the tier the complaint is assigned. Examples of the tiers assigned to the P&A complaints include:

- P&A submitted a CRCF site visit report to DHEC with major concerns in medication administration, including lack of medication administration records, and blanks in the previous months medication administration records; housekeeping including vents, baseboards, valances, and blinds throughout the facility covered with thick dust, dead bugs in the residents' bathroom vanity, and outdoor chairs in disrepair; health and safety including floors throughout the facility were sagging and weak, a vent on the bathroom floor was raised presenting a trip/fall hazard, and a metal doorway threshold was not secure presenting a trip hazard.

DHEC assigned the complaints a Tier 3, with a timeline to address and/or investigate of 90 days from intake.
• P&A submitted a CRCF site visit report to DHEC with concerns about appropriate placement of residents. The facility has a six foot fence around it, with a padlock. This facility has an additional license to provide Alzheimer's care. Two residents, both with mental health diagnosis, wanted to move out of this Alzheimer's Unit. Neither resident had a diagnosis of dementia or Alzheimer's.

DHEC assigned the complaints a Tier 4, with a timeline to address and/or investigate of 180 days from intake.

DHEC's COMPLAINT GUIDELINES

<table>
<thead>
<tr>
<th>PRIORITY LEVEL</th>
<th>NATURE OF COMPLAINT</th>
<th>TIMELINE TO ADDRESS/INVESTIGATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>P1</td>
<td>Immediate jeopardy situations such as, but not limited to: • No staff • No medications • No water • No food • Death of a resident based on alleged neglect</td>
<td>Immediately</td>
</tr>
<tr>
<td>P2</td>
<td>- Level of care - Unlicensed CRCFs - Excessive number of critical issues</td>
<td>Within 30 days of intake</td>
</tr>
<tr>
<td>P3</td>
<td>- No care plan available - No physical examination for residents - No TB skin tests - Facility staffing ratios - Fire/life safety issues - Staff training - Improper discharge - Limited medication management issues</td>
<td>Within 90 days of intake</td>
</tr>
<tr>
<td>P4</td>
<td>- Class III violations(^{35}) - All other issues not outlined above</td>
<td>Within 180 days of intake</td>
</tr>
<tr>
<td>PTR (Telephonic Resolution)</td>
<td>- Potential improper discharge - Water temperature - HVAC problems - No administrator</td>
<td>Immediately</td>
</tr>
</tbody>
</table>

\(^{34}\) DHEC Complaint Guidelines by the Division of Health Licensing.

\(^{35}\) 7 S.C. Code Ann. Regs. §61-84, Section 302 (2011) states, “Class I violations are those that the Department determines to present an imminent danger...Class II violations are those, other than Class I violations, that the Department determines have a negative impact on the health, safety, or well-being of persons in the facility...Class III violations are those that are not classified as Class I or Class II...that are against the best practices as interpreted by the Department.” Available at [http://www.scdhec.gov/health/licen/hlcrfinfo.htm](http://www.scdhec.gov/health/licen/hlcrfinfo.htm)
Department of Labor, Licensing and Regulation's Board of Long Term Health Care Administrators (LLR)

Administrators in CRCFs must be licensed to have the authority and responsibility to manage the facility. The administrator is in charge of all functions and activities of the facility and each administrator is licensed by the Department of Labor, Licensing, and Regulation. LLR does not regularly visit CRCFs to monitor or inspect the performance of the licensed administrators.

LLR is responsible for investigating complaints dealing with the administrator's performance. LLR has one inspector who is responsible for investigating complaints regarding administrators in 197 licensed nursing homes and 477 licensed CRCFs. When a complaint is received by LLR it is sent to LLR’s Compliance Analyst who determines if the complaint deals with violations of LLR regulations and if LLR will conduct a complaint investigation. If needed, the Board of Long Term Health Care Administrators will pull an investigator from another LLR Board to conduct investigations in CRCFs and Nursing Homes.

Two of the 15 CRCF administrators in P&A's sample were investigated by LLR and entered into Consent Agreements as part of the investigations. According to LLR's agreement the administrator's license "to practice CRCF administration is hereby suspended for a period of twelve (12) months, however, such suspension shall be immediately stayed and the Respondent's license shall continue uninterrupted in a probationary status for a period of twelve (12) months..."

Another CRCF administrator entered into two Consent Agreements as part of the investigations. The Consent Agreements were completed seven years apart. According to LLR's first agreement the administrator's license was "placed in a probationary status for a period of eighteen (18) months," the administrator had to pay a penalty of $1,000, and the administrator had to take and complete six hours of continuing education focusing on DHEC regulations governing the operations of CRCFs.

Seven years later, another Consent Agreement was completed stating the administrator's license was suspended for one year. However, "such suspension shall be immediately stayed and Respondent's license shall continue uninterrupted in a probationary status for a period of one year..." The administrator also had to pay a civil penalty of $2,000 and investigative costs of $347.80. According to the Consent Agreement the administrator was also subject to random site visits by the LLR Investigator.
RECOMMENDATIONS

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.

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.

Now, almost four years later, the same unsafe and deplorable conditions still exist. This new report, Still...No Place to Call Home, summarizes the substandard conditions in CRCFs in which publicly funded residents continue to live. P&A has again found CRCFs that are dirty, do not provide enough food, do not appropriately administer physician prescribed medications, violate residents’ rights, and do not provide protection from potential harm. These CRCFs are still no place to call home.

P&A focused on those CRCFs that are Optional State Supplement providers, accepting publicly funded residents. P&A made unannounced visits to 15 CRCFs across the state during a period of five months. 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.

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 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 be required to 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 and annually assess the personal needs allowance of OSS recipients. Annually assess the personal needs allowance of OSS recipients to assure individuals have enough funds each month to purchase essential toiletries, clothing, shoes, recreation activities, and needed medical equipment such as eyeglasses, dentures, and hearing aids, which are not covered under Medicaid.

State agencies must work together to fulfill the goals of the Americans with Disabilities Act (ADA) and to 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. Simply being in the community is not sufficient. For those residents who will still need the services of CRCFs, agencies must have adequate resources to protect their health and safety.

P&A’s two reports show a depressing lack of progress in improving conditions in CRCFs for publicly funded South Carolinians. 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.
§ 44-81-10. Short title: This act may be cited as the "Bill of Rights for Residents of Long-Term Care Facilities".

§ 44-81-20. Legislative findings: The General Assembly finds that persons residing within long-term care facilities are isolated from the community and often lack the means to assert their rights fully as individual citizens. The General Assembly recognizes the need for these persons to live within the least restrictive environment possible in order to retain their individuality and personal freedom. The General Assembly further finds that it is necessary to preserve the dignity and personal integrity of residents of long-term care facilities through the recognition and declaration of rights safeguarding against encroachments upon each resident's need for self-determination.

§ 44-81-30. Definitions: As used in this chapter:

(1) "Long-term care facility" means an intermediate care facility, nursing care facility, or residential care facility subject to regulation and licensure by the State Department of Health and Environmental Control (department).

(2) "Resident" means a person who is receiving treatment or care in a long-term care facility.

(3) "Representative" means a resident's legal guardian, committee, or next of kin or other person acting as agent of a resident who does not have a legally appointed guardian.

§ 44-81-40. Rights of residents; written and oral explanation required.

(A) Each resident or the resident's representative must be given by the facility a written and oral explanation of the rights, grievance procedures, and enforcement provisions of this chapter before or at the time of admission to a long-term care facility. Written acknowledgment of the receipt of the explanation by the resident or the resident's representative must be made a part of the resident's file. Each facility must have posted written notices of the residents' rights in conspicuous locations in the facility. The written notices must be approved by the department. The notices must be in a type and a format which is easily readable by residents and must describe residents' rights, grievance procedures, and the enforcement provisions provided by this chapter.

(B) Each resident and the resident's representative must be informed in writing, before or at the time of admission, of:

(1) available services and of related charges, including all charges not covered under federal or state programs, by other third party payers, or by the facility's basic per diem rate;

(2) the facility's refund policy which must be adopted by each facility and which must be based upon the actual number of days a resident was in the facility and any reasonable number of bed-hold days. Each resident and the resident's representative must be informed in writing of any subsequent change in services, charges, or refund policy.
(C) Each resident or the resident's legal guardian has the right to:

(1) choose a personal attending physician;

(2) participate in planning care and treatment or changes in care and treatment;

(3) be fully informed in advance about changes in care and treatment that may affect the resident's well-being;

(4) receive from the resident's physician a complete and current description of the resident's diagnosis and prognosis in terms that the resident is able to understand;

(5) refuse to participate in experimental research.

(D) A resident may be transferred or discharged only for medical reasons, for the welfare of the resident or for the welfare of other residents of the facility, or for nonpayment and must be given written notice of not less than thirty days, except that when the health, safety, or welfare of other residents of the facility would be endangered by the thirty-day notice requirement, the time for giving notice must be that which is practicable under the circumstances. Each resident must be given written notice before the resident's room or roommate in the facility is changed.

(E) Each resident or the resident's representative may manage the resident's personal finances unless the facility has been delegated in writing to carry out this responsibility, in which case the resident must be given a quarterly report of the resident's account.

(F) Each resident must be free from mental and physical abuse and free from chemical and physical restraints except those restraints ordered by a physician.

(G) Each resident must be assured security in storing personal possessions and confidential treatment of the resident's personal and medical records and may approve or refuse their release to any individual outside the facility, except in the case of a transfer to another health care institution or as required by law or a third party payment contract.

(H) Each resident must be treated with respect and dignity and assured privacy during treatment and when receiving personal care.

(I) Each resident must be assured that no resident will be required to perform services for the facility that are not for therapeutic purposes as identified in the plan of care for the resident.

(J) The legal guardian, family members, and other relatives of each resident must be allowed immediate access to that resident, subject to the resident's right to deny access or withdraw consent to access at any time. Each resident without unreasonable delay or restrictions must be allowed to associate and communicate privately with persons of the resident's choice and must be assured freedom and privacy in sending and receiving mail. The legal guardian, family members, and other relatives of each resident must be allowed to meet in the facility with the legal guardian, family members, and other relatives of other residents to discuss matters related to the facility, so long as the meeting does not disrupt resident care or safety.
(K) Each resident may meet with and participate in activities of social, religious, and community groups at the resident's discretion unless medically contraindicated by written medical order.

(L) Each resident must be able to keep and use personal clothing and possessions as space permits unless it infringes on another resident's rights.

(M) Each resident must be assured privacy for visits of a conjugal nature.

(N) Married residents must be permitted to share a room unless medically contraindicated by the attending physician in the medical record.

(O) A resident or a resident's legal representative may contract with a person not associated with or employed by the facility to perform sitter services unless the services are prohibited from being performed by a private contractor by state or federal law or by the written contract between the facility and the resident. The person, being a private contractor, is required to abide by and follow the policies and procedures of the facility as they pertain to sitters and volunteers. The person must be selected from an approved list or agency and approved by the facility. All residents or residents' legal representatives employing a private contractor must agree in writing to hold the facility harmless from any liability.

§ 44-81-50. Discrimination.
Each resident must be offered treatment without discrimination as to sex, race, color, religion, national origin, or source of payment.

§ 44-81-60. Grievance procedures; review by department.
Each facility shall establish grievance procedures to be exercised by or on behalf of the resident to enforce the rights provided by this act. The department shall review and approve these grievance procedures annually. This act is enforced by the department. The department may promulgate regulations to carry out the provisions of this act.

79§ 44-81-70. Retaliation.
No facility by or through its owner, administrator, or operator, or any person subject to the supervision, direction, or control of the owner, administrator, or operator shall retaliate against a resident after the resident or the resident's legal representative has engaged in exercising rights under this act by increasing charges, decreasing services, rights, or privileges, or by taking any action to coerce or compel the resident to leave the facility or by abusing or embarrassing or threatening any resident in any manner.
APPENDIX B: CRCF DENIES P&A ACCESS SIX TIMES

The following summarizes P&A’s Team Advocacy’s attempts to access a nine bed CRCF to review the care provided to residents. The administrator of this CRCF has been the licensed administrator of this facility since July 1, 1992.

Since December 2012 P&A has visited this CRCF six times in attempts to inspect the CRCF and interview residents. P&A has been denied access to this CRCF all six times. All denials of access were reported to DHEC. The sixth attempt to visit this CRCF and the denial of access was assigned a “Priority Level 4” by DHEC. DHEC reportedly will investigate P&A’s complaint within 180 days of intake.

As of the date of this P&A report, P&A has not received any further information from DHEC and P&A has not gained access to this facility.

- **12/07/12** The administrator did not fully cooperate with P&A staff. The administrator would not allow P&A staff to take photographs of the facility and would not make photocopies of documents. The administrator was reluctant to allow P&A to tour the facility and the administrator attempted to intimidate P&A staff and the volunteer. The administrator aggressively told the P&A staff she would not be in her position very long because she was too thorough. The administrator then told P&A they had to leave the facility as she was leaving that afternoon and taking all the residents with her.

- **12/19/12** The administrator told P&A she was getting ready to take all residents to the flea market.

- **01/22/13** There was no one at the facility when P&A arrived.

- **02/19/13** When P&A arrived the CRCF staff person told P&A to wait in the living room for the administrator. When the administrator arrived she told P&A she was going to the hospital to visit her mother. The administrator asked P&A to return later that day. The administrator refused to allow P&A to conduct the inspection if she was not on-site. P&A agreed to return to the CRCF at 11:00 a.m.

- **02/19/13** When P&A returned to the facility there was no staff or residents on-site. When called, the administrator she explained that the CRCF staff person (her daughter) was at a doctor’s appointment for her granddaughter and the residents had to go with her to the appointment as there was no other staff at the facility.

- **02/20/13** P&A returned to the facility and could hear a female talking loudly inside the CRCF. When P&A knocked on the door, the person stopped talking. P&A rang the doorbell three times and knocked on the door several times. No one answered the door.
P&A then called the CRCF. No one answered the telephone. P&A then called the administrator and left a voice mail.

P&A then called the police as it appeared there were residents in the facility. Two police officers arrived at the CRCF and knocked on the door. Again, there was no response. One officer reported to P&A staff they had been inside the CRCF about two months ago and observed residents lying on bare mattresses without sheets or pillows.

The administrator then called P&A staff and told P&A she was aware the police were there and she was at the hospital. The administrator again told P&A staff they could not conduct an inspection if she was not at the facility. P&A asked the administrator where the residents were. The administrator did not provide any information on the residents’ whereabouts.

P&A staff and the police officer saw two residents come out of the CRCF into the backyard. One police officer asked the resident if he could let them into the facility. The resident said yes and walked back into the facility. The resident never came back to open the front door. A few minutes later the other resident went back into the building. The backyard of the facility was fenced in and there was a dog in the backyard and a sign that read “beware of dog.”
APPENDIX C: ROLES OF OTHER AGENCIES IN CRCFs

Attorney General’s Office (AG)
The AG’s Office is responsible for prosecuting Medicaid fraud and other issues.

Department of Disabilities & Special Needs (DDSN)
DDSN provides services to residents in CRCFs that meet eligibility criteria and have an intellectual disability.

Some DDSN Boards also operate CRCFs across the state.

Department of Health and Human Services (DHHS)
DHHS is responsible for regulating and monitoring the financial supplementation programs many publicly funded residents in CRCFs received including the Optional State Supplementation program (OSS) and the Integrated Personal Care Program (IPC).

DHHS is also responsible for administration of Medicaid, which most residents receive.

Department of Mental Health (DMH)
DMH enters into Memorandum of Agreements with CRCFs that are in compliance with DHEC Regulations that work well with clients and have a working relationship with the local community mental health centers. A June 1996 DMH directive states, "The policy of the Department is to assist consumers in the state who have been or are being treated for mental illnesses to secure appropriate local housing. Consistent with the consumer’s wishes and physical, medical, social, emotional, and mental health needs the Department will recommend and assist consumers in securing admission only to a CRCF that has signed a Memorandum of Agreement with their local mental health center. 36" DMH refers many clients to CRCFS, including individuals discharged from DMH inpatient facilities. At any given time, DMH provides services to approximately 1,400 residents living in CRCFs statewide. DMH also contracts with some CRCFs to provide additional supervision and services to individuals who are at high-risk for hospitalization. These CRCFs receive additional funds per resident, per day, over and above the standard room/board rate. DMH also operates and manages some CRCFs.

Department of Social Services (DSS)
DSS places individuals in CRCFs through its Adult Protective Services Division. In some cases, DSS may also assist the individual in paying the CRCF charges.

Lieutenant Governor’s Long Term Care Ombudsman (LTCO)
This office is responsible for investigating reports of abuse, neglect and financial exploitation of residents in long term care facilities including CRCFs, nursing homes, and psychiatric hospitals. The Long Term Care Ombudsman has ten offices across the state, plus a State LTC Ombudsman Office in Columbia.

The South Carolina Long Term Care Ombudsman Program is made up of the State Long Term Care Ombudsman located in the Lt. Governor’s Office on Aging, and ten regional ombudsman programs located in the Area Agencies on Aging. Seven of the area agencies are public entities, housed within regional planning

councils. The remaining three area agencies are private non-profit organizations. The State Long Term Care Ombudsman directs the program from within the Office on Aging. State office staff are responsible for the implementation, funding, training and evaluation of the statewide program.

**Social Security Administration (SSA)**
SSA is responsible for oversight of SSDI/SSI disability or retirement benefits paid to an individual or a representative payee for a person who cannot manage his or her own funds. Many residents in CRCFs appoint the CRCF as their representative payee.

**State Law Enforcement Division & Local Law Enforcement (SLED)**
SLED’s Vulnerable Adults Investigations Unit receives and coordinates the referral of all reports of alleged abuse, neglect, or exploitation of vulnerable adults in facilities operated or contracted for operations by DMH or DDSN. The unit has a toll free number, which is operated 24 hours a day, seven days a week to receive the reports. The unit will investigate or refer to appropriate law enforcement those reports in which there is reasonable suspicion of criminal conduct.

**US Department of Homeland Security**
Homeland Security refers individuals to CRCFs annually. Homeland Security may also pay the individual's room/board fee.

**Veteran's Administration (VA)**
The VA refers veterans to CRCFs and provides some services to these individuals including medical evaluations, medications, and/or mental health services. The VA has fiscal oversight responsibility for recipients of veteran's benefits.