THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM THE COURT OF COMMON PLEAS
Honorable G. Thomas Cooper, Jr.
Circuit Court Case No.: 2007-CP-40-03365

Appellant Case No. 2014-001373

Estate of Edward James Mims,
Laura M. Cole, Personal Representative.....Appellant,

v.

The South Carolina Department of Disabilities
and Special Needs, Kathi Lacy and Stan Butkus, ...Respondents.

Volume XI

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

COURT OF COMMON PLEAS

EDWARD MIMS, BY AND THROUGH HIS LEGAL GUARDIAN, MARGARET MIMS,

Plaintiff,

vs

Case No.: 07-CP-40-03365

BABCOCK CENTER, JUDY JOHNSON, SCDDSN, KATHI LACY, STANLEY BUTKUS,

Defendants.

D E P O S I T I O N

WITNESS: TONYA BRADFORD

DATE: Friday, June 12, 2009

TIME: 10:11 a.m.

LOCATION: Law Office of Patricia Harrison
611 Holly Street
Columbia, South Carolina

TAKEN BY: Attorneys for the Plaintiff

REPORTED BY: GINA M. SMITH
Certified Shorthand Reporter
Registered Professional Reporter

Gina M. Smith, CSR, RPR
117 Harmon Creek Court
Lexington, SC 29072
803-359-5705

APPEARANCES:

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ALSO PRESENT:

WILLIAM REESE

(INDEX AT REAR OF TRANSCRIPT)

STIPULATION: It is stipulated by and among Counsel that this deposition is being taken in accordance with the South Carolina Rules of Civil Procedure, and that the deponent does not waive the right to read and sign the deposition transcript.

- -

TONYA BRADFORD, being first duly sworn, testified as follows:

EXAMINATION

BY MS. HARRISON:

Q. I'm Patricia Harrison. I'm going to be taking your deposition today in the matter of Edward Mims versus the Babcock Center, Judy Johnson, DDSN, and several DDSN employees.

Are you familiar with this lawsuit?

A. I've read the complaint.

Q. And if you would speak up, please, so that the court reporter can record your answers.

Have you ever had your deposition taken before?

A. Yes.

Q. And so you know the rules?

A. Yes.

Q. I'll ask you questions. If you don't

understand my question, if you would ask me to repeat it or clarify, and if you answer my question, I will assume that you understood it. Is that fair?

A. Yes.

Q. Tell me, when did you have your deposition taken before?

A. Late '90s.

Q. And what was that case about?

A. I don't remember the case specifically. It was basically policies and procedures was what I was there for. I don't remember the case, though.

Q. You don't remember -- was this an abuse or neglect case?

A. It was a case before I had began working at Babcock Center, so I don't remember what the case was about.

Q. What policies and procedures did you testify about?

A. I think they were about the abuse policies.

Q. What Babcock resident been abused?

A. I don't know. I don't remember the case specifically.

Q. So you testified in a case, but you don't

remember anything about what that case was about?

A. I wasn't asked about the case, that I recall, because it was before I began working at Babcock Center.

Q. How many abuse and neglect cases involving the Babcock Center have you been aware of?

A. I can't give you a number.

Q. Well, tell me what they are.

A. What what are?

Q. How many lawsuits that dealt with abuse and neglect have you been aware of in the last seven years?

MR. STEGMAIER: I'm sorry, lawsuits in what tribunal?

MS. HARRISON: In any tribunal.

THE WITNESS: That I'm aware of? I think there have been a couple, but I can't give you a number because I don't know specifically.

BY MS. HARRISON:

Q. Were you aware of the lawsuit when the individual was -- had the water thrown on his face by the Babcock employee?

A. Was it a lawsuit or a court case, like a prosecution?

Q. How many court cases are you aware of?

A. Again, I don't know the specific number.
Q. Tell me about all of them you're aware of.
A. Specifically about the specifics of the individual?
Q. Uh-huh.
A. Is there a confidentiality issue with the person?
Q. If the name was in the public record, it's not confidential.
A. I am aware of three that were tried by the Attorney General's office.
Q. And what were those cases?
A. Allegations of abuse or neglect.
Q. Do you remember the names of those cases?
A. Three, yes.
Q. And what were those?
A. I can say the names of the people supported?
MR. STEGMAIER: If they were disclosed in the criminal prosecution, then yes. If they were disclosed by initials, then use the initials.
THE WITNESS: It was one on I guess A.S., D.T., and one where there was multiple victims that the Attorney General's office was pursuing.
BY MS. HARRISON:

Q. The Artie Slice case, I believe that two individuals were prosecuted?

A. I believe one was found guilty or pled guilty.

Q. Was that based on your investigation? Did you do the initial investigation in that case?

A. I don't remember if I did the investigation or if one of my staff did the investigation.

Q. Are you in charge of the investigations at the Babcock Center?

A. Yes.

Q. And when did you assume that job?

A. 1998.

Q. How did you come to have that job?

A. I applied for an open position at the Babcock Center for consumer advocate.

Q. And what's your educational history?

A. I have a bachelor's degree in psychology.

Q. From where?

A. University of South Carolina.

Q. And what did you do before this job?

A. I worked at the Richland Lexington Disabilities Board.

Q. And what was your position there?

A. I was an early interventionist and a service coordinator supervisor and an early intervention supervisor.

Q. So then, now, who -- was there someone in your job before you took it at Babcock?

A. Yes.

Q. Who was that?

A. Kate Careb.

Q. How long was she there?

A. I don't know.

Q. Do you know what she's doing now?

A. No idea.

Q. How do you spell Careb?

A. C-A-R-E-B.

Q. So who hired you?

A. Rip Lender.

Q. What was your salary before you took this position?

A. 32, I think.

Q. And what was your salary after you were hired in this position?

A. 32, I think.

(Off-the-record discussion.)

BY MS. HARRISON:

Q. What are you making now?

A. I don't know specifically. I believe it's in the 40s.

Q. So where did you get your training in abuse and neglect investigations? Do you have any professional training?

A. I was trained by DDSN in their abuse investigation training. They had a curriculum. I also attended training with SLED, a workshop that they offered.

Q. Was that after they took over the investigations?

A. No, this was in '98. I'd also had training on abuse, neglect from Abuse Prevention Specialists out of Connecticut.

Q. Now, you said there were people who worked for you?

A. Yes.

Q. Who has worked for you since you've been in this position?

A. Carrie Deaton and Everett Williams.

Q. Are they still there?

A. Carrie Deaton is still at Babcock Center.

Q. What is her role now?

A. She's the director of the foundation.

Q. And Everett Williams, where is he?

A. He's working at DHEC.
Q. And what's he doing there?
A. Licensing.
Q. How long has he been there?
A. I don't know.
Q. A year?
A. I think more than a year.
Q. Describe your job for me. What are your responsibilities?
A. My roles are to coordinate the reports of abuse, neglect, and critical incidents; to ensure the internal reviews are completed; to make sure that the proper notifications occur to the outside investigative agencies, to DDSN, service coordination. I also certify respite caregivers, and I provide service coordination.
Q. Now, you provide service coordination?
A. Yes.
Q. For whom?
A. For people with disabilities in Sumter County.
Q. In Sumter County?
A. Yes.
Q. So you should be familiar with the sexual abuse incidents that occurred in Sumter County?

A. No, ma'am.
Q. Do you know Sherill Holder?
A. No, ma'am.
Q. How long have you been doing --
A. I don't work for Sumter County. Babcock Center provides service coordination to people who live in Sumter County. I have nothing to do with Sumter County DSN board.
Q. So you don't know anything about Sherill Holder?
A. No.
Q. You don't know anything about the sexual abuse that occurred?
A. No, I have no knowledge of --
MR. STEGMAIER: Let me stop you here. Just for a practice pointer, don't talk over each other.
THE WITNESS: I'm sorry.
MR. STEGMAIER: Makes it very confusing for the transcript.
BY MS. HARRISON:
Q. How many people do you provide service coordination services for in Sumter?
A. Four.
Q. How did you come to -- now, is this -- so

this is through the Babcock Center?

A. Yes, ma'am.

Q. How did you come to have these four? Who referred them to you?

A. They were referred by Clarendon County.

Q. Why did these people move from Clarendon?

A. Clarendon County was no longer providing that type of service coordination.

Q. What type of service coordination?

A. HASCI.

Q. So they physically moved from Clarendon County to Sumter County?

A. No, ma'am. Clarendon County provided service coordination to various other counties. These folks live in Sumter County, but had services through Clarendon.

Q. Have there been any abuse or neglect issues with those individuals?

A. No.

Q. Tell me what you know about Edward Mims.

A. In what respect?

Q. In any respect.

A. He's a young man with a disability, currently lives with his mother and has lived at the Babcock Center. I don't know what other types

of things you're asking for.

Q. His sister worked for the Babcock Center at one time, did she not?

A. Yes.

Q. Does she work there now?

A. No.

Q. Where does she work now?

A. I have no idea.

Q. She worked for Dorothy Goodwin, I believe?

A. Yes.

Q. Did she move with Dorothy when Dorothy left?

A. No, not that I know of.

Q. Is that all you know about Edward Mims, that he -- where he lives?

A. I think you'd have to be more specific as far as what type of information you're looking for.

Q. How would you describe his disability?

A. Severe to profound.

Q. In what way?

A. Lack of communication.

Q. What do you mean by lack of communication?

A. He's nonverbal, as far as I know. I believe he can follow simple receptive commands. I believe that he can feed himself and may need

assistance in daily living activities.

Q. What activities?

A. Bathing, hair washing, proper hygiene.

Q. When did you first personally meet Edward Mims?

A. I don't remember the year.

Q. How did you come to meet him?

A. I'm trying to recall. I don't remember when -- the first time I met him. I imagine I met him various times while he was at the Babcock Center facility.

Q. When were you first involved with an investigation of abuse or neglect involving Edward?

A. My personal involvement I believe was 2002, maybe.

Q. What occurred --

MR. STEGMAIER: Hold on. If you're going to say anything, she has to be able to hear it.

THE WITNESS: I'm sorry.

BY MS. HARRISON:

Q. What occurred when you first became involved in an abuse or neglect incident with Edward?

A. There was an allegation of physical abuse.

Q. And what was the allegation?

A. That he had been physically abused by a staff.

Q. And how soon after the incident was it reported to you?

A. If I remember correctly, the allegation was reported that day.

Q. And tell me about what your investigation found.

A. I didn't do the investigation.

Q. Who did the investigation?

A. Carrie Deaton.

Q. And what did her investigation find? Did you review the investigation?

A. I was aware of the investigation, yes.

Q. Do you review her investigations?

A. Not always, I do not.

Q. And tell me what you know about the investigation.

A. It was substantiated.

Q. Was it witnessed by another employee?

A. No, I do not believe so.

Q. How long did it take to substantiate the physical abuse?

A. I don't know how long her report process took, but it would have been done within five

working days.

Q. Now, where are these reports now?

A. In files in file cabinets.

Q. Do you have your critical incident reports separate from the rest of the individual's file?

A. Yes.

Q. And where are those kept?

A. In my storage office.

Q. And where is that?

A. Behind my office.

Q. And where is your office?

A. At the Mary L. Duffie Building, administration building.

Q. Have you recently reviewed Edward Mims' files?

A. Yes.

Q. So you looked at all the critical incidents involving Edward recently?

A. I have looked at them, yes.

Q. What was -- do you remember the name of the employee that assaulted Edward?

A. Yes.

Q. And what was the name of the employee that assaulted Edward?

A. Carl Anthony.

Q. And so you're saying within a day, the investigation --

A. Would have been initiated.

Q. Was initiated.

How long after Edward was beaten by Carl Anthony did he work?

A. He was placed on administrative leave immediately.

Q. How long did it take for you to report this to law enforcement?

A. It was reported to the ombudsman's office immediately.

Q. What about law enforcement?

A. It was not reported to law enforcement in that respect.

Q. How long did it take for Carl Anthony to be charged with this crime?

A. I don't know.

Q. Did the witnesses report that Carl Anthony -- did they come forward immediately?

A. I don't know.

Q. When was the next critical incident involving Edward Mims?

A. I don't know the specific date.

Q. Now, the Carl Anthony incident -- excuse

me.

The Carl Anthony incident, was that the first incident of abuse or neglect involving Edward?

A. That I am aware of, yes.

Q. Now, according to my records, it appears on August 13, 2000, Edward was beaten by Carl Anthony.

A. I may have had the year wrong. I apologize.

MR. DAVIDSON: What was that date again, please?

MS. HARRISON: I'll give you the -- August 13, 2000.

BY MS. HARRISON:

Q. So you don't deny that it was in August of 2000 that -- was it before or after Edward was involuntarily admitted to the Babcock Center?

A. I don't know.

Q. Are you aware that Edward was at some point admitted to the Babcock Center?

A. I've read that.

Q. What do you know about that?

A. I don't have any direct personal knowledge of the situation, but I read in the complaint of

him being judicially admitted.

Q. So you weren't involved in the judicial admission as a consumer advocate?

A. No, ma'am.

Q. If you'd speak up, please.

A. No, ma'am.

Q. Now, tell me what a consumer advocate does.

A. My role is to coordinate the investigations of abuse and neglect and critical incidents. I have advocated on the rights of the people supported.

Q. So it's your job to advocate when someone's rights are being -- are not being protected. Is that correct?

A. There are times, yes.

Q. But you weren't involved when Edward's rights were taken away from him and his mother's rights were taken away from him to leave the facility?

A. No.

Q. Now, is this the arrest record -- are you familiar with this arrest record for --

MR. STEGMAIER: Let's mark this as plaintiff's next, please.

BY MS. HARRISON:

Q. Are you aware? Have you seen that?

A. No, I haven't.

Q. If you'll look over it and tell me if that is the incident that you investigated.

A. I did not investigate that incident.

Q. Who did?

A. Carrie Deaton.

Q. Did it ever come through you?

A. Yes, I have reviewed it.

Q. So you reviewed it after it was investigated?

A. Yes.

Q. And what was the date of the actual incident?

A. August 13th.

Q. August 13th of what year?

A. 2000.

Q. Now, have you ever seen this petition for judicial admission?

MR. STEGMAIER: Ms. Harrison, I don't mean to interrupt you. Before the paper starts flowing here, can we mark these exhibits as we --

MS. HARRISON: That would be a good idea. If we can mark this as plaintiff's next,

the SLED report.

(PLF. EXH. 22, Arrest Record, was marked for identification.)

(PLF. EXH. 23, Petition of Judicial Admission, was marked for identification.)

BY MS. HARRISON:

Q. Have you ever seen that petition? Are you aware of those proceedings?

A. No, I don't think I have.

Q. Were you aware when Edward was being -- when he was being involuntarily admitted to the Babcock Center?

A. I don't remember being involved.

Q. Were you aware of it?

A. I don't remember being aware of it.

Q. So you had investigated or you had been involved -- you were the supervisor of the investigator when he was beaten by Carl Anthony. Is that correct?

A. Yes.

Q. And how long after this event is it that he was involuntarily admitted?

A. This is dated April 16, 2001.

Q. So seven months later there's an action brought to judicially admit him. Is that right?

A. It appears so.

Q. Now, I'm giving you another document.

If we can mark this Exhibit 3.

MR. STEGMAIER: Actually Exhibit 24.

MS. HARRISON: I'm sorry, whatever the next -- exhibit next.

(PLF. EXH. 24, Mims002372 and Mims002368, was marked for identification.)

BY MS. HARRISON:

Q. If you'll read this to me, please.

MR. STEGMAIER: Which side?

MS. HARRISON: The handwritten side.

THE WITNESS: We went to Edward Mims' mother house to get him. It took six times for Angie to blow the horn, and then I, Shirley Knightner, got out of the van and went to the door.

And Edward mother saided Edward was not going anywhere. And then she let Edward walk to the van, got on the van, and Ms. Mims saided she don't want him to go, and Ms. Mims kept saying I don't want him to go back to that place any.

Then she asked Edward do he want to go back, and then she unlock the seat belt and got Edward off the van, and she said she were going to keep him home and she will call Mrs. William in the

morning.

And Angie let me use her cellular phone, and we call the charge person and told him want happen, and we left to go get Morgan Sauls.

BY MS. HARRISON:

Q. How long after Edward being beaten by the employee was this?

A. This was September 4, 2000.

Q. So that was a few weeks?

A. Yes.

Q. Had the Office of Consumer Advocacy informed Ms. Mims that her son had been assaulted by a Babcock Center employee?

A. The Consumer Advocacy office does not generally inform the family. That is done by persons that are more familiar with the family person, coordinator or administrator of the facility.

Q. So who told Ms. Mims that Edward had been beaten?

A. I don't know.

Q. So the consumer advocate doesn't make sure -- I thought you said that you made sure that all this is coordinated and different people get informed?

A. It is, but without report I couldn't -- I don't know.

Q. Whose job was it -- who was responsible for telling Ms. Mims that it had been substantiated that an employee had beaten her son?

A. That would have been the role of the facility administrator or coordinator.

Q. And who was that?

A. I don't remember.

Q. Do you know whether -- so in your investigation -- so he's beaten and it's reported to you immediately, and during your investigation, you don't -- do you talk to the parents about what happened?

A. I didn't complete that investigation.

Q. Under your protocol, should Carrie Deaton have discussed this with the parent?

A. The role of the internal investigation is to determine what may have occurred during that time frame. Unless the parent had personal knowledge of the situation, it would have not necessarily been protocol.

Q. So there was no policy that required the parent to be informed when an employee beat a consumer?

A. The parent -- there is a notification of the family by the administrator, the facility staff, the administration, but not a part of the internal investigation.

Q. So are you saying it would be Mr. Lender's job to inform Ms. Mims that her son had been beaten by a Babcock Center employee?

A. No, it would have been the management of the facility.

Q. So who -- what -- you're saying the manager of Clusters had the responsibility?

A. Yes, that is generally the process.

Q. So it wasn't the responsibility of the director of the agency to inform -- to make sure that the family member is informed?

A. The procedure is that the person familiar with the family, the facility administrator, generally makes that phone call.

Q. Mr. Lender was the facility -- he was the CEO at that time, was he not?

A. Correct.

Q. Where is Mr. Lender now?

A. I have no idea.

Q. When was the last time you saw Mr. Lender?

A. Over a year ago probably.

Q. Tell me about your relationship with Mr. Lender when you were at Rich/Lex.

A. He was the executive director at Rich/Lex as well as the CEO, president of Babcock Center.

Q. Did you have any personal relationship with Mr. Lender?

A. No.

Q. I'm sorry --

A. No.

Q. So you never dated Mr. Lender or had any --

A. No.

Q. So after Carl Anthony beat Edward Mims in 2000, what did the Babcock Center do to see that he was arrested and convicted?

A. We cooperated with the Attorney General's Office, and they were responsible for the prosecution.

Q. It was Ms. Mims that went to the Attorney General's Office, was it not?

A. I do not know that as a fact.

Q. Do you know as a fact that it was the Babcock Center that went to the Attorney General's Office with this?

A. No. The process at the time was that the

internal reports reported to the ombudsman's office. The ombudsman's office reviewed reports. Substantiated reports were then referred from the ombudsman's office to the Attorney General's Office.

Q. Can you explain to me why it took -- if you'll look at the arrest report again, how long was it between the time he beat Edward and it was witnessed and he was arrested?

A. From August 13, 2000, to October 4, 2001.

Q. Can you explain to me why it would take that long for him to be arrested if the beating was witnessed?

A. I cannot tell you why it took that long.

Q. Can you explain to me why there was an involuntarily judicial admission in between the beating and the arrest?

A. I don't know.

Q. Now, what was the next critical incident involving Edward Mims?

A. I believe that was the 2002 situation.

Q. Tell me about the 2002 situation. Well, let me back up a little bit.

In 2001, do you know what Babcock Center employees told Edward Mims' guardian ad litem?

A. No, ma'am.

Q. Are you aware that Babcock Center employees told Edward's mother that he was being abused or neglected -- I'm sorry, told the guardian ad litem that his mother was abusing or neglecting him?

A. No, ma'am, I was not involved in that.

Q. So he's involuntarily admitted. Now, tell me what that means. Could his mother get him out if she wanted to?

A. I'm not familiar with the term involuntarily admitted.

Q. If he's judicially admitted, could his mother get him out if she thought he was unsafe?

A. Judicial admission to DDSN?

MR. STEGMAIER: Ms. Harrison, Plaintiff's 23, that's the petition for judicial admission. That's not the order --

MS. HARRISON: I'm asking what happens when someone is judicially admitted. I think we all agree, do we not, that he was judicially admitted?

MR. STEGMAIER: Yes, ma'am, of course. I don't know if you have the order with you that you may be able to refer her to.

MS. HARRISON: I think we all agree -- I don't know that I have the order right here in front of me, but do we not all agree that he was judicially admitted?

BY MS. HARRISON:

Q. The petition was successful, was it not, in getting him judicially admitted?

A. I believe so.

Q. So if his mother wanted -- if she felt like he was being beaten at this place and it wasn't safe, after the judicial admission, could she take him out?

A. I don't know. I don't think so.

Q. So tell me about the 2002 incident.

A. In 2002, Edward was hit with a belt by another person supported.

Q. And if you'll speak up, please. Use your outside voice so the court reporter can hear you.

A. He was hit with a belt by another person supported.

Q. How many times was he hit with a belt?

A. I don't know the exact number of times.

Q. More than once?

A. Yes.

Q. Could you describe -- did you investigate

that incident?

A. I did.

Q. And describe the condition of Edward Mims after he was beaten with the belt.

A. He was found to have several red marks and bruising on his body.

Q. And how old was the individual who beat him with the belt?

A. I don't know.

Q. Was it a teenager?

A. He was young, but I don't know his exact age.

Q. Was he larger than Edward Mims?

A. He was also small stature like Edward, but maybe a little bigger than Edward.

Q. Which unit at Clusters was Edward living in then?

A. House C.

Q. There were a lot of problems at Clusters, were there not?

A. Which house?

Q. Any of the houses.

A. There weren't that I know of a lot of problems in house C where Edward lived.

Q. So he's been beaten by an employee and he

was beaten by the individual who beat him with the belt, but there weren't a lot of problems there? Did you keep records as to how many incidents occurred in each facility to look at trends?

A. Yes, I did.

Q. And so I assume you have records, then, to show how many incidents there were in that -- in building C?

A. I could determine that, yes.

Q. So Clusters in general, were there more or less incidents of allegations of abuse or neglect than other facilities?

A. Clusters, as you may or may not be aware, were six individually-licensed homes. So each house is an individual facility that is licensed as an ICF/MR. The trends would be each individual house, not Clusters as a whole, because it was not one facility.

Q. But you have those?

A. Yes.

Q. And Clusters eventually was closed by CMS and DHEC, was it not?

A. That's not correct.

Q. Tell me what happened at Clusters. Is it open now?

A. No, it is not.

Q. Why is it not open now?

A. Babcock Center downsized its residential facilities, and Clusters was a part of that downsizing.

Q. So you're telling me it was voluntary for Babcock to close all the units at Clusters?

A. That is my understanding, yes.

Q. Are you familiar with the DHEC findings of immediate jeopardy at Clusters?

A. Yes.

Q. Tell me about those.

A. The only thing I am aware of is that it occurred, that there was a finding. I was not involved with the actual citations.

Q. And what was it based on?

A. I'm not sure.

Q. CMS also issued an immediate jeopardy finding, did they not?

A. I thought that's what you were talking about.

Q. Well, I was talking about DHEC. Were there not separate findings of immediate jeopardy?

A. I don't recall.

Q. In different buildings?

A. I don't recall that.

Q. Now, during this time, I believe there was also someone who was stealing from a Clusters resident, was there not, an employee that was stealing?

A. During what time?

Q. During the 2001, 2002 period.

A. There was a circumstance of theft that was reported, yes.

Q. Tell me about that.

A. I don't have any direct personal knowledge of that particular situation. That was prior to consumer advocacy doing critical incidents.

Q. Now, the facility was left without a director for some period of time during this time, was it not?

A. I don't know.

Q. Now, the individual who beat Edward, what happened after the -- with the belt, what happened after Edward was beaten?

A. He was seen by a nurse and he was taken for medical follow-up.

Q. And did he remain at Clusters?

A. Yes.

Q. Excuse me, I'm sorry --

A. I think so, yes.
Q. What happened to the individual who beat Edward with the belt?
A. What do you mean what happened to him?
Q. Did he stay at Clusters?
A. I don't know.
Immediately or long-term?
Q. He went to Ida Lane, didn't he?
A. No.
Q. He did not go to Ida Lane?
A. He did not go to Ida Lane.
Q. Did he ever beat anyone else with a belt?
A. Prior to beating Edward with a belt?
Q. Before or after.
A. There was no knowledge that I could find that there was a history of him hitting anyone with a belt prior to Edward Mims.
Q. After Edward Mims did he hit anyone?
A. I am aware of one incident.
Q. And tell me about that incident.
A. There was documentation that he had struck someone with a belt once.
Q. After Edward?
A. Yes.
Q. How soon after Edward?

A. I don't know.
Q. So Edward eventually was moved out of Clusters, was he not?
A. Yes.
Q. And why was he moved from Clusters?
A. I don't know.
Q. Did his mother have the right to determine where he would move?
A. I don't know.
Q. Now, here's a record of physician's visit.
If we can mark this, the physician's visit.
(PLF. EXH. 25, Mims003308 and Mims003229, was marked for identification.)
BY MS. HARRISON:
Q. And --
MR. STEGMAIER: Can she take a second to look at it, please?
MS. HARRISON: We're looking at just the page that says physician's visit, just the front page.
MR. STEGMAIER: I'll provide greater clarity. Is this Bates Mims003229?
MS. HARRISON: Is that the one that says physician's --

MR. STEGMAIER: No. That would be Mims 3308.

MR. DAVIDSON: Can you tell us what's on the back? Is this part and parcel of that?

MS. HARRISON: I'm not sure what's -- I just have a two-sided copy is all I have.

MR. DAVIDSON: I just didn't know if he knew what was on the back or if it applied to what was on the front, which is just called Babcock Center.

MR. STEGMAIER: It's two different years. They both pertain to Mr. Mims.

BY MS. HARRISON:

Q. Can you describe that document for me?

A. It is a record of physician's visit that was taken with someone to the doctor's office or -- for documentation purposes.

Q. And what does it say?

A. To Lexington Medical Center ER for evaluation due to severity of bruises.

Q. And what was the date on that?

A. 1/24/02.

Q. And who was the doctor?

A. Telephone order Dr. Platt.

Q. So Dr. Platt by phone referred him to the

emergency room?

A. That's what it appears, yes.

Q. And what was that date again?

A. 1/24/02.

Q. I think I have some more from that. If we can mark both sides of this. One says 4-2 at the bottom, as next, and then Exhibit 11 at the bottom.

MR. STEGMAIER: Can we make two different copies if it's not too much trouble?

MS. HARRISON: Well, let's go ahead and talk about this one and I'll be finding the other one. If we can mark this one, please.

(PLF. EXH. 26, Summary-Visit, was marked for identification.)

BY MS. HARRISON:

Q. If you'll tell me what that is.

A. Emergency room summary.

Q. And could you tell me the reason for the visit?

A. The January 24th incident.

Q. And what was the reason for the visit? What did the hospital say was the reason for the visit?

A. Abrasions over body, over entire body.

Q. Abrasions over entire body?

A. Yes.

Q. And then if we can look at the next page, 2/28/02, and if we can mark it as next.

(PLF. EXH. 27, 2/27/02 Lexington Urgent Care Report, was marked for identification.)

BY MS. HARRISON:

Q. And tell me about that report. What's the date?

A. February 28, 2000 -- I'm sorry, February 27, 2002.

Q. And tell me what that reported.

A. Lexington Urgent Care for discoloration and bruising, the first and second fingers of right hand.

Q. So I believe he had a contusion on his hand that was unexplained. Is that correct?

A. I don't know.

Q. But he was taken to the ER because of bruising on his hand?

A. He was taken to Urgent Care for bruising, yes.

Q. Now, did you do a critical incident report on that?

A. I don't recall doing one, no.

Q. When someone's taken to Urgent Care with

unexplained bruising, does that constitute a critical incident?

A. I don't know that this was unexplained.

Q. Can you tell me how that might have happened?

A. I don't know.

Q. When you're doing your investigations, the fact that a person is repeatedly taken to the emergency room, is that a red flag for you?

A. The emergency room visits, depending on the circumstances, may not be a part of the internal investigation.

Q. Do you agree with me if someone is repeatedly taken to the ER, there are red flags when there's bruising and it's serious enough to go to the ER?

A. Without knowing the circumstances, it would be hard to speculate as to what process of red flag you're referring to.

Q. So this doesn't give you any concern if a person's repeatedly taken to the emergency room?

A. I don't know the circumstances of the ER visits other than those that I was involved with.

Q. When was Edward Mims moved out of Clusters?

A. I don't know the date.

Q. If he had been beaten at least twice and had these ER visits for bruising, do you make any recommendations if a person's in danger where they're living?

A. Yes.

Q. So how does that process work?

A. Part of the internal review process is to make recommendations to prevent future occurrence.

Q. Did you make any recommendations after Edward was beaten with a belt?

A. Yes.

Q. And what were your recommendations?

A. To evaluate accountability levels and I believe staff training and disciplinary action.

Q. And what disciplinary action was taken?

A. I don't remember.

Q. Tell me what it means to have a one-on-one.

A. There are two types of one-on-one accountability.

Q. And tell me what that means.

A. There is one-on-one accountability that is arm's length, and then there's one-on-one accountability that is visual supervision.

Q. And how would one know which accountability there is?

A. It's in their plan.

Q. If the plan of care says one-on-one accountability, how do we know which one that is?

A. It should specify.

Q. Was Edward Mims on one-on-one accountability?

A. Visual.

Q. Visual one-on-one accountability.

And what did that mean?

A. That the staff were to maintain visual contact.

Q. Edward Mims was an outlier, wasn't he?

A. I don't know.

Q. So you're saying the staff had to maintain visual contact of Edward at all times. Is that correct?

A. I believe it was waking hours.

Q. During waking hours.

And where would I find that? What document would I find that in?

A. In his plan.

Q. So it wouldn't just say one on one, it would say one-on-one visual or one-on-one arm's

length?

A. Yes.

Q. And I assume you have that in your investigation report?

A. Yes.

Q. What does arm's length one-on-one mean?

A. It means the staff is to be within arm's length of the person they are providing one-on-one to.

Q. So after Edward was beaten for the second time under visual one-on-one, did you recommend increasing his accountability so that he would have arm's length one-on-one?

A. No.

Q. Why was that?

A. One-on-one arm's length is very intrusive, and I believe my recommendation is to evaluate the accountability level because I don't know the people on a day-to-day basis.

Q. Is it intrusive to be beaten with a belt? Is it intrusive to be beaten with a belt?

A. Yes.

Q. If you'd speak up, please.

A. I said yes.

Q. Had you rather be beaten with a belt or

have someone with arm's length to protect you?

A. I think as far as answering the question, someone with you.

Q. So how -- if you've done your investigations and you're the consumer advocate and he's been beaten with a belt after being beaten by an employee, how is it determined whether or not he gets outlier funding to have an arm's length one-on-one with him?

A. I don't know that process.

Q. Who makes that decision?

A. I would imagine it's his team.

Q. And who consisted -- what did Edward's team consist of?

A. The team generally consists of the facility staff, vocational staff, the family, the person supported, and any outside providers such as physical therapists, occupational therapists, nurse.

Q. Now, what involvement does the director have when these things happen?

MR. STEGMAIER: What things? I'm sorry.

BY MS. HARRISON:

Q. When beatings happen.

A. The first and foremost responsibility is

to make sure the person is taken care of medically, to make sure that person receives the appropriate medical treatment that they may need.

Q. I asked -- my question was what responsibility does the director have?

A. The director would be responsible to ensure that that occurred.

Q. Is the director responsible for making sure that the family is informed?

A. I would say ultimately, yes.

Q. How did it come to be decided that Edward Mims would be moved to -- to be moved out of Clusters?

A. I don't know.

Q. So you weren't involved in that decision?

A. I don't remember that, no.

Q. Do you remember when he was moved to Kensington?

A. I remember him being at Kensington.

Q. There were a lot of problems at Kensington, weren't there?

A. I think you'll have to be more specific.

Q. Were there more problems at Kensington than the average facility at the Babcock Center?

A. I don't know.

Q. I thought you analyzed trends and kept records.

A. I do, but I can't tell you one over another facility off the top of my head.

Q. So based on your history at the Babcock Center, Kensington doesn't stand out as being any worse than the others?

A. I think there were isolated situations at Kensington, but I don't know of evaluating them with other facilities.

Q. Wasn't that your job?

A. It was one of the roles that I did.

Q. So in your employment in that role, you didn't -- in your mind, Kensington doesn't stand out as being a bad facility?

A. Not over through the years, no.

Q. I'm talking about 2002, 2003, 2004, 2005.

A. There were some isolated incidents at Kensington during that time period, but as a facility overall looking at trends, no.

Q. Tell me about the isolated incidents at Kensington.

A. There was a situation in which a person passed away at Kensington.

Q. And tell me about that situation.

A. We had a person pass away who lived at Kensington.

Q. And how did that person pass away?

A. I believe the autopsy report said asphyxiation secondary to aspiration.

Q. Was that person on a pureed diet?

A. Yes.

Q. Were all of the individuals at that time at Kensington on pureed diets?

A. I don't know.

Q. Did you read the report that CMS made after that death?

A. I read it.

Q. Do you recall that it said that staff was undertrained?

A. I recall that being a citation.

Q. Do you recall the citation that said that the facility was understaffed?

A. Do you have that report? Because it was several years ago.

Q. What do you remember about the report?

A. I don't remember the specific citations that they put in the report.

Q. What do you remember the problems being at that time?

A. The only situation that I recall was the part that dealt with investigations.

Q. And what did it -- that report say about investigations?

A. It reported that there was not a thorough investigation because we had deferred the conclusion to the Attorney General's Office.

Q. Now, in the year prior to that, did you investigate when Keith Jordan was found to have rug burns on his back?

A. I don't remember that.

Q. Did you get involved -- there was a finding of immediate jeopardy before the death of William Cothran at Kensington, was there not, on a med error?

A. I don't recall that.

Q. Was there not a med error finding of -- do you recall on July '04 that Edward was taken to the doctor with ant bites all over?

A. I was not familiar with that, no.

Q. So that wasn't a critical incident?

A. No.

Q. So if a resident's bed is infested with ants and the individual is taken to the hospital with ant bites all over, that's not a critical

incident?

A. It was not reported as a critical incident.

Q. Was that a critical incident?

A. No.

Q. Now, tell me why that wasn't a critical incident.

A. There are certain categories of situations that reach the level of critical incident. Not every accident or injury or situation reaches that level. There are guidelines in the DDSN policy of what a critical incident is.

Q. And tell me what those guidelines are.

A. Serious injury which results in fractures, multiple sutures, broken bones, serious burns; acts of aggression between one consumer to another that requires physician treatment; major medical situations in which a person is admitted into an ICU unit or a major medical procedure is performed; facility fires; theft; law enforcement involvement when a report is completed; elopements of more than one hour; vandalism or property damage of $1,500 or more; substance abuse of staff while on duty; possession of weapons or firearms by consumer or staff; natural disasters such as earthquakes,

hurricanes, contaminations.

Q. So a contamination by a hurricane would be a critical incident?

A. Toxic contamination such as chemical.

Q. But a bed being infested by ants doesn't warrant any investigation?

A. It is not a considered a critical incident.

Q. What do you consider that?

A. A circumstance that would need to be dealt with by the facility and management staff to ensure that it was taken care of.

Q. So you weren't aware that on July 27, 2004, Edward was taken to the doctor with ant bites all over his body?

A. No.

Q. Now, it was two months later, was it not, that William Cothran choked to death, was it not?

A. I don't know that to be the actual -- that choking resulted in the death.

Q. But CMS issued an immediate jeopardy citation, did they not?

A. They did.

Q. And were there other immediate jeopardy citations at Kensington?

A. I'm not familiar with them.

Q. You're not familiar with the citation on November 23, 2004, by DHEC for violation of the Life Safety Code?

A. I am generally not involved in the DHEC surveys unless it's directly related to the critical incidents or allegations of abuse investigations.

Q. Are you familiar with the Carolina Medical Review finding on January 19, 2005, that said that Babcock Center ICF/MRs were not in compliance with Medicaid rules?

A. I've seen it. Do you have a copy of it?

Q. I don't have a copy of it now.

Tell me what you remember about it.

A. I don't remember any of the details.

Q. Did you read it?

A. I looked through it.

Q. Were there discussions that you were involved in about that report?

A. I don't remember.

Q. You don't remember talking to anyone in management about that report?

A. I don't remember about that report specifically.

Q. So were you aware that on March 8, 2005, DHEC cited Kensington for failure to correct deficiencies?

A. I don't have any personal involvement with that, but I have heard that.

Q. Were you aware that on April 29, 2005, DHEC decertified Kensington?

A. It was my understanding that that was overturned in appeal and it wasn't decertified.

Q. Were there letters sent out to Ms. Mims saying that Kensington was decertified?

A. I don't know.

Q. Was there a big -- when you went in to do your investigation after the penis injury, was there a big sign on the door that said that it was decertified?

A. I don't remember.

Q. So tell me about what happened on May 27, 2005.

A. May 27, 2005, Edward was found to have a laceration on the underside of his penis.

Q. Was he wearing pants that had a zipper?

A. No.

Q. What kind of pants was he wearing?

A. Sweatpants.

Q. When he was found with this injury, did -- were his sweatpants on his body?

A. Yes.

Q. He was wearing the sweatpants?

A. Yes.

Q. They were pulled up?

A. No.

Q. Where were the sweatpants?

A. Around his ankles.

Q. Now, did you do the investigation?

A. I did.

Q. Was it determined that this injury was not self-inflicted?

A. It was not determined what caused the injury.

Q. But it was determined that it wasn't self-inflicted, wasn't it?

A. No, I did not determine how the injury occurred.

Q. The report determined that it was not self-inflicted because there was no skin under his nails. Is that not correct?

A. I believe that is what the nurse reported.

Q. Was that nurse qualified to make that determination?

A. It was her general impression at the time.

Q. Now, this is, I believe, the final report of the incident, is it not?

A. Yes.

MR. STEGMAIER: Go ahead and mark this.

(PLF. EXH. 28, Final Report, was marked for identification.)

BY MS. HARRISON:

Q. And who conducted --

MR. STEGMAIER: Hold on for just one second, please.

MR. DAVIDSON: Let's take about a five-minute break.

(A recess transpired.)

BY MS. HARRISON:

Q. Is this your report?

A. Yes.

Q. So according to this report, Edward was not wearing any underwear when staff came in at 6:50 p.m.?

A. That's correct.

Q. The report says he began undressing and then staff told him to put his pants on. Is that correct?

A. No, I believe the staff instructed him to

take his pants off so that he could put on underwear.

Q. And did Mr. Mims have the injury to his penis when the staff told him to take his pants off?

A. No.

Q. How long was the staff out of the room?

A. Based on the information from the staff, less than two minutes.

Q. And when the staff came back into the room in two minutes, what had occurred?

A. Edward was sitting on a chair, and there was blood dripping to the floor.

Q. How many years at this time had you been doing investigations?

A. Seven.

Q. How many of those investigations involved injury to one's genitals?

A. I don't recall any others.

Q. Do you recall the James Jordan investigation where there was a laceration on the individual's anus?

A. Yes.

Q. So there was at least one other one, wasn't there?

A. I thought you meant genital area. You had said genital area.

Q. I guess I include all that as -- what about injury to other parts, private parts, how many investigations have you done?

A. A few.

Q. How many?

A. Three.

Q. Tell me about those without giving me the names, just tell me the incidents.

A. One incident where the person had a ruptured cyst in his anus, in the rectum area, and another circumstance in which an individual had alleged sexual abuse.

Q. That's two.

A. This would be the third, the three.

Q. So the alleged sexual abuse, there was injury to the person's body?

A. No.

Q. Did you determine that the sexual abuse had occurred?

A. Yes.

Q. Had there been any other incidents where you or other investigators have substantiated sexual abuse at the Babcock Center?

A. I only know of that one.
Q. Which one?
A. The one where the individual alleged sexual abuse and it was substantiated and the person was prosecuted.
Q. And when was that?
A. 2004.
Q. And was it an employee or a consumer that sexually assaulted the individual?
A. It was an employee.
Q. I'm sorry, I can't hear you.
A. An employee.
Q. Did you do the initial investigation on that case?
A. Yes, I did.
Q. And did you substantiate sexual assault?
A. I did with the help of local law enforcement.
Q. Your initial report, did it report sexual abuse?
A. Yes.
Q. And where was that individual living?
A. In a CTH II.
Q. So getting back to Edward Mims, the staff is in the room with him, his underwear's gone, and

the staff walks out and comes back and this terrible injury has occurred to his penis. Can you give me possible explanations for how that occurred?

A. Throughout the course of reviewing this circumstance, I could not determine how the injury occurred, which led us to call in an outside person to assist with the investigation, a medical person, because I could not determine how the injury occurred.

Q. How many days later was that?

A. According to my report, it appears this person came in on June 2nd.

Q. So five days later?

A. Uh-huh.

MR. STEGMAIER: You've got to say yes or no.

THE WITNESS: Yes. I'm sorry. Yes.

BY MS. HARRISON:

Q. Now, was there -- was the evidence preserved to see if there was any semen on the chair or on Edward's body?

A. He was taken to the emergency room immediately.

Q. Did Babcock Center staff request rape

protocol?

A. No. At that time, there was no reason to believe that a sexual assault had occurred.

Q. So if a person's found to have a four-inch centimeter laceration on his penis and it's not self-inflicted and there's no other explanation, we just rule out sexual assault?

A. First of all, the injury was four-centimeters at the end, but if you look in the report from the circumstances that happened including when the nurse evaluated it and when the doctor evaluated him, the injury grew at each evaluation. So I don't know the exact size of the injury at onset. It was not the four centimeters that was treated.

Q. But it was bleeding and oozing?

A. But it was bleeding.

Q. Did law enforcement immediately come in and take samples of the blood?

A. No.

Q. Did staff mop up the blood?

A. Yes, the room was cleaned.

Q. Was it cleaned before or after the police came in to do an investigation?

A. The police did not come in to do an

investigation.

Q. So what possible explanations could you come up with for how this injury occurred?

A. I could not, which is why we asked for assistance.

Q. Was there anything sharp in the room?

A. I couldn't find anything.

Q. Was there another consumer nearby?

A. Not at that time.

Q. So within the whole realm of possibilities, you can't think of a single thing it might have been?

A. I did not know. Dr. Graeme Johnson suggested the fragility of the skin on the underside of the penis, but that was the only information to explain the injury.

Q. Had -- was there anyone at Kensington who had any kind of history of sexual deviancy?

A. Not that I know of.

Q. Are there any persons at Babcock Center, any consumers, that have a history of sexual deviancy?

A. I'm sure there are some people supported by Babcock Center who have a history of sexual conduct.

Q. Does the Babcock Center register these sex offenders with the sex offender registry?

A. If a person supported has gone through the legal system and has been convicted of a sex crime, a sexual misconduct, that requires them to be on the sex offender registry, they are placed on the sex offender registry.

Q. How many people does the Babcock Center have on the sex offender registry?

A. I don't know that we have any.

MS. HARRISON: If we can mark this as the next exhibit.

(PLF. EXH. 29, Babcock Center, Inc., Accident/Injury Record, was marked for identification.)

BY MS. HARRISON:

Q. What is the date of this incident?

A. August 3rd, and I cannot -- 2003, it appears.

Q. And what does this report -- what does it deal with?

A. It's an accident/injury record.

Q. And what happened?

A. It says that one person hit Edward on the side of the head with no visible injuries.

Q. What would happen if someone came into your office and hit you on the side of the head?

A. Well, I imagine it would be depending on the circumstances.

Q. Would the police be called?

A. Possibly.

Q. Would you feel that your rights had been violated if someone hit you on the head?

A. Depends on the circumstance.

Q. Were the police called when Edward was hit on the head in this incident?

A. It doesn't show that, no.

Q. Was Edward's mother notified that he had been hit on the head at Kensington?

A. I have no way of knowing.

Q. If Edward's mother was notified, would that not have been -- do your policies not require that to be recorded, the family surrogate notified, the date and the time?

A. That is general practice.

Q. Do you require that or is that optional?

A. No, it's a part of the form.

Q. But do you require the family to be notified?

A. Yes, the family is notified of accidents

and injuries.

Q. According to this record, was Ms. Mims notified when Edward was hit on the head?

A. There's no documentation of that.

Q. Would this incident come to your attention?

A. No.

Q. So Edward Mims, if he's hit on the head, that is not brought to the attention of the internal investigations people?

A. No.

Q. Under current policy, would this be brought to anyone's attention outside the facility?

A. It still would not be a critical incident, no.

Q. So if an employee hit Edward, it's a critical incident?

A. It's an allegation of abuse.

Q. And is it a crime?

A. Yes.

Q. If Edward is beaten by another individual, does it make any difference to Edward who hit him?

A. No.

Q. So to protect Edward's rights when an employee hits him, does that not require an

investigation?

A. Yes.

Q. If a person -- now, was there a decision made at some point to take Edward Mims off one-on-one supervision?

A. I think so.

Q. And why was Edward -- with all of these bad things happening to him, why was one-on-one supervision removed from Edward?

A. I don't know.

Q. Who would be responsible for making that decision?

A. The team.

Q. And who would approve whether or not he got one-on-one supervision or not?

A. It would be based on the need and the recommendations of the team.

Q. Was there a meeting that involved his mother in which it was decided that he no longer needed one-on-one supervision?

A. I don't know.

Q. So you don't know whether -- would it be the QMRP that would make that call?

A. The QMRP would convene the meeting, yes, in a general circumstance.

Q. So there would be a record in his file showing that he's changed from one-on-one supervision to less intensive supervision?

A. There should be something, yes.

Q. What was the level of supervision Edward had when the penis injury occurred?

A. I don't remember. It's not documented in my report and I don't remember.

Q. What do you know about Edward's mother trying to remove him from the facility after the penis injury?

A. Vague information. I was not personally involved in that situation either.

Q. Who was?

A. I believe Dorothy Goodwin was dealing with that situation.

Q. Was Dr. Johnson involved in that situation?

A. I don't know.

Q. Have you ever discussed this case with Dr. Johnson?

A. Other than receiving the complaint, no.

Q. So you've never discussed Edward Mims with Dr. Johnson?

A. Oh, yes.

Q. Tell me about your discussions with Dr. Johnson.

A. Well, as she is my supervisor, I would have discussed the critical incident report with her when I completed it.

Q. So you discussed your investigation -- I'm sorry. Go ahead.

A. When I complete investigations, yes.

Q. So you regularly discuss them with her?

A. Yes.

Q. On every investigation?

A. If there is need or opportunity, yes.

Q. What constitutes need?

A. In this situation, the inability to determine the conclusion.

Q. So you talked to Dr. Johnson about that?

A. Yes.

Q. And what did she tell you to do?

A. She requested from DDSN that an independent person be brought in to assist.

Q. Did she ever meet with Edward Mims?

A. I don't know.

Q. Who's ultimately responsible for the -- for assuring the health and safety of the individuals at the Babcock Center? Is it you?

A. It's all of us at Babcock Center. All of the staff are responsible for assuring health and safety.

Q. What is the -- tell me about the responsibility of staff to ensure the health and safety.

A. Follow policies and procedures to ensure that the person's needs are provided for.

Q. Do you have any duty or does the agency have any duty to protect individuals from sexual assault?

A. Yes.

Q. And are you familiar with the -- are you familiar with the federal requirements to protect health and safety?

A. I know that there are requirements.

Q. And what are those requirements?

A. To ensure that a person is safe from harm.

Q. And when a person becomes unsafe, when the situation becomes unsafe, whose responsibility is it to protect that person?

A. It's the agency's responsibility to ensure that policies and procedures and actions are in place to protect that person from this event happening again, to address a situation if it does

occur, to make sure they address the situation, they take care of it appropriately, expediently, and to do the necessary things to attempt to prevent that situation from happening again.

Q. And who has ultimate responsibility for that?

A. The executive director.

Q. I'm sorry, I didn't hear you.

A. The executive director.

Q. Has the Babcock Center had a higher-than-average rate of abuse and neglect?

A. The statistical anomaly, yes. There was a circumstance in which Babcock Center had a higher incident rate of abuse and neglect because the way that the statistics are calculated, it counts -- instead of counting one allegation, one incident of occurrence, there was one situation in which one alleged perpetrator allegedly exploited multiple people, which raised the numbers of substantiated abuse to higher than if you had counted that as one allegation.

Q. Was this alleged or was this substantiated?

A. It was substantiated.

Q. Now, prior to that year -- I believe that

was in 2004, was it not?

A. Right.

Q. Prior to that year, the Babcock Center's rate of substantiated abuse and neglect was double the statewide average, was it not?

A. I don't know that it was quite double, no.

Q. How much do you think it was?

A. I don't know the statistics. I don't have them in front of me.

Q. But that's your job, isn't it?

A. Yes, but I don't remember what the number was in 2003.

Q. But do you remember it was significantly higher than other facilities, other providers?

A. I remember it being higher, yes.

Q. Tell me what your relationship is with Dr. Johnson.

A. She's my supervisor.

Q. So you direct -- you report directly to her?

A. Yes.

Q. And how many -- tell me about the downsizing of the Babcock Center.

A. It is my understanding that Babcock Center downsized residentially to a particular number of

residential placements at the direction of DDSN.

Q. Were they required to downsize to half what they had been residentially?

A. I think so, yes.

Q. If you could speak up, please, so that --

A. I think so, yes.

Q. Did they do that?

A. Yes.

Q. And what about in the workshops, have they downsized in the workshops?

A. I don't know.

Q. Who would know that?

A. Director of vocational.

Q. And who is that?

A. Currently it's Leslie Atkins.

Q. Is there anything else that could have been done to have prevented this horrific injury?

A. Which injury?

Q. The injury to the penis.

A. Not that I could determine at the time.

Q. If Edward had had a one-on-one at that point, might that have prevented this injury?

A. We don't know because we don't know what happened. We don't know if it was a spontaneous injury. We don't know how the injury occurred.

Q. How do we know that Edward wasn't raped?

A. There was no other person in the room. The staff was out of the room for less than two minutes. There was no blood present in his clothing that he had worn earlier in the day or the ones that were on his ankles at that time. There was no reason to believe -- there was no one else in the room. There was no reason to believe that Edward had been sexually assaulted.

Q. But that presumes, does it not, that the staff that discovered the injury was not the perpetrator?

A. At the time, there was no reason to believe by myself, by the hospital staff, later by the ombudsman, by DDSN's medical consultant and law enforcement did not feel the need to investigate as a sexual assault.

Q. Are you familiar with the fact that at that time law enforcement had an agreement with the Babcock Center that they wouldn't investigate until Babcock Center finished its investigation?

A. I am not aware of a formal agreement, no.

Q. Are you aware that happened in practice?

A. It happened sometimes.

MS. HARRISON: I think that's all I have

for this witness.

MR. DAVIDSON: Let's take a short break.

(A recess transpired.)

MR. DAVIDSON: No further questions.

(The deposition concluded at 12:19 p.m.)

SIGNATURE OF DEPONENT

I, the undersigned, TONYA BRADFORD, have read the foregoing deposition consisting of 71 pages which was reported by Gina M. Smith, Notary Public in and for the State of South Carolina on June 12, 2009.

I find the transcript of this deposition to be a true and accurate transcript according to my testimony on that date with the exception of the corrections as listed on the attached correction sheet, which was filled in by me.

_____
TONYA BRADFORD

_____, 2009

ERRATA PAGE

PAGE	LINE	CHANGE AND/OR CORRECTION (AND EXPLANATION)
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THE ABOVE CHANGES WERE NOTED BY ME ON THIS ERRATA PAGE BEFORE SIGNING THE ATTACHED VERIFICATION OF DEPONENT. I HAVE RETAINED A COPY OF THIS ERRATA PAGE FOR MY RECORDS, AND THE COURT REPORTER IS TO ATTACH THIS PAGE AND MY VERIFICATION TO THE ORIGINAL TRANSCRIPT.

DATED: _____

_____
TONYA BRADFORD

CERTIFICATE OF REPORTER

I, Gina M. Smith, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify:

That the foregoing deposition was taken before me on the date and at the time and location stated on page 1 of this transcript; that the deponent was duly sworn to testify to the truth, the whole truth and nothing but the truth; that the testimony of the deponent and all objections made at the time of the examination were recorded stenographically by me and were thereafter transcribed; that the foregoing deposition as typed is a true, accurate and complete record of the testimony of the deponent and of all objections made at the time of the examination to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 24th day of June, 2009, at Columbia, Richland County, South Carolina.

Gina M. Smith
RPR, CSR, Notary Public,
State of South Carolina
at Large.
My Commission expires
July 23, 2013.

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SLED CATCH
Carolina Access to Criminal Histories

Results

Name Carl Anthony
Date of Birth 1959 02 03
Maiden Name
Gender Male
Transaction 000647295
Date of Check October 30, 2002 at 21:07

ARREST RECORD
S.C. Law Enforcement Division
WWW

This record is based on a search using last first initial, and date of birth. Compare all identifying data given for record subject with screening subject. Fingerprint comparison is recommended as the most reliable means to identify a record subject.

INTERNET RAP SHEET REQUEST
ORI-SCLED0000 SID-SC01390255 PUR-E
ATN-WEB, CC

AUTHORIZED USE ONLY. ******** CONTACT CONTRIBUTING AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS. BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-10/30/2002 TIME-21:07:44
REQ ORI-SCLED0000 S C LAW ENF DIV
SID-SC01390255 FBI-988849TB9
NAME-ANTHONY, CARL SEX-M RACE-B
HEIGHT-510 WEIGHT-153 EYES-BRO HAIR-BLK SKIN- BORN-SC
FPC- HENRY-
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--10/29/2001 DATE OF LAST UPDATE--07/05/2002

ADDITIONAL IDENTIFIERS NAME	BIRTH DATES	MARKS	SOC SEC	MISC NUM
	02031959			

CONTRIBUTOR/SUBJECT	DOA/RCVD	CHARGE/DISPOSITION/ETC
ANTHONY, CARL	10/04/2001	
SC0320000 LEXINGTON CNTY SO		
ATN-980000226926		
WARR-G414539		
CIT-N/A-MISDEMEANOR		

6-12-09
EXHIBIT NO. 22
Bradford
G. Smith

ARREST CHARGE 01-SIMPLE AS.
LT AND BATTERY
OFFENSE DATE-10/04/2001

CIT-N/A-MISDEMEANOR
DOC-R84 WARR-G414539

COURT CHARGE 01-SIMPLE ASS
T AND BATTERY
COURT DISP-CONVICTED;30D O
$225 FINE
COURT DATE-10/18/2001
ATN-980000226926

BASED ON SEARCH OF SCLED CJICS CCH FILE USING SID/SC01390255
THIS IS PROVIDED FOR THE EXPRESS PURPOSE FOR MAKING LICENSING OR
EMPLOYMENT DECISION.

** S C CJICS END OF RECORD **

Credit Card Transaction Number 3213482578ICE890021030210650

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STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

Lexington

THE STATE

against

CARL ANTHONY

Address: 117 BIG HICKORY LANE

GASTON, SC 29053

Phone: 803-939-0028 SSN: 251-13-4656

Sex: M Race: B Height: 5-10 Weight: 150

DL State: SC DL #:

DOB: 02/03/1959 Agency ORI #: AENT

Prosecuting Agency: AFFIANT

Prosecuting Officer: AFFIANT

Offense: SIMPLE ASSAULT AND BATTERY

Offense Code:

Code/Ordinance Sec. COMMON LAW 1

This warrant is CERTIFIED FOR SERVICE in the ☐ County/ ☐ Municipality of _____. The accused is to be arrested and brought before me to be dealt with according to law.

_____ (L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant CARL ANTHONY on 10/9/01

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

William G. Shockley
500 Charlie Rast Rd.
Swansea, SC 29160

3039

Mims 1843

LEXI TY)

Personally ared before me the affiant INV. DAVID M. ADDISON who being duly sworn deposes and says that defendant CARL ANTHONY did within this county and state on 08/13/2000 violate the criminal la State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of _____ in the following particulars:

DESCRIPTION OF OFFENSE: SIMPLE ASSAULT AND BATTERY

I further state that there is probable cause to believe that the defendant named above c the crime set forth and that probable cause is based on the following facts:

THAT ON OR ABOUT AUGUST 13, 2000, CARL ANTHONY DID IN LEXI COUNT, COMMIT THE ACT OF ASSAULT AND BATTERY. MORE SPECIF CARL ANTHONY DID KNOWINGLY AND WILLFULLY STRIKE OR HIT EDW MIMS ABOUT THE HEAD. AT THE TIME MR. EDWARD MIMS WAS A RE AT THE BABCOCK CENTER CLUSTERS, IN LEXINGTON, SOUTH CAROLI THE ABOVE FACTS ARE TRUE AND BELIEVABLE BASED UPON STATEMN GIVEN BY THE DEFENDANT, AND WITNESSES THAT PERSONALLY OBSE THE DEF. STRIKE OR HIT MR. MIMS.

Sworn to and subscribed before me on 10/03/2001

Signature of Issuing Judge (L.S.)

William G. Shockley

Signature of Affiant ATTORNEY GENERAL OFFICI

Affiant's Address 1000 ASSEMBLEY STREET COLUMBIA, SC 29211

Affiant's Telephone 803-734-3660

STATE OF SOUTH CAROLINA)

☐ County/ ☐ Municipality of)

Lexington)

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUI

It appearing from the above affidavit that there are reasonable grounds to bel on 08/13/2000 defendant CARL ANTHONY did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of _____) as set forth below:

DESCRIPTION OF OFFENSE: COMMON LAW 1

SIMPLE ASSAULT AND BATTERY

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or h me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivere defendant at the time of its execution, or as soon thereafter as is practicable.

Signature of Issuing Judge (L.S.)

Judge Code: 666

Judge's Address 500 Charlie Rast Rd. Swansea, SC 29160

Judge's Telephone 803-568-3616

Issuing Court: ☐ Magistrate ☐ Municipal ☐ X

ORIGINAL

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE PROBATE COURT

James G. Christian, Ed.D.
Director, Midlands Center,
SC Dept. of Disabilities and
Special Needs
PETITIONER

PETITION OF JUDICIAL ADMISSION

IN THE MATTER OF:

EDWARD JAMES MIMS
(An alleged mentally retarded person)

FILED
01 APR 16 PM 3:43
ANN HARRELL COOK
PROBATE JUDGE
RICHLAND COUNTY, S.C.

The undersigned respectfully shows to the Court:

1. That this Petition is filed pursuant to S.C. Code Ann. §44-20-450 (Supp. 2000) and that this Court has jurisdiction of this matter in accordance with this statute.

2. That Edward James Mims who is presently found at Babcock Center, Inc., The Clusters, Lexington, South Carolina, is according to the information and belief of the undersigned, mentally retarded and in need of the South Carolina Department of Disabilities and Special Needs services; and because of this condition, should be so adjudged and treated in a facility or program of the South Carolina Department of Disabilities and Special Needs. The reasons for this belief are as follows:

Mr. Mims is 29 years old and profoundly retarded. His health is fragile and carries diagnosis of cerebral palsy, seizures, hypertension, esophagitis/erosion disease. He is self-abusive, non-verbal and has pica-like behavior (eats non-food items). His mother is in poor health and is unable to care for him since she has limited means and resources.

3. That the Petitioner herein has the following relationship with the allegedly mentally retarded person: custodial/treatment.

4. That attached and incorporated in this Petition is a copy of a certificate of licensed physician or a diagnostic or forensic report from the South Carolina Department Disabilities and

6-12-09
EXHIBIT NO. 23
Bradford
G. Smith

Mims003238

BABCOCK CENTER CLIENT/VISITOR
ACCIDENT/INJURY REPORT

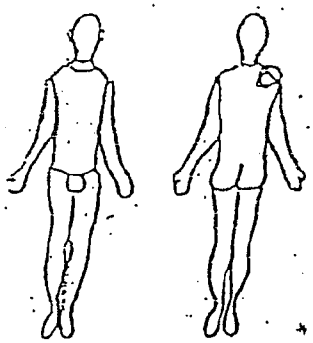
NAME: Last	First	MI	FILE	D.O.B	SEX M F	FACILITY
Mims	Edward					Lexington Clusters House D

DATE:	TIME	LOCATION		
July 4th	6:00 am pm	(✓) Bathroom	() Dining Room	() Parking Lot
		(✓) Shower	() Lounge	() Walk
		() Hall	() Bed	() Workshop
		() Trip	() Pool	() Other

Describe incident in full. A bruce on the back of the right shoulder.

Nature of injury

Abrasion - Rt Shoulder



Treatment required

Washed ē Soap & H2O.

6-12-09
EXHIBIT NO 24
Bradford
G Smith

Others Involved (Staff and/or client(s)):

Nurse Notified: Jackie Derrick Time: 7 AM

Person Completing Report: Latosha Simter Time: 6:20 am

Physician Notified? Yes ____ No —

Treatment By Physician Required? Yes ____ No —

Was Hospitalization Necessary? Yes ____ No ✓

Signature of Nurse: Jackie Derrick RN

Signature of Physician If Treated: ____

Mims002372

BABCOCK CENTER, INC.
Record of Physician's Visits
Subsequent to Admission

NAME: Edward Mims

D.O.B.: 12-9-71

FILE #:

ALLERGIES: NKA

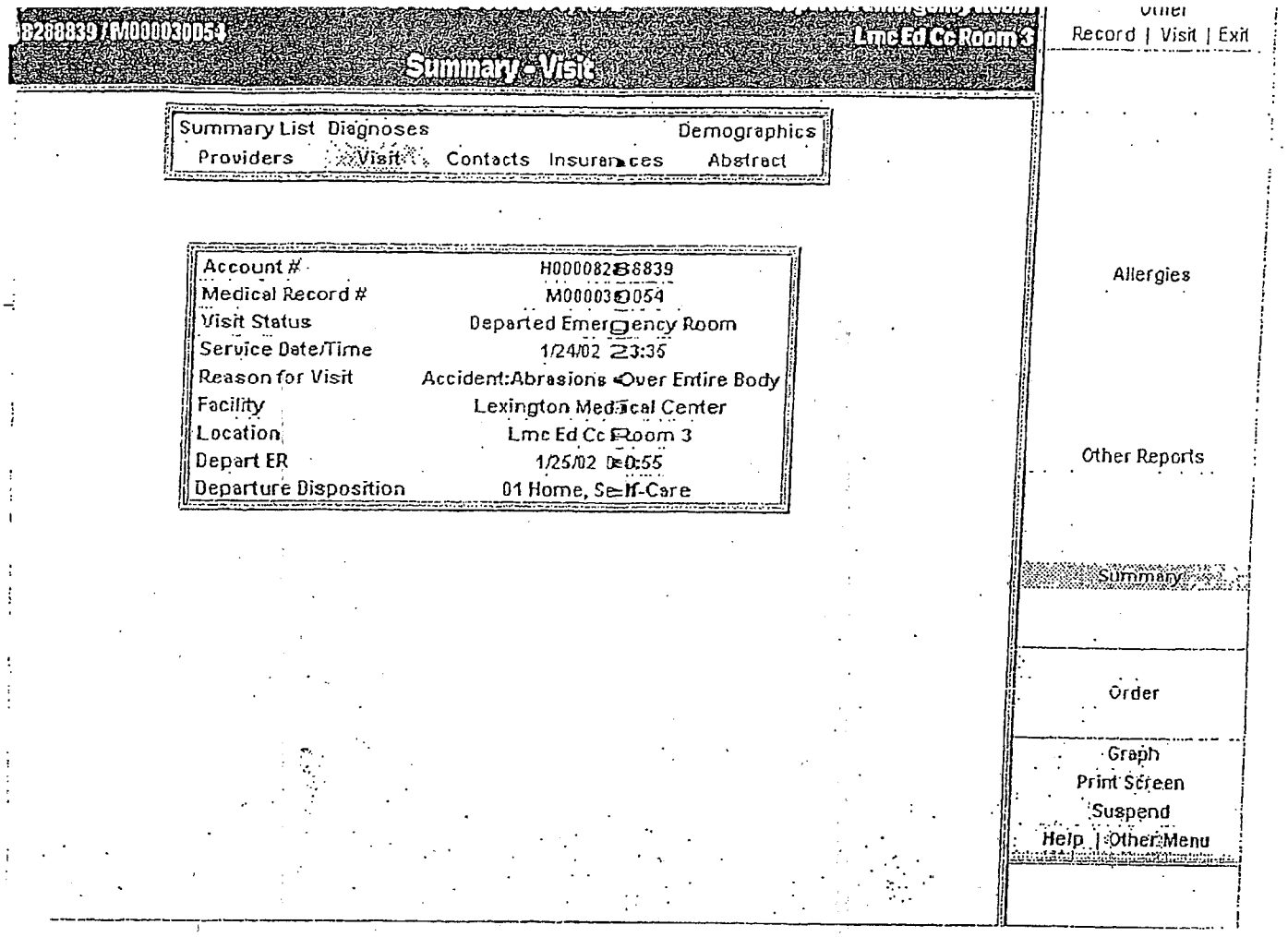
Date	Progress & Procedures	Physician's Orders & Signature
1/24/02		To Lex. Med. Ctr ER for evaluation due to severity of bruises. (T.O.) Dr. Platt / DCockrell cpn 01/26
1/25/02	scrapes + abrasions noted	return from ER with following orders: 1. Give Tylenol 650mg q 4 hours if needed for pain 2. Wound care if needed 3. Neosporin oint to areas on R shoulder + L thigh BID x 10 days (V.O.) Dr. Platt / DCockrell cpn

Mims003308

Ne[illegible] be entered on this form by the Physician on each vis[illegible] Resident's admission.

6-12-09
EXHIBIT NO. 25
Bradford
G. Smith

Mims 1846



6-12-09
EXHIBIT NO. 26
Bradford
G. Smith

Mims 1847

LEXINGTON URGENT CARE LEXINGTON

811 West Main
Lexington, South Carolina 29072
803-358-6100

PATIENT MIMS, EDWARD J
M R # M000030054

D 02/27/2002
T: 2/28/02 8 14 AM /saw

PHYSICIAN: DANIEL A ROSSIGNOL, MD

S Patient is a 30-year-old gentleman who is brought in by a Babcock Center employee. He lives at the Babcock Center Apparently, he has had some discoloration and bruising in his 1st and 2nd fingers of his right hand There has also been some swelling there They are not sure if he injured it or hit his hand. Otherwise there are no complaints today. He is nonverbal, but does not seem to be having much pain PMH Profound mental retardation, seizures, cerebral palsy, esophagitis and chronic ear infections MEDICATIONS. Phenobarbital, ( ), Claritin D, clomidine and Prilosec. DRUG ALLERGIES None known

O GENERAL Pleasant male in no distress He is noncommunicative VITAL SIGNS Temperature 97 2, pulse 66, respirations 14, blood pressure 92/74 RIGHT INDEX AND MIDDLE FINGER: Shows some swelling and discoloration He is able to flex and extend these fingers They appear to be nontender to palpation. There is some bruising there Pulses 2+ at right wrist Cap refill less than 2 seconds LABORATORY X-ray of right hand is negative

A Presumed right hand contusion.

P Ice the hand 2-3 times a day. Use Tylenol or Advil as needed for pain Return to clinic if not better in the next 4-5 days, or earlier if worse Patient's nurse voiced understanding with this plan, and he was discharged in stable condition

DANIEL A ROSSIGNOL, MD

cc:

6-12-09
EXHIBIT NO. 27
Bradford
G. Smith

Exhibit 11

Mims 1848

SOUTH CAROLINA DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS

Critical Incident
Part II: Final Report

Agency: Babcock Center

County: Richland, Lexington

☒ District I:
☐ District II:

Region: ☒ Midlands ☐ Piedmont
Region: ☐ Coastal ☐ Pee Dee

Name of Primary Identifier: Edward Mims

(Name of primary person involved. If incident occurred on van or in facility or in a situation where all names are not listed, specify as such)

Date of Incident: Unknown

Time of Incident:

Location of Occurence (indicate name of DDSN facility, i.e., unit name in Regional Center, Saleeby Center, provider operated facility, i.e., Sunrise CTH II or address in communtiy, i.e., individual's home or other address, agency van at Joe Doe adult day program, respite caregiver home):

Kensington I

Results of Investigation:

Critical Incident
Part II: Final Report

At approximately 6:50pm on May 27, 2005 staff, Trelas Heatley, was helping Edward Mims, supported person, get ready to go home on pass. He noticed that Edward was not wearing any underwear. According to the staff, Edward had begun undressing earlier for bed but was instructed by the staff to put his pants back on. Edward did not put his underwear back on. Mr. Heatley instructed Edward to take off his pants so that he could put some underwear on and he left the room to get a pair of underwear for him. Edward's underwear and socks are not stored in his room but in a plastic bin in the hall closet. Edward is able to dress himself with verbal prompting. Edward will undress himself when he is ready to go to bed. When Mr. Heatley returned to the room, Edward was sitting in a chair with his pants down around his ankles. Mr. Heatley noticed blood dripping from the chair to the floor. Mr. Heatley went to get another staff to help him. At that time, he did not know where the blood was coming from. Mr. Heatley and Ms. Wilson checked Edward and found that there was a tear on the bottom of his penis. Ms. Wilson cleaned Edward's wound while Mr. Heatley was on the telephone with the nurse, Maggie Mobley. Ms. Mobley told the staff to call Jan McLane because she was on-call that evening and take him to the emergency room if necessary. Ms. Mobley stated that the staff told her that he had left the room to get some underwear for Edward and when he returned to the room, he noticed the blood. Jan McLane, Nurse, was called and arrived at the facility to evaluate the injury. She stated that there was a horizontal tear just below the head of the penis on the underside. When she lifted the penis to evaluate the injury, the skin began to tear more. The skin on that area was very thin. Ms. McLane stated that she checked under Edward's fingernails and did not notice any skin tissue or blood that would indicate that he had scratched himself. She stated that she and the staff checked the chair that Edward was sitting in and could not find anything that could have caused the injury. She stated that the injury did not appear to be the result of abuse or neglect. There was no bruising, no swelling, nor any redness in the area. Edward was transported to Lexington Medical Center for evaluation and treatment. According to the staff who accompanied Edward to the hospital, the wound again tore more when the doctor examined him. He received seven stitches to close the wound. It was also recommended that Edward be seen by a Urologist. He has an appointment scheduled for June 3, 2005.

Ms. Mims, Edward's Mother, was notified of the injury. Ms. Mims decided to make a report to the police department. The police officer called the Kensington facility and talked with the staff stating that they needed to ensure that Edward received proper wound care for the injury and that an internal investigation was completed. The officer, name unknown, stated that he would follow-up with the facility in a few days. As of June 2, 2005 there has been no additional contact from the police department.

E-mail was received from Tracy Kelly, Hospital Social Worker, stating that the staff at Lexington Medical Center did not feel that Edward was in any type of imminent danger, but requested that an incident report be completed because the staff could not isolate the origin of the injury. Investigator was unsuccessful in contacting Dr. Mark Johnson, Emergency Room Physician, to obtain his opinion of the injury. Maggie Mobley, nurse, from Kensington also attempted to obtain information from Dr. Johnson and the LMC emergency department. She was unable to obtain information as to Dr. Johnson's impression of the injury. She was told that Dr. Johnson recommended that Edward be seen by an Urologist for follow-up. Investigator interviewed Tracy Kelly on June 1, 2005. Ms. Kelly stated that she had become involved in the situation on Friday night due to the unusual nature of the injury and the fact that Edward was non-verbal. Investigator asked if Ms. Kelly knew the doctors impression on the night of the injury. She stated that Dr. Johnson was not there but that she would leave him investigator's questions. Ms. Kelly stated that the nurse from Friday night was available. Ms. Kelly talked with the nurse while investigator was on the telephone. The nurse did not remember any specific information from the evaluation on Friday. Ms. Kelly stated that neither she nor Dr. Johnson felt that the injury was the result of abuse or neglect. She stated that if they had felt that this was the case, then they would not have allowed Edward to return with the staff and would have notified the authorities. Ms. Kelly stated that the staff who accompanied Edward that night to the hospital was very nice and pleasant. He did not appear to be making excuses for the injury and did not appear to be defensive when questioned about the origin of the injury. Ms. Kelly called Kensington 1 that evening and also talked with Ms. Wilson, staff. She stated that again the staff could not provide the origin of the injury but that she did not feel that they were hiding anything.

On June 2, 2005 Dr. Graeme Johnson, Medical consultant, from DDSN arrived at the Kensington I facility to evaluate Edward's injury and assist with the investigation. Dr. Johnson also reviewed Edward's medical information, staff statements, investigator notes, accident injury record, evaluated the physical environment of Edward's room, and interviewed the nurse, Maggie Mobley. Dr. Johnson will forward his written report to investigator once it is completed. Dr. Johnson stated that he could not determine the origin of the injury but did not feel that the injury was the result of abuse or neglect.

Edward is not able to provide any information as to the origin of the injury. The staff present at the facility did not witness the injury occur. It is probable that the injury occurred while Mr. Heatley was out of the room getting Edward's underwear. There were no zippers or clasps on Edward's clothing that could have caused the injury. There was no blood in his pants. The staff also

checked the underwear that Edward had been wearing earlier that evening and found no signs of blood. The chair in which Edward was found sitting, did not have any sharp edges that could have caused the tear. As the wound continued to tear with minimal evaluation of the injury, indicating a freshness and fragility of the skin in that area, it is believed that the tear was an accidental injury. Without any witnesses or objects that would provide a clear understanding of the injury, the origin remains unexplained. Based on a review of the physical environment, staff statements, nurse's evaluation, Dr. Graeme Johnson's evaluation and staff at Lexington Medical Center's evaluation, there is no reason to believe that the injury was caused by abuse or neglect.

Describe Action Taken:

Edward was evaluated by the nurse and sent to the emergency room for evaluation and treatment.

Is this incident a repeat occurrence with this consumer? ☐ Yes ☒ No

What quality assurance actions were taken to prevent the occurrence of an incident like this?
1. Nursing staff will ensure proper wound care and that Edward is seen by the Urologist.
2. Babcock Center will cooperate with the independent investigations.

Reporting: If the incident was reported to another agency with oversight of the facility/program, please indicate which agency:

Check all that apply: ☒ DDSN ☒ Ombudsman ☐ Service Coordination: _____
☐ DSS ☐ DHEC ☒ Other: Parent/Guardian

Reported by Whom/Title? Gilda Williams, QMRP on-call Date: 05/27/2005

Signature of Investigator — Date: 6/2/05

Signature of Executive Director/Facility Administrator — Date: 6/2/05

This document should be forwarded to the following DDSN staff:
Darlynn Thomas, Director, Quality Assurance/Quality Improvement Division, SCDDSN
PO Box 4706, Columbia, SC 29240 Fax#: 803.898.9656 and
Sam Davis, Program Coordinator, Abuse/Neglect/Exploitation/Critical Incidents, SCDDSN
8301 Farrow Rd., Columbia, SC 29203 Fax#: 803-935.6170

If the critical incident being reported is a death, then complete the Report of Death form.

Mims 1851

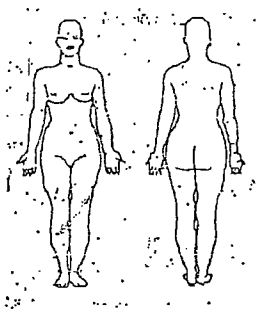
BABCOCK CENTER, INC.
ACCIDENT/INJURY RECORD

Date of Occurrence: 8-3-03 Place: Classroom Time: 7 ~~pm~~ am/pm

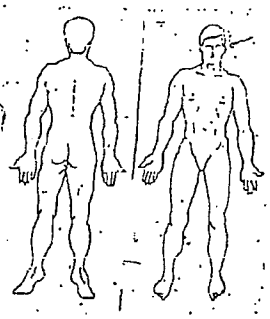
Name: Edward Mims Reported by: Audrey B Curry

Restraint required: ☐ Yes ☐ No (*if yes, must be accompanied by restraint form and BIR)

Was PRN Medication Administered Before Incident? ☐ Yes ☒ No
Name of Drug Administered & Time Administered: _____



Indicate on Figures Part of Body Affected
Describe Extent and Possible Origin of Injury
15:20 hit this resident side the head (left side)
No visible injuries



11:30 am no discomfort or visible signs of injury to L side of head Michelle Eglstrom

Facility Nursing/On-Call Nursing: KI Date: 8/3/03 Time: _____ am/pm

Family/Surrogate Notified: _____ Date: _____ Time: _____ am/pm

QMRP/Coordinator Notified: _____ Date: _____ Time: _____ am/pm

*If applicable
Physician Notified: _____ Date: _____ Time: _____ am/pm
Physicians Orders. Treatment or Statement: _____

Hospitalized: ☐ Yes ☒ No Name of Hospital: _____

Michelle Eglstrom 8/3/03
Nurse's Signature Date

ADMINISTRATIVE REVIEW

☐ Explained Injury* ☐ Unexplained Injury (Refer for investigation)

*If Injury is explained comments required: Resident hit by another resident.

[signature] 8/12/03
Facility Administrator's Signature Date

6-12-09
EXHIBIT NO. 29
Bradford
G. Smith

Effective 9/13/01

Mims001109

Mims 1852

Mims Volume 5

LIST OF EXHIBITS

Volume 1

1. Department of Justice Investigation of Whitten Center, 1995 0001

2. HCFA Compliance Report for SC Home and Community Based Waiver, 1999 0017

3. Training Report, 2002 0044

4. Immediate Jeopardy, Kensington I Report, Feb. 28,2003 0046

5. Immediate Jeopardy, Cluster B. Notice, Nov. 2003 0063

6. Immediate Jeopardy, Ida Lane, Survey Notes, Nov. 24, 2003 0074

7. Immediate Jeopardy, Wire Road II, Survey Notes, Dec. 2003 0087

8. DDSN Limited Scope Audit of Babcock Center, 2003 0098

9. 2004 CMS Report in Response to Complaints at Babcock Center 0149

10. Evaluation of Treatment of Billy Cothran at Kensington, August 2004 0194

11. Immediate Jeopardy, Kensington I Notice and Summary, October 2004 0198

12. Carolina Medical Review of Babcock Center ICF/MRs, 2005 0208

13. Immediate Jeopardy, Kensington Report, March 2005 0250

14. Immediate Jeopardy, Notice of Termination Kensington, April 2005 0252

15. Immediate Jeopardy, Bruton Smith, May 2005 0255

16. SCDDSN Annual Accountability Report, 2004-2005 0260

17. "Unequal Justice," SC Protection and Advocacy, October 2005 0283

Volume 2

18. 2006 HHS Audit of DDSN MR/RD Waiver Program 0359

19. 2007 USC Study of DDSN Programs 0416

20. 2008 LAC Audit of DDSN 0490

21. SC Protection and Advocacy, "No Place to Call Home," July 2009 0582

22. "Segregated and Exploited," January 2011 0666

23. Deposition of Kathi Lacy, June 3, 2009 0728

24. Deposition of Kathi Lacy, July 9, 2009 0836

Volume 3

25. Deposition of Judy Johnson, July 2, 2009 0901

Volume 4

26. Deposition of Stanley Butkus, June 10, 2009 1335

27. Deposition of Margaret Mims, June 23, 2009 1530

28. Deposition of Sue Slater, June 12, 2009 1560

29. Deposition of Andy Laurent, June 3, 2009 1672

30. Deposition of Tonya Bradford, June 12, 2009 1756

Volume 5

31. Correspondence 1853

32. News Reports 1911

Volume 6

33. Affidavit of Senator David Thomas and Exhibits dated December 15, 2011 2015

34. Affidavit of Leigh Flynn, Esquire and Exhibits dated March 6, 2009 2038

35. Affidavit of Margaret Mims and Exhibits dated March 6, 2009 2074

36. Affidavit of Rob Pruitt and Exhibits
dated December 14, 2011 2214

37. Affidavit of Amy Davenport
dated December 15, 2011 2258

Subj: RE: Babcock-need information Tim
Date: Tuesday, February 25, 2003 3:27:02 PM
From: TUno@ddsn.state.sc.us
To: Tjcsvw@cs.com

Tim,
Sorry to hear that they are trying to set you up. At this point, nothing surprises me any more about Babcock. The only advise I can give you is to document everything. Better yet, have witnesses, copies of documents, etc.
Looking over some of my DOJ stuff, the only thing I can come up with quickly is an address. This is:
U.S. Dept. of Justice
Civil Rights Division
P.O. Box 66400
Washington, DC 20035-6400

Tad

-----Original Message-----
From: Tjcsvw@cs.com [mailto:Tjcsvw@cs.com]
Sent: Tuesday, February 25, 2003 3:18 PM
To: Tuno@ddsn.state.sc.us
Subject: Babcock-need information Tim

Tad, I'm being set up by Dr. Johnson and the nursing director Princess Davis.
The issue is nursing incompetence that they are trying to blame on me. Could you explain how the Justice Department came into the instituition you worked in Virginia. I'm going to try and find a way for more federal involvment. I plan to file a complaint tomorrow with Human Affairs but would
like to see a federal takeover or intervention on a broad scale. Thanks,
Tim

Mims 1854

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) IN THE FIFTH JUDICIAL CIRCUIT
)
Anita Hasty, Natural)
Guardian for Kevin Little,) 03CP404056
)
Petitioner,)
)
In Re: Petition for Approval of) ORDER APPROVING
Settlement for an Incapacitated) OF KEVIN LITTLE SETTLEMENT
Person.)

This matter comes before the Court upon the verified Petition of Anita Hasty, the Mother and Natural Guardian for Kevin Little, in the above-captioned action, for an order approving and authorizing Petitioner to accept a settlement offer on a potential claim Mr. Little may have against a treatment facility in which he was housed at the time of the injury leading to this settlement and settlement and termination of all claims by Kevin Little's Petitioner of or on behalf of Kevin Little for injuries sustained as a result of the event set forth in the Petition.

Present in the chambers of the courtroom are Kevin Little, Anita Hasty and Kevin Little's attorneys, W. Gaston Fairey, Esquire and F. Xavier Starkes, Esquire.

Evidence was presented before me to determine the propriety of the proposed settlement. It appears that Kevin Little is a 35-year-old male who is a resident and citizen of Richland County in the State of South Carolina. Kevin Little suffers from a mental condition which meets the statutory elements of an incapacitated person as defined in S.C. Code Ann §62-5-101 (Supp. 2002).

At all relevant times herein, Mr. Little was a resident of a treatment facility and required monitoring at all times. On July 7, 2002, Mr. Little was found unresponsive in

his room with no discernable pulse. He was taken to Palmetto Richland Hospital emergency room by ambulance. He was subsequently admitted to the hospital after being intubated due to respiratory failure in the emergency room. Palmetto Richland emergency room personnel found copious food in Mr. Little's trachea which reduced the amount of oxygen to Mr. Little's brain. As a result of the extended period of reduced oxygen to his brain, Mr. Little suffered brain damage.

It appears that the treatment facility and its insurer, without admitting liability, has offered to pay as full and final settlement of all claims, both of and on behalf of Kevin Little and of Petitioner, the sum of Four Hundred Thousand ($400,000) Dollars. Petitioner seeks approval of the attorney's fees in the amount of One Hundred Sixty Thousand ($160,000) Dollars to be allocated between the firms of W. Gaston Fairey, P.A. and Johnson, Toal & Battiste, P.A. and costs in the amount of $ ~~628.08~~ 468.00 C.V.K. Petitioner also seeks the authority to establish a Special Needs Trust for the benefit of Kevin Little with the remainder of the funds.

I further find that Anita Hasty is a person fit to be appointed Guardian of her son, Kevin Little, for the purposes of this settlement.

After consideration of all the facts and circumstances concerned, including the nature and course of Kevin Little's injuries, the expenses connected therewith, the uncertainty of litigation, the contested nature of liability, and the Petition for Approval of Kevin Little's settlement, it is the opinion of this Court that the proposed settlement, with its allegations thereof as aforesaid, is just and proper and in the best interest of Kevin Little and should have approval of this Court.

The aforesaid offer of settlement and disbursement of the proceeds thereof was fully explained to Kevin Little's Guardian, who is his mother and natural guardian. It was explained that, upon approval by this Court, this would be a final determination and disposition of all liability of the treatment facility, its successors and assigns to or on behalf of Kevin Little or Petitioner. Said Guardian of Kevin Little stated that she understood and wished the Court to approve the settlement.

NOW THEREFORE, IT IS ORDERED.

1. This Court approves the aforesaid settlement and the allocation of attorneys' fees and costs.

2. Anita Hasty is appointed as Guardian of her son, Kevin Little, for the purposes of this settlement.

3. Upon payment of the total sum of Four Hundred Thousand ($400,000) Dollars, Kevin Little's Guardian, Anita Hasty, will be and is hereby authorized to release the treatment facility, its successors and assigns from all liability to or on behalf of Kevin Little or Petitioner on account of the incident described above and the resulting injuries to Kevin Little, past, present and future. Upon execution of such releases as may be required by or on behalf of the treatment facility, its successors and assigns, said parties will be fully discharged from any and all liability to Kevin Little or Petitioner or their heirs, devisees, personal representatives, agents, assigns, conservators or guardians.

4. Petitioner shall have the authority to establish a Special Needs Trust for the benefit of Kevin Little.

AND IT IS SO ORDERED.

L. Casey Manning
Circuit Court Judge Fifth Judicial Circuit

Columbia, South Carolina
August 20, 2003

Mims 1858

Person Centered Family Focused

Richland/Lexington Disabilities & Special Needs Board
420 Rivermont Dr. ▪ Columbia, SC 29210 ▪ Phone: (803) 252-5179 ▪ Fax: (803) 252-5981
E-mail: RLDSNB@aol.com

February 3, 2004

Patricia L. Harrison
611 Holly Street
Columbia, South Carolina 29205

Dear Ms. Harrison:

Please note the following information regarding correspondence received from your office:

Letter 13 January 2004

As discussed previously, prior to your request the Richland/Lexington Disabilities and Special Needs Board was working to follow-up regarding a Human Rights Committee. We do not have this committee at this time.

Your letter states: "We are requesting that *this* decision be reviewed immediately by Richland Lexington Disability Board's human rights committee." It is not clear to what *this* specifically refers. I believe it refers to Mentor placement (which is discussed in the paragraph immediately before the sentence in question) – which is not an issue at this time since Mentor placement was approved and arranged. If I am mistaken please let me know.

Letter 15 January 2004

As you know William C. Cothran resides in an ICF/MR. Your 15 January 2004 letter requests a Rich/Lex DSN Board service coordinator be assigned to Billy. As you know, we do not provide service coordination for people residing in ICF's. Please note that with adequate notice we will send a representative to the meeting referenced. We will then make a decision as to whether or not we would be able to provide service coordination to William.

If you have any questions regarding this information please do not hesitate to contact me at 252-5179 ext. 306. Thank you.

Sincerely,

Mary S. Leitner
Executive Director

Mims 1859

Stanley J. Butkus, Ph.D.
State Director
Robert W. Barfield
Deputy State Director
Administration
Ronald G. Dozier
Associate State Director
Operations
Kathi K. Lacy, Ph.D.
Associate State Director
Policy

SOUTH CAROLINA Department of Disabilities AND Special Needs

3440 Harden Street Ext (29203)
PO Box 4706, Columbia, South Carolina 29240
V/TTY: 803/898-9600, FAX: 803/898-9653
Toll Free: 888/DSN-INFO
Home Page: www.state.sc.us/ddsn/

COMMISSION
Bill G. Alexander
Chairman
Lyssa Harvey
Vice Chairman
J. Lewis Stephens
Secretary
Isaac B. Dickson, Jr.
Ronald Forrest
W. Robert Harrell

April 26, 2004

The Honorable James H. Harrison
State Representative
512 Blatt Building
Columbia, South Carolina 29211

Dear Representative Harrison:

Thank you for your inquiry on behalf of Mr. Billy Cothran, Mr. Ed Mims and Mr. Joe Murray.

As you know, DDSN changed its policy in 1998 to allow consumers and families to pick any qualified provider from which to receive services. To further increase choice, DDSN initiated in 2002 the development of a national solicitation to create a Qualified Provider List. This initiative was done in conjunction with the Materials Management Office of the State Budget and Control Board. This resulted in the approval of new service providers as additional choices for consumers. UCP-SC and Lutheran Family Services are two of these additional choices.

Each DDSN eligible consumer is assessed for service levels and, based on their level of need, resources are assigned to them upon their availability. (Note: Many individuals have few, if any, resources assigned to them and are on waiting lists for services pending new state appropriations to DDSN.) When the consumer/family selects a service provider or a change of service provider, funding resources go with him/her.

Following is service funding information for each of the three men named in your inquiry:

Mr. Billy Cothran –

- Band E – Residential High Needs - $65,567 for FY2003 and FY2004
- No outlier service funds spent
- No ICAP performed

Mr. Joe Murray –

- Band E – Residential High Needs - $65,567 for FY2003 and FY2004
- No outlier service funds spent
- No ICAP performed

DISTRICT I
...row Road, Columbia, SC 29203
Phone: 803/935-7412
Midlands Center - Phone: 803/935-7500
Whitten Center - Phone: 864/833-2733

DISTRICT II
PO Box 3209, Florence, SC 29502-3209
Phone: 843/664-2601
Coastal Center - Phone: 843/873-5750
Pee Dee Center - Phone: 843/664-2600
Saleeby Center - Phone: 843/332-4104

Mims 1860

Mr. Ed Mims –

- Band E – Residential High Needs - $65,567 for FY2003 and FY2004
- Outlier funds spent in FY2002 for one-on-one supervision following incident with another consumer. Mr. Mims subsequently moved, was assessed for 30 days, and determined one-on-one staffing was no longer needed and was discontinued.
- ICAP performed, score = 3

For each of these gentlemen, a maximum of $65,567 will "move" with them to their new choice of service provider dependent upon the rate amount the provider bid in the RFP for Residential High Needs. These funds are available to pay for their residential supports, day supports, enhanced waiver supports and service coordination. In addition, their SSI (probably paid directly to Babcock today) would transfer as well to help pay for room and board expenses.

To change providers, a consumer/family should first contact their provider of service coordination notifying them of their desire to change. Specific to these gentlemen, their current service coordinator is a Babcock Qualified Mental Retardation Professional (QMRP) as they each live in a facility licensed as an Intermediate Care Facility for the Mentally Retarded (ICF/MR). Next the consumer/family should contact the new provider to verify (a) their ability to serve the consumer and (b) a general timeframe that they could begin to provide the service. Again for these gentlemen, selecting a new provider of residential services means they will also select a new provider of service coordination. The Babcock QMRP will coordinate this. Once the new service coordination provider is selected and a new service coordinator is assigned, the new service coordinator will work with the current service coordinator (in this case, the Babcock QMRP), and the new residential provider of choice. This should begin a series of planning meetings for a smooth discharge/admission. The consumer/family should actively participate in these meetings.

I hope this information is helpful. Enclosed are two fact sheets. If you need anything further, please do not hesitate to contact me.

Thank you.

Sincerely,

Lois Park Mole

Lois Park Mole
Director
Government and Community Relations

LPM/sd

Mims 1861

FUNDING BANDS - WHO'S IN WHICH BAND?

BAND E Residential High Needs	Individuals Residing In: • ICF/MR • CRCF - High Needs • CTH II - High Needs
BAND D Residential Low Needs:	Individuals Residing In: • CRCF - Low Needs • CTH II - Low Needs
BAND C Residential Low Needs:	Individuals Residing In: • CTH I • SLP I • SLP II
BAND B Family Supports - Home Supports	Individuals who: • Reside at Home • Are in the MR/RD HCB Waiver • Receive Day Habilitation Supports, and • Receive Enhanced Waiver Supports AND Individuals who: • Reside at Home • Are in the MR/RD HCB Waiver • Only receive Enhanced Waiver Supports
BAND A Family Supports - Day Only Supports	Individuals who: • Reside at Home • Only receive Day Habilitation Supports • Funded by either MR/RD HCB Waiver, Rehabilitation Supports Phase I or State Dollars

SOUTH CAROLINA DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS

STATEWIDE INDIVIDUAL FUNDING LEVELS - EFFECTIVE JULY 1, 2003

		FY 04 Funding
Band E	Residential High Needs	$ 65,567
Band D	Residential Low Needs	$ 45,076
Band C	Supported Residential	$ 19,434
Band B	Family Supports - Home Supports	$ 12,544
Band A	Family Supports - Day Only Supports	$ 7,715

Outliers:

Residential Band E - Individuals whose budgets exceed $83,195 are considered for outlier status.

At Home Band B - Individuals whose budgets exceed $27,987 are considered for outlier status. The majority of the approved outliers are individuals with high levels of nursing service needs.

NON CAPITATED SERVICE COORDINATION RATE

$1,116 per individual on active service coordination

Stanley J. Butkus, Ph.D.
Director
W. Barfield
State Director
Administration
Ronald G. Dozier
Associate State Director
Operations
Kathi K. Lacy, Ph.D.
Associate State Director
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COMMISSION
Bill G. Alexander
Chairman
Lyssa Harvey
Vice Chairman
J. Lewis Stephens
Secretary
Isaac B. Dickson, Jr.
Ronald Forrest
W. Robert Harrell

Attachment 8

May 11, 2004

Mr. William D. Andress, Jr.
Chairman, Planning Committee
Richland/Lexington DSN Board
420 Rivermont Drive
Columbia, South Carolina 29210

Dear Bill:

Good to hear from you. Thanks for the update on Richland/Lexington anning. Looks like it is moving in a positive direction. I had given Mary some eedback earlier that it is important to look at the process as a comprehensive plan for the two counties as opposed to a strategic plan for the Richland/Lexington Board. They are related but different.

Babcock's status as a DSN Board continues. They play a twin role of financial intermediary and service provider. Rich/Lex continues in a planning and coordinating role.

As you note we spent considerable time planning last fall and winter outlining, among other things, various governance options. There was no decision on a different model although there was a general agreement among Committee members that the Vision Model was the one toward which we could evolve. So the current status remains consistent with the November 1997 letter to you when you were Chair.

Mims 1864

...nley I. Butkus, Ph.D.
Director
...rt W. Barfield
...ty State Director
Administration
Ronald G. Dozier
Associate State Director
Operations
Kathi K. Lacy, Ph.D.
Associate State Director
Policy

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COMMISSION
Bill G. Alexander
Chairman
Lyssa Harvey
Vice Chairman
I. Lewis Stephens
Secretary
Isaac B. Dickson, Jr.
Ronald Forrest
W. Robert Harrell

Attached

May 19, 2004

Mr. Rafe Ellisor
Chairman
Babcock Center Board
P.O. 3817
Columbia, South Carolina 29230

Dear Mr. Ellisor:

It was good to meet with you and Sue Slater on May 6th. Thank you for your May 11th letter inquiring about Babcock Center's status as a board.

When we met I mentioned that Babcock Center has been treated like a board, effectively, grand fathered into that status. The planning we did last fall and early winter for Richland and Lexington counties, looked at a number of governance options but nothing changed from the original separation of Babcock and the Rich/Lex Board in 1997. I have enclosed a letter I sent to the respective board chairs that describes the roles. I have also enclosed a copy of a recent letter that I sent to Bill Andress, current chair of the Rich/Lex Planning Committee, when he inquired about Babcock's status as a board. Finally, I have enclosed a copy of the Funding Committee report from 1998 when we shifted to a capitated system. I have marked the paragraph, on page 2, that describes roles of agencies treated as boards.

Sincerely,

Mims 1865

Stanley J. Butkus, Ph.D.
State Director
Robert W. Barfield
Deputy State Director
Administration
Ronald G. Dozier
Associate State Director
Operations
Ruth K. Lacy, Ph.D.
Associate State Director
Policy

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Lyssa Harvey
Vice Chairman
J. Lewis Stephens
Secretary
Isaac B. Dickson, Jr.
Ronald Forrest
W. Robert Harrell
Sophia C. Dore

MEMORANDUM

To: Mr. Ron Dozier
Associate State Director, Operations

From: Dr. Graeme Johnson
Medical Consultant for SCDDSN

Date: June 2, 2004

Subject: Review of Critical Incident Occurring May 27 at Kensington I House

Question:

Review of medical information for inclusion in investigation data and evaluation

Procedure:

- Review in response to request from Babcock Center
- Arranged June 1, 2005
- Kensington I visited 8:20 a.m. – 10:00 a.m. on June 2, 2005
- Brief examination Edward Mims
- Interviews – Angela Richards (QRMP for house)
  Maggie Mobly LPN (house nurse)
  Tonya Bradford (Consumer Advocate Babcock Center)
- Notes reviewed:
  - Medical chart Edward Mims
  - Current medication, nursing, physical exam notes
  - Statements of staff present May 27, 2005
  - Notes received from ER visit

PROTECTION AND ADVOCACY FOR PEOPLE WITH DISABILITIES, INC.

The Protection & Advocacy System for South Carolina

October 7, 2004

Stanley J. Butkus, Ph.D.
Director, South Carolina Department of
Disabilities and Special Needs
P.O. Box 4706
Columbia, South Carolina 29240

Re: Freedom of Information Act request; Richland/Lexington Disabilities and Special Needs Board

Dear Dr. Butkus:

A. Freedom of Information Act Request

Pursuant to the South Carolina Freedom of Information Act, S.C. Code Ann. §§ 30-4-10 et seq., P&A hereby requests that DDSN provide the following information. For the purposes of this request any reference to DDSN, the Richland/Lexington Disabilities and Special Needs Board (Board) and the Babcock Center includes any employee, board member or volunteer of DDSN or of any entity contracting with, funded by or licensed by DDSN to provide any type of services to individuals. A request for any item includes materials contained in paper files, computers and computer directories, and electronic mail. If the state office of DDSN does not maintain some or all of the requested information, please include in your response where it may be located.

1. Any correspondence between DDSN, the Board or Babcock Center regarding the composition or duties of Human Rights Committees since the enactment of South Carolina Code § 44-26-70.

2. Minutes of any DDSN Commission meeting regarding the Board or Babcock Center's Human Rights Committee Committees since the enactment of South Carolina Code § 44-26-70.

3. Copies of any contracts between DDSN and the Board since 1992.

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FAX (843) 571-[illegible]

Mims 1867

This request is also made pursuant to the Protection and Advocacy for Individuals with Development Disabilities Act, 42 U.S.C. §§ 15041 et seq.; its implementing regulations, 45 C.F.R. Part 1386; and S. C. Code Ann. § 43-33-400, which provides that, "All departments, officers, agencies and institutions of the State shall cooperate with the System in carrying out its duties...."

Please provide this information within fifteen business days of receipt of this letter, as required by § 30-4-30.

As the state and federally mandated rights protection organization for individuals with disabilities in South Carolina, P&A requests that any fees be waived in the public interest because furnishing the information is primarily benefiting the public interest, specifically the public interest in preventing the abuse or neglect of individuals with disabilities.

B. Richland/Lexington County Disabilities and Special Needs Board

Earlier this year we contacted you about our concerns about the inconsistencies among Human Rights Committees (HRCs) across the state, including DDSN's own facilities, county/multi-county boards and contract providers. Since that time Robin Wheeler and Nancy McCormick have been meeting with Ron Dozier to address these issues. Ron has been open to suggestions to enhance the composition and functioning of these committees and has considerably improved the prior directive. A copy of Robin's June 7 letter to Ron is enclosed.

On Tuesday, October 5, P&A advocate Nikki Fair attended a public meeting of the Richland-Lexington Disabilities and Special Needs Board (Board). At that meeting the chair of the Board, William Andress, stated that the Board would not establish its own HRC since Babcock Center has been performing this function and they saw "no need to duplicate the function". When Ms. Fair asked for clarification of this statement, Mr. Andress reiterated that Babcock was in existence long before the Board was and that Babcock runs the HRCs. He stated that the Board will not take on the HRC responsibility; their role will be to oversee and look into appeals from the existing HRC if needed.

The Board's position is in direct violation of state law. South Carolina Code § 44-26-70 states:

> Human rights committees.
>
> (A) **Human rights committees must be established** for each regional center and **for each county/multi-county program** to:
>
> (1) **review and advise** the regional center or **the county/multi-county board** on the policies pertaining to clients' rights policies;

Mims 1868

(2) **hear and make recommendations to the** regional center or **county/multi-county** board on research proposals which involve individuals receiving services as research participants pursuant to Section 44-20-260;

(3) **review and advise** the regional center or **county/multi-county board** on program plans for behavior management which may restrict personal freedoms or rights of clients;

(4) **advise** the regional center or **county/multi-county board** on other matters as requested pertaining to the rights of clients.

(B) Human rights committees must be appointed by the director or his designee. Each committee consists of not less than the following five persons, except employees or former employees of the regional center or county/multi-county board must not be appointed:

(1) a family member of a person with mental retardation or a related disability;

(2) a client of the department, if appropriate;

(3) a representative of the community at large with expertise or a demonstrated interest in the care and treatment of persons with mental retardation or related disabilities.

(C) The department shall establish policy and procedures for the operations of the committees.

(D) Members of the committees serve in an advisory capacity only and are exempt from liability. (emphasis added)

Both the previous version and the new version of DDSN Directive 535-02-DD state:

> **This directive establishes policies and procedures for the establishment and operation of a Human Rights Committee** at each South Carolina Department of Disabilities and Special Needs (DDSN) Regional Center and **local Disabilities and Special Needs Board** and sets forth guidelines for the authority, role and responsibility of such committees (emphasis added).

Nothing in this statement suggests that compliance with the directive is optional.

For many years the Board has completely abdicated its oversight responsibility. For example, when Babcock responded to P&A's request for a copy of its HRC policy, the policy provided stated, "There is no legal basis within the South Carolina Code of Laws for the establishment of Human Rights Committees within Babcock Center." **The requirement for HRCs has been in the South Carolina Code since 1992.** Apparently no one on the Board reviewed this manifestly incorrect statement for over ten years.

Likewise, the Department itself has never enforced state law requiring the Board to establish its own HRC.

By permitting Babcock to serve as the proxy of the Board, the Board has violated state law and the Department has failed to exercise its oversight responsibilities. While Babcock may establish its own HRC, the Board is not thereby relieved of its own duties. Recent reports of death, sexual assault and abuse at Babcock indicate the need for effective external review of its actions.[1]

C. Request for immediate action.

The Board and the Babcock Center cannot be permitted to flout the law. It is imperative that the Department exercise its responsibilities. DDSN must invoke any contract provisions requiring compliance with state and federal law and begin proceedings to terminate funding if necessary.

Please contact me at 782-0639 ext. 213 or prevost@protectionandadvocacy-sc.org if you have any questions.

Very truly yours,

Gloria M. Prevost
Executive Director

Cc: Ronald Dozier
Judy Johnson, Ed. D.
Sue Slater
William Andress
Mary Leitner
Dennis Gibbs
Robert Kerr

[1] Based on the email P&A received in response to its FOIA request to the Spartanburg County Disability and Special Needs Board, which stated, "As you may or may not know, the Spartanburg County Disabilities and Special Needs Board is unique in the state in that we do not provide services, per se," it appears that Board may likewise violate state law.

PROTECTION AND ADVOCACY FOR PEOPLE WITH DISABILITIES, INC.

The Protection & Advocacy System for South Carolina

June 7, 2004

Mr. Ronald G. Dozier
Associate State Director, Operations
SCDDSN
P.O. Box 4706
Columbia, South Carolina 29240

Dear Ron:

Thank you for sharing the draft of the updated human rights committee (HRC) directive. We believe these changes offer the opportunity for DDSN's programs to operate in a more clear and consistent manner. As we discussed, the policies themselves are only as good as the oversight. The current directives have not been enforced. We are pleased to see that you are seeking to improve accountability.

Here are a few specific concerns:

1. Some of the "responsibilities" subparts provide that each HRC may establish its own mechanism to receive reports, such as use of emergency restraints. We suggest that the forms and timelines be the same for all facilities. While the job descriptions of individuals may vary from facility to facility, the format and procedures should be the same. It is difficult to evaluate the effectiveness of procedures if the requirements are not consistent.

2. HRCs are ultimately DDSN's responsibility. We have been informed by the Richland-Lexington County DDSN Board that it does not have an HRC; that Babcock operates the HRC. We do not believe that the local board can abdicate its statutory oversight role.

3. Based on the information we received, many local boards have not reviewed their policies in many years. DDSN should review all policies for conformity to the existing directive and to the proposed directive.

4. Local HRCs are inconsistent in their policy-making role. DDSN should develop training for local board members about their ability to suggest policy changes. For example, a local HRC could suggest that the board change its emphasis from larger to small facilities.

5. Boards should receive training about the meaning of the term "restrict personal freedoms or rights". For example, as we discussed, denying a person the freedom to buy a Playboy is a rights restriction. Board members should be presented information about

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all restrictions on resident activities, justifications for those limitations, and the least restrictive means available to meet a goal of safety of the person or others.

6. The policy should include a time limit for notifying HRC members about the use of emergency restraints and alleged abuse, neglect or exploitation. There is no reason why notification procedures about these important events should not be the same across the state. The potential harm to the individual is the same regardless of where he or she lives.

7. Former employees should not vote on matters affecting individuals with whom they had previous involvement as a staff member.

8. We suggest considering both excused and unexcused absences as grounds for removal. Many excused absences still interfere with the operation of the committee.

9. The directive suggests that there is discretion whether advocacy representatives may attend meetings. A P&A representative has a clear right to be present during discussions involving a client. The directive should make it clear that P&A staff may attend any HRC meeting, subject to confidentiality requirements.

10. Procedures for emergency review should be the same across the state. Written justification for the proposed action should be immediately provided to the HRC members. DDSN staff are responsible for promptly reaching each member through fax or email communication. Documentation of each emergency review should be completed at the time.

11. Failure to complete training as scheduled is a ground for termination of HRC membership. We suggest developing training modules which can be competed by filling out a workbook or have training online, as well as in person.

12. We suggest that all trainings include a consumer's perspective.

13. The policy should clarify that it applies to anyone receiving DDSN services in any kind of facility, including CRCFs, SLPs, workshops, and CTHs, and to any provider receiving DDSN funds.

We are pleased that DDSN is recognizing the need to improve the operation of HRCs and look forward to continuing to work with you.

Sincerely,

Robin F. Wheeler
Attorney at Law

Mims 1872

SENATORIAL DISTRICT NO. 23
LEXINGTON COUNTY

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E-MAIL: JMK@SCSENATE.ORG

HOME ADDRESS:
500 WEST DUNBAR ROAD
WEST COLUMBIA, SOUTH CAROLINA 29169

December 7, 2004

Dr, Stan Butkus, Director
Department of Disability and Special Needs
3440 Harden Street Extension
Columbia, South Carolina 29240

Dear Stan,

On behalf on myself, and Representative Mac Toole, we would like to express our appreciation for you taking the time to meet with us to discuss the problems that have occurred at the Babcock Center for the past couple of years.

As you are aware, the patients at the Babcock Center require special attention due to their health conditions and special needs. Over the past couple of years, we have patiently waited for improvements to the care of these special needs patients. We have made attempts to assist in improving the level of care that the special needs patients receive to no avail. We are now at a point that it has become vital that appropriate measures are taken to improve the care of the special needs patients at the Babcock Center. Once again, we are attempting to provide guidance and assistance in hopes to find a solution to this ongoing problem. It is imperative that we all come together to determine a plan of action.

It is our intention today to request a plan of action from you. You have a responsibility to the special needs patients that range from placement to appropriate healthcare. We are providing you with the opportunity to seek a solution to this ongoing issue. It is our understanding that the main standards of Medicaid is controlled by DHEC and certified to Medicaid that those standards have been met. However, nothing in the law that precludes your agency from setting higher standards above the minimum standards set by Medicaid. In addition, we would like for you to address in your plan of action the following:

- Standards (Quality of people, processes and programs)
- Placement and Competition
- Controlled Responsibility and Accountability
- Administration and Management Leadership

Mims 1873

Please bear in mind that the items listed above are [illegible]
be helpful but you are not limited to just these suggestions.

We respectfully request this information to be completed by December 14, 2004 in order for us to prepare our plan of action. We look forward to working with you to develop a plan of action that will best meet the needs and care of our special needs patients.

Thank you in advance for your assistance in this matter.

Sincerely,

John M. "Jake" Knotts, Jr.
Senate District 23

McLain R. "Mac" Toole
House District 88

Mims 1874

IMPORTANT INFORMATION – PLEASE READ

December 10, 2004

Dear Family Member:

Earlier this week Dr. Johnson, Executive Director, and I met with Dr. Butkus, State Director of the SC Department of Disabilities and Special Needs (SCDDSN). We received a copy of the attached letter from Senator Knotts and Representative Toole. The letter indicates that pressure is being placed upon Dr. Butkus to develop a plan by December 14 that "will best meet the needs and care of our special patients." In response, Dr. Butkus informed us that his plan will include a requirement that Babcock Center's Residential Program will be cut by 50%. Family and consumer choice is not a priority since we were told that SCDDSN would have the ultimate placement decision.

It appears that Senator Knotts and Representative Toole expect that there will never be incidents at Babcock Center or any other provider of services for people with disabilities and special needs. As parents and family members, we know very well the challenges that are sometimes presented by individuals with disabilities. The legislators' expectation is simply unrealistic. On the other hand, Babcock Center reports and investigates incidents as they occur and holds staff accountable. Abuse of any kind is not tolerated!

Dr. Johnson and I asked if we would have input to the SCDDSN plan and were told that we would not. Further, we would be sent our copy when the plan was mailed to the legislators! We will, however, respond to it. Please complete the enclosed survey to help us prepare the response. We need to know how you feel about the services you and your family member receive. Also EXTREMELY important will be letters, testimonials, phone calls and visits to your legislators. They must know how you personally feel about Babcock Center if you want this agency to continue serving your family member. I would appreciate a copy of any letter you write or information about your contacts with your legislators. However, should you be dissatisfied and want to have another provider, Babcock Center will work to help make a transfer happen.

Again, if you want the Babcock Center to continue serving your family member, it is very IMPORTANT for you to let our elected officials know and know very soon!

M. Sue Slater
Chairman of the Babcock Center Board of Directors

Phone: (803) 736-4595
E-mail: sue3403@msn.com
Address: 220 Great North Road
Columbia, SC 29223

Bridging the Gap
for People with Lifelong Disabilities

Mims 1875

cc: Jerry B.

BABCOCK CENTER

20 December 2004

Senator Jake Knotts
608 Gressette Building
Columbia, SC 29202

Dear Senator Knotts:

Thank you for meeting with me last Wednesday afternoon. It was readily apparent that you continue to be a strong advocate for people with disabilities and special needs. As we have discussed on several occasions, and as noted in correspondence from Dr. Butkus, the Babcock Center has made significant progress during the past 2 ½ years. Recent examples are letters from Dr. Butkus and Dr. Kathi Lacy, Associate State Director, SCDDSN. (Attachment 1) Also, please note the list of accomplishments that have been compiled for your information. (Attachment 2)

During our meeting you asked me to come up with a plan since Babcock Center had not been given the opportunity to provide input into the plan developed by SCDDSN. The following paragraphs describe a multifaceted plan that we believe address the specific plan elements listed in the letter you and Representative Toole sent to Dr. Butkus. Please note that several plans are already implemented as it has been our goal to improve the quality of services provided by Babcock Center since I became Executive Director in May 2002.

1. **Standards (Quality of people, processes and programs).** Two key components of this element are in place and being executed at Babcock Center.
   a. Babcock Center Quality Assurance Plan. Published on June 9, 2004, this plan is divided into three components. (1) Systems and processes already in place and implemented. (2) New initiatives within 30-60 days of implementation. And (3) planned initiatives through fiscal year 2005. (Attachment 3) A current update on the status of the Plan's execution is provided for review. (Attachment 4)
   b. Babcock Center Quality Enhancement Plan. Developed in May 2004, this plan is designed to evaluate Babcock's progress in improving the quality of its services, facilities and the overall quality of life and personal goals accomplishments of the people it serves. On May 19, 2004, Babcock Center asked SCDDSN to assist in developing baseline data on which to

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Mims 1876

objectively measure the progress, or lack thereof, of its endeavors to continue improving in each area of service and support. (Attachment 5) Babcock Center received baseline data from SCDDSN in September 2004 and will submit its first quarterly status report to SCDDSN by January 31, 2005.

2. **Placement and Competition**. Babcock Center hosted a "Provider Fair" in March 2004. SCDDSN-approved provider agencies on its Qualified Provider List (QPL) participated. Family members of people served by Babcock Center were invited.

On December 7, 2004, during our semi-annual Parent/Guardian Meeting, notification of a March 2005 Provider Fair was given. Notices advertising the Fair will be sent to all parents and guardians of people who reside in Babcock Center facilities early in February 2005.

Babcock Center, in compliance with its 2004 contract with SCDDSN, developed a Residential Reduction Plan. The Plan provides for a 25% reduction in Babcock's then current residential population of 635 to 482, a reduction of 153 spaces over a 4-year period. (Attachment 6) SCDDSN approved the Babcock Center Residential Reduction Plan on April 23, 2004. (Attachment7)

Residential space reduction at Babcock Center is ahead of schedule. Currently, 60 residential spaces have been eliminated. Ten Babcock residential facilities have been closed. By the end of January 2005, an entire apartment complex will be empty. In many cases, by preference, residents were relocated to vacant spaces in other Babcock facilities. Others transferred to providers in counties located nearer to their families and some went to other agencies listed on SCDDSN's Qualified Provider List.

3. **Controlled Responsibility and Accountability**. Babcock Center has agreed to provide SCDDSN with quarterly reports on its Quality Enhancement Plan (QE Plan). The first report is due by the end of January 2005. (See QE Plan in Element #1.)

Babcock Center operations are closely regulated and scrutinized by a number of external agencies including SCDDSN, the SC Department of Health and Environment Control (DHEC), the SC Department of Health and Human Services (DHHS) and the Center for Medicare and Medicaid Services (CMS). Currently, Carolina Medical Review is reviewing records, reports and facilities on the authority of the Director, DHHS. Certification surveys by DHEC and reviews by these other agencies fix responsibility and mandate accountability.

More than two years ago, a Parent/Consumer Review Team consisting of family members and people with disabilities and special needs was established. Training of the Team to teach them how to inspect Babcock Center facilities using a detailed inspection list was provided. Small teams from this group inspect

facilities and turn in reports to the Executive Director each month. The Team meets monthly to hear corrective action on any problems reported during the previous month. In order to maintain objectivity, family members do not inspect their own member's Babcock residence.

4. **Administration and Management Leadership.** It is Babcock Center's intention to ensure governmental authority and control. Babcock Center has been treated by SCDDSN as a public, County Disabilities and Special Needs Board, almost since it was incorporated more than thirty years ago. Recent documentation of this special status is contained in SCDDSN letters dated May 11 and May 19, 2004. (Attachment 8)

The Babcock Center Board of Directors voted unanimously to step down if the respective County Councils of Lexington and Richland Counties approve the official establishment of the Babcock Center as a disabilities and special needs board. The Board of Directors is convinced that Babcock's becoming a public agency and accountable to the two County Councils is in the best interest of the people it supports, their family members and recruitment/retention of quality employees.

Although not part of the Babcock Plan for continued improvement, the SCDDSN Plan to which we had no input is also addressed. (Attachment 9) There are several inaccurate and misleading statements that must be corrected.

It is extremely important to note that the majority of families supported by Babcock Center are very satisfied with the services provided to their loved one. As we all know, one former Babcock Center Board Chairman (who was asked by her colleagues to step down as Chair) has refused to accept the fact that Babcock Center has made significant improvements. Her relentless public attack on Babcock Center assuredly has caused you to receive calls and inquiries from your constituents. It is time to let the truth be known! While Babcock Center has had a few incidents of substantiated abuse, they have been reported to the proper authorities, investigated and responsible employees held accountable. Senator, we take our responsibilities for those we support seriously and we take pride in the improvements made to date.

Sincerely,

Judy Johnson, Ed.D.
Executive Director

cc: Rep. Mac Toole
Board of Directors

Mims 1878

Attachment 9

Comments on the SCDDSN Action Plan dated December 17, 2004

The statement, "...DDSN had previously issued an audit of Babcock Center of Babcock Center." This statement and associated discussion fail to give credit to the Babcock Center Board of Directors who requested the audit by SCDDSN upon the resignation of the previous Chief Executive Officer early in 2002.

It is accurate to state that SCDDSN did ask Babcock Center to develop a plan to reduce the size of its residential program. However, SCDDSN's initial request would have economically destroyed Babcock Center by having it reduce its program down to the size of the state average number of consumers receiving residential services in each county. Babcock Center developed a plan to reduce its residential services by 25% over a 4-year, not 3-year period. SCDDSN approved the plan.

It is extremely misleading to give the impression that SCDDSN initiated action to take over the operation of the Clusters in Lexington. Babcock Center requested that they take over the operations and SCDDSN initially agreed. They then backed away from that commitment. The SCDDSN presence during the closing months of the Clusters was limited to one non-degreed staff that works at Midlands Center and, incidentally, is a part-time direct care staff for Babcock Center. The Babcock Residential Director, West actually managed the Clusters throughout the closing period and handled the transfer of the Clusters residents to other Babcock or other provider facilities.

The statement that 29 consumers and families have "...chosen to move from Babcock Center to other providers..." is also misleading. These people had to move out of the Clusters. Hard work on the part of Babcock Center to contact family members; answer their questions; arrange tours; and expedite paperwork did result in successful relocation of many consumers to providers located closer to their family members. Many others chose to remain with Babcock Center and did not want to leave. We were able to transfer them into vacancies in other group homes.

SCDDSN did create the Qualified Provider List (QPL). However, SCDDSN failed to include the intermediate care facilities for the mentally retarded (ICF/MR) in its provider solicitation. Thus, Babcock's ICF's/MR presently cannot be transferred to QPL providers to operate. ICF's/MR have eight residents each and are the most challenging homes to operate. ICF/MR residents function at the severe or profound level of mental retardation and present behavior issues often on a daily basis. Critical incidents and even isolated instances of abuse can and do occur in group homes with difficult and challenging residents.

We all know from whence the issues continue to arise. The primary source is one disgruntled, former chairperson of the Babcock Center Board of Directors. She continues to cite and recite incidents that occurred primarily more than three years ago and embellishes facts with truth, half-truth and untruth without stopping since her resignation

Mims 1879

in August 2002. Babcock Center has yet to claim perfection; however, we know that we have made significant progress and will continue to work with perfection as a goal.

We strongly disagree with the SCDDSN statement, "...a review of the current situation clearly shows a need for a new agreement concerning service delivery and the size of operations in the Midlands area." This statement is not supported by the facts. Babcock Center has carried out its mission in spite of repeated attacks and allegations by one person and a local newspaper. The vast majority of family members, approximately 90%, whose loved ones are served in Babcock residences are satisfied with the agency services and do not want them moved or cared for by another provider. SCDDSN neglects to include choice by consumers and family members until as a seeming after-thought mentions it towards the end of the document.

It is absolutely unrealistic to cut Babcock Center's residential program beyond the 25% figure contained in the previous plan or to reduce the time period from four years to 12-18 months. As mentioned earlier, none of the QPL providers are approved to operate ICF's/MR. There are few vacancies in county DDSN Boards since there has not been money available to expand services for people with disabilities and special needs for several years.

The federal government requires that families and consumers be provided with a choice of providers. A 50% reduction in Babcock's residential program is an arbitrary and capricious decision. It does not support choice.

Babcock Center continues to be scrutinized by virtually every investigative agency in the state as well as the Center for Medicare/Medicaid Services (CMS). For more than two years, this non-stop level of inspections, investigations and reviews has put Babcock in a reactionary role and more importantly has pushed it further away from implementing new and better quality services in all of its programs and supports.

The plan calls for a different Babcock Center requiring a different board structure and members with varied experience, knowledge and skills. As the governing authority it needs to be representative of a cross section of the two counties. The current Babcock Center Board includes a Planning Facilitator and former administrator of a facility for people with mental retardation, a business and real estate consultant, an interior designer, a CPA, an attorney, a college professor, a minister, a management consultant and the Executive Director of the Autism Society. About half are parents or family members of an adult with disabilities and special needs. Experience, knowledge and skill of the Board Members is not an issue. Representation of a cross section of the two counties, however, is a problem. Indeed, one of the primary reasons for the Board's decision to seek county disabilities and special needs board status was to provide that important representation and accountability.

There is no supporting rationale for a 9-member board, or any other size for that matter. SCDDSN fails to note that so long as Babcock Center remains as a private, non-profit, 501 (c) (3) organization, no public body may approve or disapprove its board members.

This is another reason to support Babcock Center's initiative to become a public entity and accountable to the respective County Councils of Lexington and Richland Counties.

The SCDDSN Plan states that all items can be accomplished with existing resources. However, once again consideration of consumer/family choice is omitted. If 90% of Babcock's current consumers/families do not want to leave Babcock Center, what happens to this plan? While resources may remain constant, the fact is that the primary "action" in the plan to cut Babcock's residential and associated programs in half becomes a moot point if the anticipated objection by families comes to pass. That is not to say that Babcock Center objects to any family or consumer's desire to transfer to another provider. As emphasized numerous times, Babcock Center remains committed to honoring and facilitating such choices.

Stanley I. Butkus, Ph.D.
State Director
Robert W. Barfield
Deputy State Director
Administration
Ronald G. Dozier
Associate State Director
Operations
Kathi K. Lacy, Ph.D.
Associate State Director
Policy

SOUTH CAROLINA Department of Disabilities AND Special Needs

3440 Harden Street Ext (29203)
PO Box 4706, Columbia, South Carolina 29240
V/TTY: 803/898-9600, FAX: 803/898-9653
Toll Free: 888/DSN-INFO
Home Page: www.state.sc.us/ddsn/

COMMISSION
Bill C. Alexander
Chairman
Lyssa Harvey
Vice Chairman
J. Lewis Stephens
Secretary
Isaac B. Dickson, Jr.
Ronald Forrest
W. Robert Harrell
Edythe C. Dove

December 17, 2004

The Honorable John M. "Jake" Knotts, Jr.
Senator
500 West Dunbar Road
West Columbia, SC 29169

The Honorable McLain R. "Mac" Toole
Representative
180 Dogwood Circle
West Columbia, SC 29170

Dear Senator Knotts and Representative Toole:

This letter is a follow-up to our meeting on December 7 and your request for an action plan. We have already initiated a number of significant changes.

As you both know, DDSN had previously issued an audit of Babcock Center. Since that time we have been monitoring their progress and working with them to resolve programmatic issues that have arisen since then. DDSN has also worked closely with Mr. Robby Kerr, Director of the Department of Health and Human Services (DHHS), to address issues identified in DDSN's audit, DHHS' audit and other governmental surveys and licensing reviews. During this time I have kept Senator Knotts informed and recently Mr. Kerr and I met together with Senator Knotts to update him.

Based on the information in DDSN's initial audit and the other reports we received, I became concerned about Babcock's size and the scope of responsibility. As a result DDSN initiated an agreement with Babcock in March 2004 to reduce the number of persons receiving residential services from Babcock by 25 percent over three years. It was felt by DDSN that this was necessary in order to reduce significantly the operational component at Babcock so as to make it a more manageable size to ensure the health and safety of residents. To date 58 of this residential bed reduction has occurred. The largest portion of this reduction occurred as a result of DDSN taking over operations of the Clusters in Lexington and then later actually closing the facility during the fall.

In March 2004 DDSN and Babcock agreed to a 25 percent reduction plan that would have resulted in the contract being reduced from 634 to 482 residential placements. The new requirement will be to go from 634 to 317 residential placements. This will be accomplished in three, 6-month phases. During the next six months it is expected that Babcock's contract will be reduced by approximately 90 beds. This is in addition to the 58 already accomplished. This means the contract starting July 1, 2005 will have both of these reductions implemented. The remainder of the reduction will be divided into two more 6-month reductions.

- The reduced residential services will be accomplished by assigning programs to other provider organizations which may include other disabilities and special needs boards, organizations on DDSN's approved qualified provider list or through DDSN's solicitation of additional providers.

- DDSN will coordinate and schedule meetings to inform families about choice and service options.

- DDSN will implement an independent survey of family members on their preference of service provider and on any concerns they may have about the quality of services they are currently receiving.

Standards/Accountability

Oversight will continue as follows:

- DHEC
- DHHS
- DDSN's licensure office
- DDSN's independent quality reviews
- DDSN's audit division

Additional new oversight steps have begun or will be taken:

- DDSN through First Health Corporation will monitor performance through additional, specially selected health and safety indicators. These findings will be reviewed with Babcock management.

- DDSN will contract or arrange for independent investigators to review allegations of abuse and neglect.

- DDSN will encourage families to contact DDSN's Office of Consumer Affairs regarding concerns they may have about service quality.

- DDSN will encourage families to contact SC Protection and Advocacy System regarding concerns or issues they might have about human rights or potential human rights violations.

- DDSN will assess the need for updated training for Babcock Center staff.

- DDSN will implement recommendations that may follow DHHS' independent review of ICF-MR programs run by Babcock Center.

Mims 1883

We must all remember the consumers and families during implementation of the action plan. It is important for them to be informed and involved. The meetings and survey of families will help accomplish this. Some families have already chosen to receive services from a different provider. Other families are still pleased with Babcock services and do not wish to change providers. DDSN will respect families' choices as long as we are confident that quality services are being received. Health, safety and the well-being of individuals remain the top priority.

We hope this information is helpful to you and I will keep you informed of our progress. In the meantime, please feel free to call me at anytime.

Sincerely,

Stan Butkus, PH.D.
State Director

SB/sd

Mims 1884

State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Robert M. Kerr
Director

January 19, 2005

Mr. C. Earl Hunter
Commissioner
South Carolina Department of Health and
Environmental Control
2600 Bull Street
Columbia, South Carolina 29201

RE: Review of Babcock Center, Inc., Conducted By Carolina Medical Review

Dear Mr. ~~Hunter~~ Earl:

As you know, I asked Carolina Medical Review (CMR) our Quality Improvement Organization (QIO), to perform an immediate review of Babcock Center, Inc., an intermediate care facility for the mentally retarded (ICF/MR). Asking a QIO to perform such a review was an unusual step for this agency. However, this review was performed as a result of my concerns regarding the number of incidents of immediate jeopardy found at Babcock by the Centers for Medicare and Medicaid Services (CMS). Particularly, these incidents were found after your agency had certified the facilities met the federal requirements to participate as an ICF/MR under the Medicaid program.

I have enclosed a copy of CMR's initial report for your review. Based on the findings of this limited review, I am concerned that the deficiencies noted may be indicative of more pervasive problems at Babcock. As you will see in the report, many of the findings relate to management and staffing issues, lack of evidence of ongoing active treatment, and lack of evidence of assessments for appropriate level of care.

I realize that at any given time, a facility may be found out of compliance one day, and in compliance with federal requirements the next. However, the findings in CMR's report cannot be ignored. As you will note from the report, CMR used the same standards for participation, provided in the Code of Federal Regulations (CFR), as DHEC. As a result of these findings, CMR was unable to provide us adequate assurance that Babcock was meeting the conditions of participation as required under the federal regulations.

Office of the Director
P.O. Box 8206 • Columbia, South Carolina 29202-8206
(803) 898-2504 • Fax (803) 898-4515

Mims 1885

P.80

As the agency designated by CMS to survey and certify facilities, I am requesting that your agency conduct the necessary surveys of Babcock, as a whole, to provide DHHS the assurance that these facilities are meeting the standards to participate as an ICF/MR under the Medicaid program. Please let me know of any obstacle that would prevent you from immediately performing this survey.

A meeting date is being set for representatives from CMR to be available to discuss these findings with you, the Department of Disabilities and Special Needs (DDSN), and Babcock. Additionally, I will be contacting you and CMS to schedule a meeting to advise them of our course of action and to receive appropriate guidance.

If you have any questions, please contact me at (803) 898-2504.

Sincerely,

Robert M. Kerr
Director

RMK/sb

Enclosure

Mims 1886

State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Robert M. Kerr
Director

January 19, 2005

Mr. Renard L. Murray
Associate Regional Administrator
Division of Medicaid and Children's Health
Center for Medicare and Medicaid Services
61 Forsyth Street, Suite 4T20
Atlanta, Georgia 30303-8909

RE: Review of Babcock Center, Inc., Conducted By Carolina Medical Review

Dear Mr. Murray:

As you recall, I recently contacted you about my concerns regarding the number of incidents of immediate jeopardy found at facilities operated by Babcock Center, Inc., an intermediate care facility for the mentally retarded (ICF/MR). I was particularly concerned because a number of incidents of immediate jeopardy were found by the Centers for Medicare and Medicaid Services (CMS) after the Department of Health and Environmental Control (DHEC) had certified Babcock facilities met the federal requirements to operate as an ICF/MR.

After our discussions, we agreed I would have an independent quality improvement organization perform a review of Babcock facilities. I asked Carolina Medical Review (CMR) to perform an immediate review of Babcock facilities to determine whether these facilities are meeting the federal requirements to participate as an ICF/MR under the Medicaid program.

CMR has completed its review of the Babcock facilities, and I am enclosing a copy of the initial report. Based on the findings of this limited review, I am concerned that the problems noted may be indicative of more pervasive problems at Babcock. Many of the problems relate to management and staffing issues, lack of evidence of ongoing active treatment, and lack of evidence of assessments for appropriate level of care. I have forwarded a copy of this report to Babcock and the Department of Disabilities and Special Needs (DDSN), as

Office of the Director
P.O. Box 8206 • Columbia, South Carolina 29202-8206
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Mims 1887

DDSN is the agency designated by the state with the authority over all of the state's services and programs for the treatment and training of persons with mental retardation and related disabilities.

As a result of the finding in the report, CMR was unable to provide us assurance that Babcock was meeting the conditions of participation as required under the federal regulations. Therefore, as the agency designated by CMS to survey and certify facilities, I have asked DHEC to conduct the necessary surveys of Babcock, as a whole, to provide DHHS the assurance that these facilities are meeting the standards to participate as an ICF/MR under the Medicaid program.

Further, I am scheduling a meeting with DHEC, DDSN, Babcock, and representatives from CMR to discuss the findings in the report. I will also be contacting you and DHEC to schedule a meeting to receive guidance regarding our course of action. If there are any additional actions we should be taking please advise. Any guidance your office can provide will be greatly appreciated.

I look forward to discussing this matter with you. You may contact me at (803) 898-2504.

Sincerely,

Robert M. Kerr
Director

RMK/sb

Enclosure

Mims 1888

State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Robert M. Kerr
Director

January 19, 2005

Dr. Judy Johnson
Executive Director
Babcock Center, Inc.
P.O. Box 3817
Columbia, South Carolina 29230

RE: Review of Babcock Center, Inc., Conducted By Carolina Medical Review

Dear Dr. Johnson:

As you are aware, I asked our Quality Improvement Organization (QIO), Carolina Medical Review (CMR) to perform an immediate review of Babcock facilities to determine whether these facilities are meeting the federal requirements for participation as an ICF/MR under the Medicaid program. CMR has completed its review of the Babcock facilities and has provided me a report of its findings. I have enclosed a copy of the preliminary report for your review. Based on the findings of this limited scope review, I am concerned that the deficiencies noted may be indicative of more pervasive problems at Babcock. Specifically, I am most concemed about the lack of evidence of ongoing active treatment for clients. Additionally, the report noted that two facilities had changed from an ICF/MR to a Community Training Home II. However, there was not documentation to indicate that the clients had been assessed and found to be appropriate for a different level of care. Failure to correct these deficiencies may place continued Medicaid funding for Babcock facilities in jeopardy.

A copy of the report has been forwarded to the Department of Disabilities and Special Needs (DDSN) and the Department of Health and Environmental Control (DHEC). DDSN is the designated agency with authority over all the state's services and programs for the treatment and training of persons with mental retardation and related disabilities. DDSN also provides the state matching funds for your facilities. Therefore, it is critical that you coordinate with DDSN to immediately develop a corrective action plan to address the conditions at Babcock.

Office of the Director
P.O. Box 8206 - Columbia, South Carolina 29202-8206
(803) 898-2504 - Fax (803) 898-4515

Mims 1889

A meeting date is being set for representatives from CMR to be available to discuss these findings with you, DDSN, and DHEC. If you have any additional information that you feel will change the findings in this report, please provide that to me immediately.

If you have any questions, you may contact me at (803) 898-2504.

Sincerely,

Robert M. Kerr
Director

RMK/sb

Enclosure

Mims 1890

State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Robert M. Kerr
Director

January 19, 2005

The Honorable John M. Knotts, Jr.
Member, South Carolina Senate
608 Gressette Building
Columbia, South Carolina 29202

Dear Senator Knotts:

As you are aware, there have recently been a number of incidents of immediate jeopardy at Babcock Center, Inc., an intermediate care facility for the mentally retarded (ICF/MR). As a result, I took the unusual step of asking our Quality Improvement Organization (QIO), Carolina Medical Review (CMR), to perform an immediate review of Babcock facilities to determine whether these facilities are meeting the federal requirements for participation as an ICF/MR under the Medicaid program. CMR has completed its review of Babcock and has provided me a report of its findings. I have enclosed a copy for your review. As a result of these findings, CMR was unable to provide us adequate assurance that Babcock was meeting the conditions of participation as required under the federal regulations. Therefore, I have asked the Department of Health and Environmental Control (DHEC), the agency designated by federal regulation to survey and certify facilities, to conduct the necessary surveys of Babcock, as a whole, to provide DHHS the assurance that these facilities are meeting the standards to participate as an ICF/MR under the Medicaid program.

I provide this report for your information only and have also enclosed copies of correspondence to all responsible agencies. In addition, I have provided you a copy of the respective authority and responsibilities of state agencies involved in providing services to ICF/MR facilities.

If you have any questions or require further information regarding this matter, please do not hesitate to call me.

Sincerely,

Robert M. Kerr
Director

RMK/sb

Enclosure

Office of the Director
P.O. Box 8206 • Columbia, South Carolina 29202-8206
(803) 898-2504 • Fax (803) 898-4515

Mims 1891

State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Robert M. Kerr
Director

January 19, 2005

The Honorable McLain R. Toole
Member, South Carolina House of Representative
323 Blatt Building
Columbia, South Carolina 29211

Dear Representative Toole:

As you are aware, there have recently been a number of incidents of immediate jeopardy at Babcock Center, Inc., an intermediate care facility for the mentally retarded (ICF/MR). As a result, I took the unusual step of asking our Quality Improvement Organization (QIO), Carolina Medical Review (CMR), to perform an immediate review of Babcock facilities to determine whether these facilities are meeting the federal requirements for participation as an ICF/MR under the Medicaid program. CMR has completed its review of Babcock and has provided me a report of its findings. I have enclosed a copy for your review. As a result of these findings, CMR was unable to provide us adequate assurance that Babcock was meeting the conditions of participation as required under the federal regulations. Therefore, I have asked the Department of Health and Environmental Control (DHEC), the agency designated by federal regulation to survey and certify facilities, to conduct the necessary surveys of Babcock, as a whole, to provide DHHS the assurance that these facilities are meeting the standards to participate as an ICF/MR under the Medicaid program.

I provide this report for your information only and have also enclosed copies of correspondence to all responsible agencies. In addition, I have provided you a copy of the respective authority and responsibilities of state agencies involved in providing services to ICF/MR facilities.

If you have any questions or require further information regarding this matter, please do not hesitate to call me.

Sincerely,

Robert M. Kerr
Director

RMK/sb

Enclosure

Office of the Director
P.O. Box 8206 • Columbia, South Carolina 29202-8206
(803) 898-2504 • Fax (803) 898-4515

Mims 1892

State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Robert M. Kerr
Director

January 19, 2005

The Honorable Edward H. Pitts, Jr.
Member, South Carolina House of Representative
327D Blatt Building
Columbia, South Carolina 29211

Dear Representative Pitts:

As you are aware, there have recently been a number of incidents of immediate jeopardy at Babcock Center, Inc., an intermediate care facility for the mentally retarded (ICF/MR). As a result, I took the unusual step of asking our Quality Improvement Organization (QIO), Carolina Medical Review (CMR), to perform an immediate review of Babcock facilities to determine whether these facilities are meeting the federal requirements for participation as an ICF/MR under the Medicaid program. CMR has completed its review of Babcock and has provided me a report of its findings. I have enclosed a copy for your review. As a result of these findings, CMR was unable to provide us adequate assurance that Babcock was meeting the conditions of participation as required under the federal regulations. Therefore, I have asked the Department of Health and Environmental Control (DHEC), the agency designated by federal regulation to survey and certify facilities, to conduct the necessary surveys of Babcock, as a whole, to provide DHHS the assurance that these facilities are meeting the standards to participate as an ICF/MR under the Medicaid program.

I provide this report for your information only and have also enclosed copies of correspondence to all responsible agencies. In addition, I have provided you a copy of the respective authority and responsibilities of state agencies involved in providing services to ICF/MR facilities.

If you have any questions or require further information regarding this matter, please do not hesitate to call me.

Sincerely,

Robert M. Kerr
Director

RMK/sb

Enclosure

Office of the Director
P.O. Box 8206 • Columbia, South Carolina 29202-8206
(803) 898-2504 • Fax (803) 898-4515

Mims 1893

State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Robert M. Kerr
Director

January 19, 2005

The Honorable Tracy R. Edge
Member, South Carolina House of Representative
503B Blatt Building
Columbia, South Carolina 29211

Dear Representative Edge:

As you are aware, there have recently been a number of incidents of immediate jeopardy at Babcock Center, Inc., an intermediate care facility for the mentally retarded (ICF/MR). As a result, I took the unusual step of asking our Quality Improvement Organization (QIO), Carolina Medical Review (CMR), to perform an immediate review of Babcock facilities to determine whether these facilities are meeting the federal requirements for participation as an ICF/MR under the Medicaid program. CMR has completed its review of Babcock and has provided me a report of its findings. I have enclosed a copy for your review. As a result of these findings, CMR was unable to provide us adequate assurance that Babcock was meeting the conditions of participation as required under the federal regulations. Therefore, I have asked the Department of Health and Environmental Control (DHEC), the agency designated by federal regulation to survey and certify facilities, to conduct the necessary surveys of Babcock, as a whole, to provide DHHS the assurance that these facilities are meeting the standards to participate as an ICF/MR under the Medicaid program.

I provide this report for your information only and have also enclosed copies of correspondence to all responsible agencies. In addition, I have provided you a copy of the respective authority and responsibilities of state agencies involved in providing services to ICF/MR facilities.

If you have any questions or require further information regarding this matter, please do not hesitate to call me.

Sincerely,

Robert M. Kerr
Director

RMK/sb

Enclosure

Office of the Director
P.O. Box 8206 • Columbia, South Carolina 29202-8206
(803) 898-2504 • Fax (803) 898-4515

Mims 1894

State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Robert M. Kerr
Director

January 19, 2005

The Honorable Harvey S. Peeler, Jr.
Member, South Carolina Senate
213 Gressette Building
Columbia, South Carolina 29202

Dear Senator Peeler:

As you are aware, there have recently been a number of incidents of immediate jeopardy at Babcock Center, Inc., an intermediate care facility for the mentally retarded (ICF/MR). As a result, I took the unusual step of asking our Quality Improvement Organization (QIO), Carolina Medical Review (CMR), to perform an immediate review of Babcock facilities to determine whether these facilities are meeting the federal requirements for participation as an ICF/MR under the Medicaid program. CMR has completed its review of Babcock and has provided me a report of its findings. I have enclosed a copy for your review. As a result of these findings, CMR was unable to provide us adequate assurance that Babcock was meeting the conditions of participation as required under the federal regulations. Therefore, I have asked the Department of Health and Environmental Control (DHEC), the agency designated by federal regulation to survey and certify facilities, to conduct the necessary surveys of Babcock, as a whole, to provide DHHS the assurance that these facilities are meeting the standards to participate as an ICF/MR under the Medicaid program.

I provide this report for your information only and have also enclosed copies of correspondence to all responsible agencies. In addition, I have provided you a copy of the respective authority and responsibilities of state agencies involved in providing services to ICF/MR facilities.

If you have any questions or require further information regarding this matter, please do not hesitate to call me.

Sincerely,

Robert M. Kerr
Director

RMK/sb

Enclosure

Office of the Director
P.O. Box 8206 • Columbia, South Carolina 29202-8206
(803) 898-2504 • Fax (803) 898-4515

Mims 1895

State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Robert M. Kerr
Director

January 19, 2005

The Honorable James H. Harrison
Member, South Carolina House of Representative
512 Blatt Building
Columbia, South Carolina 29211

Dear Representative Harrison:

As you are aware, there have recently been a number of incidents of immediate jeopardy at Babcock Center, Inc., an intermediate care facility for the mentally retarded (ICF/MR). As a result, I took the unusual step of asking our Quality Improvement Organization (QIO), Carolina Medical Review (CMR), to perform an immediate review of Babcock facilities to determine whether these facilities are meeting the federal requirements for participation as an ICF/MR under the Medicaid program. CMR has completed its review of Babcock and has provided me a report of its findings. I have enclosed a copy for your review. As a result of these findings, CMR was unable to provide us adequate assurance that Babcock was meeting the conditions of participation as required under the federal regulations. Therefore, I have asked the Department of Health and Environmental Control (DHEC), the agency designated by federal regulation to survey and certify facilities, to conduct the necessary surveys of Babcock, as a whole, to provide DHHS the assurance that these facilities are meeting the standards to participate as an ICF/MR under the Medicaid program.

I provide this report for your information only and have also enclosed copies of correspondence to all responsible agencies. In addition, I have provided you a copy of the respective authority and responsibilities of state agencies involved in providing services to ICF/MR facilities.

If you have any questions or require further information regarding this matter, please do not hesitate to call me.

Sincerely,

Robert M. Kerr
Director

RMK/sb

Enclosure

Office of the Director
P.O. Box 8206 • Columbia, South Carolina 29202-8206
(803) 898-2504 • Fax (803) 898-4515

Mims 1896

State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Robert M. Kerr
Director

April 29, 2005

Judy Johnson, Ph.D.
Executive Director
Babcock Center
500 Rivermont Drive
Columbia, South Carolina 29210

Dear Dr. Johnson:

On April 29, 2005, the Department of Health and Human Services (DHHS) received notification from the South Carolina Department of Health and Environmental Control (DHEC) that a second follow-up visit had been conducted at the Kensington I Community Residence on April 27, 2005. DHEC found that this facility remained out of substantial compliance with the requirements for participation in the Medicaid program and recommended termination effective April 30, 2005.

You are required to notify all residents seeking admission to your facility of the Medicaid termination. You must also immediately begin taking, or planning for, the following steps as indicated:

1) You must immediately begin a review of each affected Medicaid resident's care plan and determine if alternative care is appropriate;
2) No later than May 2, 2005, you must provide this office with your plans for resident relocations;
3) You must immediately begin canvassing all South Carolina Medicaid ICFs/MR (or appropriate alternative resources) for available placements of the Kensington I residents, and beginning May 2, 2005, you must furnish DHHS with a daily record of your efforts to include contact information, location and placement availability;
4) On the date your agreement ends, April 30, 2005, you must notify all responsible parties via telephone and letter that your Medicaid agreement has been terminated due to your facility's failure to meet the federally mandated Medicaid participation requirements;

Office of the Director
P.O. Box 8206 • Columbia, South Carolina 29202-8206
(803) 898-2504 • Fax (803) 898-4515

Mims 1897

5) You must also post public notices in visible areas throughout your facility advising that your Medicaid agreement has terminated and that assistance will be made available for resident transfers to other participating facilities;
6) No later than May 2, 2005, you must also furnish DHHS a complete and accurate listing of all residents, regardless of pay sources, to include their names, Medicare/Social Security/Medicaid numbers, pay sources, responsible parties and attending physician(s) names, addresses and telephone numbers. Any change to this patient census must be reported to DHHS on a daily basis.

The federal regulations governing the administration of the Medicaid Program afford an ICF/MR specific appeal rights with respect to termination. In order to invoke these appeal rights, your facility is required to file a written request for a hearing within sixty days of the receipt of this notice. Such a request for an appeal should be submitted to the following address:

South Carolina Department of Health and Human Services
Division of Appeals and Hearings
Post Office Box 8206
Columbia, South Carolina 29202-8206

Please contact Mr. Sam Waldrep or Ms. Nicole Mitchell-Threatt at (803) 898-2590 if you have any questions regarding this matter.

Sincerely,

Robert M. Kerr
Director

RMK/wtbk

cc: Stanley Butkus, Ph.D
Kathi Kelly, Ph.D
Karen Price
Pam Askins

Mims 1898

Stanley J. Butkus, Ph.D.
State Director
Robert W. Barfield
Deputy State Director
Administration
Ronald C. Dozier
Associate State Director
Operations
Kathi K. Lacy, Ph.D.
Associate State Director
Policy

South Carolina Department of Disabilities and Special Needs

3440 Harden Street Ext (29203)
PO Box 4706, Columbia, South Carolina 29240
V/TTY: 803/898-9600, FAX: 803/898-9653
Toll Free: 888/DSN-INFO
Home Page: www.state.sc.us/ddsn/

COMMISSION
Bill C. Alexander
Chairman
Lyssa Harvey
Vice Chairman
J. Lewis Stephens
Secretary
Isaac B. Dickson, Jr.
Ronald Forrest
W. Robert Harrell
Edythe C. Dove

CC: DOT
[redacted]
full
6-2-05

MEMORANDUM

TO: Dr. Judy Johnson
Executive Director,
Babcock Center

FROM: Stan Butkus, Ph.D. SB.
State Director

DATE: June 1, 2005

RE: Request for our Independent Investigation

I have received your letter dated June 1, 2005 requesting an independent investigation of a laceration received by Edward Mims.

It is my understanding that the Ombudsman's Office will be investigating the matter. Jon Cook of the Ombudsman's Office has agreed to let our medical consultant, Dr. Graeme Johnson, participate in the investigation.

SB/jst

State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Robert M. Kerr
Director

August 24, 2005

Ms. Patricia Harrison
Attorney at Law
611 Holly St.
Columbia, SC 29205

Re: Inquiry

Dear Ms. Harrison:

Your e-mail of August 2, 2005 to Sam Waldrep was referred to this Office for a response.

The current average daily rate for all ICFs/MR is $226.73.

I have checked with a few areas of our agency that might have occasion to know, but no one has any information on the FY 2006 rates for the bands you have specified. The latest information we have is for FYE 2003. Obviously, current information would be available at the Department of Disabilities and Special Needs.

I hope this information is helpful. Thank you again for your interest in these matters and your advocacy for our beneficiaries, and others. Please call me if you have any follow-up questions about this or any other inquiry. My direct is (803) 898-2791.

Sincerely,

Richard G. Hepfer
Deputy General Counsel

cc: Sam Waldrep

Office of General Counsel
P. O. Box 8206 Columbia South Carolina 29202-8206
(803) 898-2795 Fax (803) 255-8210

Mims 1900

John Harrison
256-7743

BABCOCK CENTER

May 15, 2007

The Honorable Henry McMaster
South Carolina Attorney General
~~Post Office Box 11549~~
Columbia, South Carolina 29211

Dear Attorney General McMaster:

The Board of Directors of the Babcock Center, Inc. would like to address issues raised by Mrs. Patricia Harrison in a letter dated April 9, 2007 addressed to you. There are numerous items contained within this document in need of correction and/or clarification to accurately portray the events that have occurred.

Pine Lake is a facility located in Northeast Columbia that has been utilized by the Babcock Center for a variety of purposes. The building was built in 1975 and has outlived its usefulness. In 1992, the South Carolina Department of Disabilities and Special Needs (SCDDSN) obtained an issuance of tax-exempt hospital revenue bonds to pay-off existing mortgages. The mortgages on Pine Lake at that time equaled $972,000. In April of 2005, the Babcock Center Board of Directors decided to sell the property after discussing the issue with SCDDSN. Based on a review of the market at that time, it appeared that the property could sell for approximately $550,000. Babcock Center's initial efforts to sell this property failed. On November 1, 2006, CB Richard Ellis was awarded the contract to market the property. Their assessment of the property suggested a market value of $450,000, however, Babcock Center requested that the property be marketed for $550,000. To date, we have not received any offers on this property. All proceeds from the sale of this property will be returned to SCDDSN. SCDDSN is being kept apprised of all activity regarding this property.

Lexington Clusters has also been available for sale since May 2005. In March 2006, Philip Urso of The Urso Company, Inc. attempted to appraise the Clusters property. Mr. Urso was unable to complete his task due to a lack of comparable properties and available information. CB Richard Ellis advised us to list the property for $1,250,000 based on their review of current market values. Babcock Center, with the approval of SCDDSN, is currently listing the property for $2,000,000. To date, we have received one offer of $750,000 that was not accepted.

The mortgage on The Clusters in the amount of $2,407,000 obtained to construct and equip the infrastructure was also eliminated with the 1992 Bond issuance. In addition, SCDDSN awarded Babcock Center, Inc. $750,000 in the form of a capital grant in fiscal year 2002-2003 to make general improvements to the property, of which, $289,288 was used with the remaining $460,712 returned to SCDDSN. All proceeds from the sale of this property will also be returned to SCDDSN. SCDDSN is being kept apprised of all activity regarding this property.

The Clusters enclosed property is currently being used to secure eight vehicles in the process of being sold for scrap due to high mileage, severe body damage and/or poor mechanical condition (see attached). All of these vehicles are deemed to be unsafe for the purpose of transporting consumers and/or employees. Babcock Center, Inc. will utilize our current policy to properly dispose of these vehicles and reinvest all proceeds towards vehicle maintenance and replacement plans.

Babcock Center, along with three other Private Non-Profit Corporations in South Carolina is treated like any other county Board. We are required to sign the same contract a DSN Board signs as well as comply with all SCDDSN policies and regulations.

Babcock Center, Inc. receives funding from SCDDSN for the 970 individuals that we serve. Currently, there are 252 individuals (21% of the people served) with life-long developmental disabilities in Lexington and Richland counties that have chosen to receive services from other service providers. Those providers receive the funding for all individuals that they serve.

Finally, in fiscal year 2003-2004 SCDDSN reported that Babcock Center's substantiated abuse rate was 9.1 per 100 cases as compared to 2.2 per 100 cases statewide (excluding Babcock Center). It should be noted that 20 of these case involved one perpetrator who embezzled money from 20 consumers. Babcock Center discovered the abuse, terminated the perpetrator, notified Law Enforcement and other State Agencies and assisted law enforcement in prosecuting the former employee. In fiscal year 2005-2006, SCDDSN reported that the substantiated abuse rate per 100 was 1.7 per 100 cases for Babcock Center as compared to 3.2 per 100 cases statewide. Clearly, there has been a dramatic reduction in substantiated cases of abuse at Babcock Center.

Mims 1902

The Babcock Center works tirelessly to support over 1,000 individuals with life-long disabilities. We have successfully completed a fifty percent reduction of our residential program in cooperation with SCDDSN, other state agencies, our consumers, their families and our community leaders. We welcome the opportunity to share with you and others the great strides we have made in the past several years.

With Warmest Regards,

Dr. Judith E. Johnson
Executive Director

Attachments

cc: U.S. Attorney Reginald Lloyd
Senator Joel Lourie
Senator Jake Knotts
Representative James Harrison
Representative William F. Cotty
Representative Mac Toole
SCDDSN Chairman Robert Harrell
SCDDSN 2d District Representative Mary Katherine Bagnal
Gloria Prevost
William Andress, Richland Lexington Disabilities and Special Needs Board
Kit Smith, Richland County Council
Craig Stoxen, Chairperson, Babcock Center Board of Directors
Scott Elliott, Vice Chairperson, Babcock Center Board of Directors
Elizabeth McCormick, Secretary, Babcock Center Board of Directors
Bill Danielson, Treasurer, Babcock Center Board of Directors
Sue Slater, Immediate Past Chairperson, Babcock Center Board of Directors
Daryl Brewer, Babcock Center Board of Directors
Rhett Eleazer, Babcock Center Board of Directors
Susie Hartsell, Babcock Center Board of Directors
Martha McGown, Babcock Center Board of Directors
Janis Summers, Babcock Center Board of Directors
Abigail Rogers, Babcock Center Board of Directors
Elizabeth Tuck, Babcock Center Board of Directors
Marie Shaw, Babcock Center Board of Directors

PROTECTION AND ADVOCACY FOR PEOPLE WITH DISABILITIES, INC.

October 27, 2005

The Protection & Advocacy System for South Carolina

Dear Elected Officials and Citizens of South Carolina:

South Carolina cannot wait to improve the protection of its most vulnerable citizens: persons with disabilities who reside in facilities across the state. The enclosed report, *Unequal Justice for South Carolinians with Disabilities: Abuse and Neglect Investigations*, clearly shows the need for an independent system within criminal justice to investigate ongoing abuse, neglect, and exploitation.

For many years, investigations of abuse, neglect, and exploitation have been entrusted to state agencies, particularly the Department of Disabilities and Special Needs, and organizations with whom they contract. These entities are failing to protect the individuals with disabilities whom they are charged to serve. As you will learn from the report, we cannot continue to excuse the current system by saying that incidents of abuse, neglect, and exploitation are infrequent or trivial or that incidents are being adequately investigated. This is clearly not the case.

This report includes one homicide, two deaths from choking[1], physical injuries with excruciating pain, and other shocking examples of abuse and neglect. The injured individuals include people who are non-verbal and unable to tell their own stories. This report sets out some of the stories from a sample population. Based on the cases we have reviewed, we believe that procedures for preventing and investigating the abuse and neglect of individuals with disabilities are totally inadequate. The State's "out of sight, out of mind" inadequate response must end now.

A major problem identified by this report is that agencies investigate themselves, with little external oversight. Law enforcement is rarely contacted. Agencies use their own standards rather than following the state's comprehensive Omnibus Adult Protection Act, which was designed to protect vulnerable adults. Investigators in provider agencies and local law enforcement lack expertise in the abuse and neglect of people with disabilities. While the process for investigating abuse and neglect of vulnerable adults is often described as a system, in fact there is no system at all.

Protection and Advocacy for People with Disabilities, Inc. (P&A) calls on the Governor, Lieutenant Governor, and members of the General Assembly to move this issue to the top of the agenda for action this year. P&A also asks the media to assure that this disgrace is in the public

[1] The choking death mentioned in the September 13, 2005 Wall Street Journal is not included in this report.

COLUMBIA OFFICE
SUITE 208
3710 LANDMARK DRIVE
COLUMBIA, SC 29204
(803) 782-0639
(Voice and TTY)
FAX (803) 790-1946

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1 CHICK SPRINGS ROAD
GREENVILLE, SC 29609
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1-800-758-5212
(Voice and TTY)
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INFORMATION AND REFERRAL
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1-866-275-7273
(Voice and TTY)
or
1-866-ASK-PAPD
Email:
info@protectionandadvocacy-sc.org

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2137 B HOFFMEYER ROAD
FLORENCE, SC 29501
(843) 662-0752
1-800-868-0752
(Voice and TTY)
FAX (843) 662-0786

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CHARLESTON, SC 29407
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1-800-743-2553
(Voice and TTY)
FAX (843) 571-0880

Mims 1904

eye until addressed. Investigation of abuse and neglect can no longer be left to be handled by the service providers themselves.

Since we completed the review, a member of the press contacted me about an August 2005 death of a middle-aged person residing in a group home. The staff on duty documented that during the shift ending at 11:30 p.m. the resident was making "girgling" (sic) sounds in his chest. Rather than contacting medical personnel, the resident was simply placed on fifteen minute checks. On the following shift, another staff person found the resident unresponsive and contacted administrators before contacting medical personnel. It appears that there was an additional delay of approximately an hour before 911 was called. When paramedics arrived they determined that the resident was dead; a coroner's report is pending.

Some of South Carolina's most vulnerable citizens are needlessly suffering, even dying. They will continue to do so until South Carolina has the will, backed by the funds, to protect persons with disabilities by demanding an effective, independent investigation system to address these often criminal activities. Those least able to speak for themselves deserve no less.

P&A knows that elected officials, family members, the media, and other concerned citizens care about the very vulnerable people who reside in group homes, residential facilities, and long-term care institutions. The data in this report offers the necessary information to begin making desperately needed changes. We are ready to assist in this process and await the opportunity to explore the next steps with all interested parties.

Thank you for your immediate attention to this unequal justice for South Carolinians with disabilities.

Very truly yours,

Gloria M. Prevost

Gloria M. Prevost
Executive Director

Unequal Justice for South Carolinians with Disabilities: Abuse and Neglect Investigations

South Carolina Protection and Advocacy for People with Disabilities

http://www.protectionandadvocacy-sc.org/Unequal%20Justice%20Report.pdf

Mims 1906

erly A. H. Buscemi, Ph.D.
e Director
David A. Goodell
Associate State Director
Operations
Kathi K. Lacy, Ph.D.
Associate State Director
Policy
Thomas P. Waring
Associate State Director
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3440 Harden Street Ext (29203)
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803/898-9600
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7 May 2013

Patricia L. Harrison
611 Holly Street
Columbia, SC 29205

CERTIFIED MAIL

RE: ID/RD Waiver Request for Reconsideration – Medicaid # 4409788401

Dear Ms. Harrison:

The South Carolina Department of Disabilities and Special Needs (SCDDSN) received the request that you sent on behalf Edward Mims for reconsideration of the denial of a request for additional Personal Care II Services.

According to Edward's current Support Plan he is currently authorized to receive 240 hours a month of respite service, 112 units (28 hours) a week of Personal Care II (PCII), and 5 days a week of Adult Day Health Care (ADHC). The sum of these services is 55.5 hours a week for PCII and ADHC and roughly 55 hours a week of Respite if spread evenly throughout the month. This means that Edward is authorized to receive 16 hours a day of paid supports.

In January of 2012 a Personal Care Assessment for Adults was conducted which showed a need for Personal Care and justified the 112 units that has been authorized since February of 2012 and had been approved for several years prior to that but not utilized. A review of the Medicaid Management Information System (MMIS) shows no Personal Care or Respite claims for the entire year for 2012. A recent assessment completed on May 1, 2013, when compared with the assessment conducted for 2012, showed only slight changes in the amount of care that is needed for Edward.

P.O. Box 239
Clinton, SC 29325-5328
Phone: (864) 938-3497

DISTRICT I
Midlands Center - Phone: 803/935-7500
Whitten Center - Phone: 864/833-2733

9995 Miles Jamison Road
Summerville, SC 29485
Phone: 843/832-5576

DISTRICT II
Coastal Center - Phone: 843/873-5750
Pee Dee Center - Phone: 843/664-2600
Saleeby Center - Phone: 843/332-4104

Having considered the information available to me I uphold the denial of additional PCII for Edward. 42.C.F.R.§440. 230 (d) allows the Department to appropriately limit services based on such criteria as medical necessity or on utilization control procedures. However, based on the May 2013 assessment which reflects an increased need for Edward's laundry services, we can support an authorization of two (2) hours per week of personal care 1 (PC1) services.

I encourage you to continue to work with the Edward's service coordinator, Randy Swingle, to access available services which best meet his needs. If you wish to pursue this matter further, you have the right to request an appeal with the South Carolina Department of Health and Human Services (SCDHHS). The appeal process is attached for your information.

Sincerely,

Beverly A. H. Buscemi, Ph.D.
State Director

Attachment

Cc Margaret Mims, Mother
John King, District I Director
Randy Swingle, SC
Vicki Coleman, District I Waiver Coordinator
Kara Lewis, SCDHHS Division of Long Term Care

SCDDSN RECONSIDERATION PROCESS AND SCDHHS MEDICAID APPEALS PROCESS

The SC Department of Disabilities and Special Needs (SCDDSN) is responsible for the day-to-day operations of the Intellectual Disability/Related Disability (ID/RD) Waiver, the Community Supports (CS) Waiver, the Head and Spinal Cord Injury (HASCI) Waiver and the Pervasive Development Disorder (PDD) Waiver. A request for reconsideration of an adverse decision **must be** sent in writing to the State Director at SCDDSN, P. O. Box 4706, Columbia, SC 29240. The SCDDSN reconsideration process **must be** completed in its entirety before seeking an appeal from the South Carolina Department of Health and Human Services (SCDHHS).

A formal request for a reconsideration must be made in writing within thirty (30) calendar days of receipt of written notification of the adverse decision. The request must state the basis of the complaint, previous efforts to resolve the complaint and the relief sought. The reconsideration request must be dated and signed by the individual, representative, or person assisting the individual in filing the request. If necessary, staff will assist the individual in filing a written reconsideration.

Note: In order for waiver benefits/services to continue during the reconsideration/appeal process, the individual/representative's request for reconsideration must be submitted within ten (10) calendar days of the written notification of the adverse decision. If the adverse action is upheld, the individual/representative may be required to repay waiver benefits received during the reconsideration/appeal process.

The State Director or his designee shall issue a written decision within ten (10) working days of receipt of the written reconsideration request and shall communicate this decision to the individual/representative. If the State Director upholds the original adverse action/decision, the reason(s) shall be specifically identified in the written decision.

If the individual/representative fully completes the above reconsideration process and is dissatisfied with the results, the individual/representative has the right to request an appeal with the SCDHHS. The purpose of an administrative appeal is to prove error in fact or law. The individual/representative must submit a written request to the following address no later than thirty (30) calendar days from the receipt of the SCDDSN written reconsideration decision.

Division of Appeals and Hearings
SC Department of Health and Human Services
PO Box 8206
Columbia, SC 29202-8206

The individual/representative must attach copy of the written reconsideration notifications received from the SCDDSN regarding the specific matter on appeal. In the appeal request the individual/representative must clearly state with specificity, which issue(s) the individual/representative wishes to appeal.

Unless the request is made to the above address within thirty (30) calendar days of the receipt of the SCDDSN written reconsideration decision, the SCDDSN decision will be final and binding. An appeal request is considered filed at the above address if postmarked by the thirtieth (30th) calendar day following receipt of the SCDDSN written reconsideration decision. The individual/representative shall be advised by the SCDHHS Division of Appeals and Hearings as to the status of the appeal request.

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SOUTH CAROLINA
Department
OF
Disabilities
AND
Special Needs

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PO Box 4706
Columbia, SC 29240

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Babcock Center deaths raise care concerns

Auditor finds sexual and physical abuse

By Jerry Bellune
jerrybell@aol.com

Ten Babcock Center residents have died under questionable circumstances in the last year.

Others have been sexually and physically abused by employees.

The abuses are reported in a preliminary state audit obtained by the *Lexington County Chronicle*.

The audit is critical of the center which cares for almost 1,100 mentally and physically disabled people in Lexington County and elsewhere in the state.

The deaths of 10 residents were revealed in interviews with Babcock center employees.

The previous average death rate had been one to two a year with six the previous year, Babcock attorney Mike Malone said.

One resident died at the hospital after swallowing 2-1/2 feet of plastic wrap. Two others were found dead in their own vomit.

A coroner's report showed the two clients died during the night but their deaths were not reported until hours later.

One employee fired for physically abusing a client was rehired by the execu-

Babcock fails to respond

The *Lexington County Chronicle & The Dispatch-News* invited Babcock Center Board Chairman Patricia Harrison to respond to questions about problems within her organization.

"To be fair in our reporting, we want to give the Babcock Center's side of the story," *Chronicle* editor, etc. Jerry Bellune said.

Here are the questions we hoped Mrs. Harrison could answer for us:

• $11,000 missing from center, 3-A.

1. What is Babcock Center doing about an employee who was fired for physically abusing a client and has since been illegally rehired?

2. What is being done about the disappearance of $11,199 in consumer funds at the Lexington Clusters?

3. What is being done about the human resources director and other employees selling jewelry at the center on center time?

4. Does the board consider it normal for 10 clients to die within 12 months when the previous average has been one or two a year?

Attorney Mike Malone called to say the board was preparing a response. We agreed to a 6 p.m. Tuesday deadline. As of 8 p.m., no response was received.

Center needs to clean house

We at the *Lexington County Chronicle & The Dispatch-News* respect the hundreds of dedicated Babcock Center people who care for the mentally and physically disabled who are unable to take care of themselves.

We are publishing these stories about the Babcock Center in the belief that their leadership will clean their own house.

Some of these conditions have exis

Mims 1912

their deaths were not reported until hours later.

One employee fired for physically abusing a client was rehired by the executive vice president for administration a month later.

This was revealed by auditor Steven C. Jeffcoat of the state Department of Disabilities and Special Needs which pays the center to care for its clients.

In a telephone interview, Jeffcoat confirmed his findings but said he was unable to reveal the names of those responsible.

"There are signed statements from several witnesses who observed the incident and they indicate that physical abuse did in fact occur," he wrote.

"The rehiring of this employee is in violation of Center policy and the contract with SCDDSN."

Jeffcoat wrote that the administrator defended rehiring the employee who "made a mistake" and said he had been assigned to the maintenance department where he would have no contact with clients.

Yet, he wrote, the employee has regular contact with one client.

abled who are unable to take care of themselves.

We are publishing these stories about the Babcock Center in the belief that their leadership will clean their own house.

Some of these conditions have existed for more than five years. It is time for them to take action.

— **MacLeod Bellune** Publisher, etc.
— **Jerry Bellune** Editor, etc.

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in our NASCAR contest
1st- Nonko James
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3rd- Rodney Clark
New contest, page 3-C

State probes death at Babco

Resident's death leaves questions

By Jerry Bellune
jerybell@aol.com • 359-2646

The state Attorney General's office is investigating the mysterious death of a Babcock Center resident.

Arthur Slice, 37, was taken to Lexington Medical Center June 4 from the Babcock Center home at 412 Terrace Way, Leesville.

According to Lexington County Coroner Harry Harman's incident report, Slice died from an aspiration pneumonia, small bowel obstruction and foreign body ingestion.

Two and one-half feet of plastic wrap was found in his lower intestine.

How it got there has not been explained.

Slice is one of three Babcock Center residents who have died under suspicious circumstances in the past year. Babcock cares for 1,100 disabled and mentally retarded residents.

The bodies of two other residents were found lying

More money missing at Babcock, Page 3-A
How did state overlook three Babcock deaths? Editorial Page 4-A

in their own vomit, sources have told the *Chronicle*. One source reported a resident had been taken to the hospital too late to do her much good.

Her condition had so deteriorated that her weight had dropped to 66 pounds.

According to one source, records were falsified in two of the deaths and caregivers lied to the coroner.

Rob McBurney of the Attorney General's Office said he coul on the inves to say that i He did confi was found i One sou could not h the plastic i gagging or s source said t may have through Slic

Honoring victims of 9-11

INSIDE: Lexington County residents recall 9-11. Special report begins on Page 1B

Next Wednesday will be a time of remembrance here and across the nation. Gov. Jim Hodges will recognize the anniversary of the Sept. 11 terrorist attacks by attending memorial services and encouraging all South Carolinians to honor victims and survivors.

The governor requests that churches toll their bells for one minute beginning at 8:46 a.m. September 11 in remembrance of the exact moment American Airlines Flight 11 hit the north

Council axe meal tax v

By Vicki Sheely
vsheely@aol.com

Lexington voters won't decide the fate of a 2% meal tax this November.

Town Council voted unanimously Tuesday to take the referendum on the hospitality tax of the town's general election ballot.

The hospitality tax question has been a divisive issue for council and the community, and there are still a lot of misconceptions about the issue, said Councilmember Jim Bowman, who made the motion to drop the tax referendum

won't get te issue. "I would see the vot and the pe chance to sp Council's the hospitali limbo, but it the plan. "It is still t time as cou what to do," Breazeale sa posed hospi nance needs vote to beco But Breaz to hold a

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State probes death at Babcock

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jerrybell@aol.com - 359-2646

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Two and one-half feet of plastic wrap was found in his lower intestine.

How it got there has not been explained.

Slice is one of three Babcock Center residents who have died under suspicious circumstances in the past year. Babcock cares for 1,100 disabled and mentally retarded residents.

The bodies of two other residents were found lying in their own vomit, sources have told the *Chronicle*.

One source reported a resident had been taken to the hospital too late to do her much good.

Her condition had so deteriorated that her weight had dropped to 66 pounds.

According to one source, records were falsified in two of the deaths and care givers lied to the coroner.

Rob McBurney of the Attorney General's Office said he could not comment on the investigation except to say that it was ongoing. He did confirm plastic wrap was found in Slice's body.

One source said Slice could not have swallowed the plastic wrap without gagging or suffocating. The source said the plastic wrap may have been inserted through Slice's rectum.

• More money missing at Babcock, Page 3-A
• How did state overlook three Babcock deaths? Editorial, Page 4-A

Council axes meal tax vote

By Vicki Shealy
vsflash@aol.com

Lexington voters won't decide the fate of a 2% meal tax this November.

Town Council voted unanimously Tuesday to take the referendum on the hospitality tax off the town's general election ballot.

The hospitality tax ques- won't get to vote on the issue.

"I would have liked to see the vote go through and the people have a chance to speak," he said.

Council's action leaves the hospitality question in limbo, but it does not kill the plan.

"It is still there until such

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Page 2-B

WKHS, LHS, B-C teams fight it out in playoffs
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State probes Babcock assault

Gilbert resident burned

By Jerry Bellune
JerryBell@aol.com • 359-2646

The state Attorney General is investigating the scalding of a Babcock Center resident.

Danny Timmons, 42, suffered second and third degree burns on his head, face and body at the Babcock Center facility at 935-A Wire Road, Gilbert.

According to two witnesses, the victim was asleep on a couch when a Babcock Center employee, Shakesha Bynem, threw boiling water on him, a sheriff's department report stated.

The Babcock residents told Sheriff's deputy J.F. McManus that Bynem took boiling water from the kitchen and threw it on Timmons, according to the sheriff's department report.

Babcock Center Executive Director Judy Johnson said Bynem was no longer employed by Babcock but that law enforcement had asked her to make no further comment on the case.

Babcock is the subject of two other investigations, one by the Attorney General and a second by the state Department of Health and Human Services on orders of federal Medicaid officials.

Babcock was criticized by a state auditor for 28 violations of law and state policy involving abuse and theft.

Babcock is paid $40 million a year to care for 1,100 mentally retarded residents in Lexington and other S.C. counties.

In the latest incident, Timmons was taken to Lexington Medical Center for treatment.

He was burned about 8 p.m. at night, his mother Lois said. "Why did they wait 13 hours to take him to the hospital?"

Asked about this, Dr. Johnson said she could not comment on details of the case.

The victim's sister, Wanda Powell, said her brother is on medication and was asleep.

"When she (Bynem) could not rouse him," Powell said, "the others who were there said she went in the kitchen, got the boiling water, returned to the room and said 'Watch this.'"

Timmons was assaulted about 8 p.m. April 24, but a staff member did not take him to the hospital until 7:30 the next morning, the police report said.

"We arranged medical treatment as soon we learned about what happened," Dr. Johnson told the *Chronicle*.

Miracles do happen

West Columbia's Lana Swancey's and Lexington resident Sonya Jarvis' families had their wishes fulfilled last week with two major surgeries. Two-year-old Lana had experimental brain surgery that could save her life while Jarvis was given a life altering kidney transplant. At left, Lexington resident Gail Lewis, in green, gave Jarvis, in yellow, her kidney while at right, Lana is held by the research doctor who performed her operation, Paola Leone. Read their stories on Page 2-A.

Tin Products duo to serve prison time

By Mark Bellune
and Jerry Bellune
LexChron@aol.com • 359-2646

Two Tin Products executives have been sentenced to prison terms for dumping pollutants.

But Tin Products owner Charles Sanford has not been charged with any crime.

Tin Products Corporation, a defunct entity which Sanford controlled, Sanford was for Purvis and Goldman, was sentenced to six months home detention, five years probation, 100 hours community service and $100 special assessment.

Judge Currie delayed sen-

Mims 9-15
3113

ort opens new gym with
es to Brookland-Cayce,
1-B

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Meet Mike Till of Subs
Page 2-B

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State promises full Babcock investigati

Witness reprisals will be prosecu

By Jerry Bellune
jerrycol@aol.com - 359-2546

Up to a dozen state investigators are at work probing abuse, neglect, exploitation and death of Babcock Center residents.

Working on orders from the federal Department of Health and Human Services, the state is investigating with the promise to Babcock Center employees and family members of confidentiality.

Because of reports of reprisals against employees and residents, Babcock Center employees have been told to cooperate with the investigation.

Babcock Executive Director Judy Johnson did not return a call from the

• Ombudsman probes 10 deaths at Babcock, Page 3-A.
• State probe goes farther than earlier audit, Page 3-A.

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the investigation i
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Frank Adams of
Health and Hur
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"We wish to fully ensure
persons (staff, clients and famil
bers) are fully protected from any r
for their cooperation in this investi
DHHS Director William Prince wi
partment of Disabilities and Specia
Director Stanley Butkus. DDSN p
$40 million a year in state mo

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Vol. 1917

ay not have SARS

blackout decision has divided health officials, some of whom believe the public has a right to know.

Jan Easterling of the State Department of Health and Environmental Control said health officials will notify anyone at risk of exposure to SARS.

Berry said health officials have investigated as may as a dozen suspected SARS cases to date.

The investigators examine anyone who has come in contact with a suspected case.

DHEC's Easterling said new federal laws restrict previously released information that health experts can give the public.

S.C. Press Association attorney Holly Palmer said the new federal privacy laws say nothing about releasing information by county.

Town of Lexington may extend more sewer service outside boundaries

By Vicki Shealy

The Town of Lexington will study a plan to extend sewer service to neighborhoods adjacent to town.

Town Council approved plans for a study to look at engineering and cost estimates to install sewer lines in the Tall Pines and Brookgreen Terrace subdivisions.

Both subdivisions were developed in the 1960s and have septic systems that are subject to failures which can create health hazards and safety issues, Council members said.

The Brookgreen Terrace subdivision is on Northwood Drive near a former armory site, which is being developed.

Tall Pines is located off S.C. 6 to the south of the town.

"We have been promising sewer service to the Brookgreen area for about 40 years," Councilman Jim Lowman said.

The study will look at all areas that do not currently receive sewer service and are adjacent to the town, especially an area behind Addy Dodge, said engineer Gene Edwards.

Governor to speak to Lexington Chamber

Gov. Mark Sanford is expected to talk about leadership and local control when he speaks to the Lexington Chamber of Commerce next Tuesday.

The governor will talk abaut his first 100 days, giving chamber members a progress report at Reflections on U.S. 1 at 7:30 a.m. The meeting is sponsored by the Lexington Town Council.

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hires lobbyists for or publicity plan

Why did Babcock hire top lobbyists?

The Babcock Center Foundation and two lobbyists it has hired deny they were hired to lobby lawmakers.

Yet that is the primary

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Babcock hires lobbyists for $24,000 for publicity plan

By Jerry Bellune
JerryBell@aol.com · 359-2646

The Babcock Center Foundation has hired two lobbyists for $24,000 to help design a legislative contact and publicity plan.

The lobbyists are former Lexington District Two school board chairman Larry Marchant and former state Republican Party Chairman Tony Denny.

The *Lexington County Chronicle* requested details of the arrangement with the lobbyists under the state Freedom of Information Act after numerous calls from Babcock employees.

The employess complained their benefits had been reduced and they had been denied raises when the foundation appears to have money for lobbyists.

The foundation is an arm of the Babcock Center which cares for 1,100 mentally retarded residents and Lexington and other South Carolina counties.

Babcock Center is the subject of investigations by the S.C. Attorney General's office and the S.C. Department of Health and Human Services acting on orders from federal authorities.

Denny denies he and Marchant were hired to lobby the legislature for the foundation.

But a letter to the *Chronicle* from Babcock Executive Director Judy Johnson, said Marchant's firm, the Public Policy Group, was hired to assist the foundation in "planning and implementing a strategic plan in the area of public relations and opening up a dialogue with leaders in government in the community."

"The foundation feels that it is appropriate to engage the services of a firm to make sure that the positive direction of the Babcock Center is communicated to leaders in the community and leaders in state and local government," Dr. Johnson wrote.

The center was the subject of a critical audit by the S.C. Department of Disabilities and Special Needs. Its executive director and two former executives are suing the *Chronicle* and former board members over disclosures made in the audit.

The state auditor uncovered cases of physical abuse, theft of residents money and other violations of law and DDSN policy.

The audit did not mention 14 deaths of Babcock residents in two years, at least three of them under suspicious circumstances.

Why did Babcock hire top lobbyists?

The Babcock Center Foundation and two lobbyists it has hired deny they were hired to lobby lawmakers.

Yet that is the primary service that former District 2 school board chairman Larry Marchant and former state Republican Party chairman Tony Denny offer clients.

The Babcock Center Foundation has not asked the Public Policy Group, Marchant's firm, to "lobby legislative bodies to pass, defeat or otherwise impact any specific legislation on its behalf," Babcock Center executive director Judy Johnson wrote the *Chronicle* in response to an FOI request for information.

In two calls to the *Chronicle* this week, Denny said he and Marchant were helping the foundation with planning and meeting key people, not trying to affect legislation.

Two teenagers charged in vandalisms at two local churches

A 16-and 17-year-old suspect ... John Allard said the ...

Officials probe scalding at Babcock Center

Employee is accused of splashing hot water on resident

By LORA HINES
Staff Writer

Law enforcement officials are investigating the scalding of a Babcock Center patient reported last month.

Danny Timmons, 42, a resident of the center at 935-A Wire Road in Gilbert, wasn't taken to a hospital until almost 12 hours after his face was burned with water on April 23, according to a Lexington County sheriff's report. The woman accused of burning Timmons has not been charged.

The case has been referred to the state attorney general's office, said sheriff's spokesman John Allard.

Center director Daryl Dickey reported the incident to police on April 24. He declined comment on Wednesday and referred calls to Babcock Center executive director Judy Johnson.

Johnson couldn't be reached.

An employee is accused of splashing hot water on Timmons' face about 8 p.m. April 23, according to the police report. The water burned Timmons' face, causing his skin to blister.

Timmons was taken to a hospital about 7:30 a.m. the following day, the report states.

The case has been referred to the state attorney general's office

The woman accused of burning Timmons told police that Timmons grabbed her arm, which forced her to splash hot water on his face, the report said.

Two witnesses told police that the employee got hot water from a kitchen, walked up to Timmons and threw water on his face.

Late last year, officials started fixing financial and personnel problems that prompted an audit of the Babcock Center. The Columbia-based nonprofit organization cares for clients with mental disabilities, autism and spinal cord injuries.

One citation showed employees failed to adequately follow up in January on an allegation of sexual abuse among residents who were unsupervised. The center was also cited for its failure to monitor expenses, including Visa cards and cell phones.

The Department of Disabilities has contracts with the Babcock Center for more than $39 million to serve more than 800 people with disabilities. The center has about 1,300 employees.

Wilhelmina Tucker

COLUMBIA — Services for Wilhelmina Watts Tucker will be held at 4 p.m. today at Mt. Pilgrim Baptist Church with burial in the church cemetery. Mrs. Tucker will be placed in the church at 3 p.m. Leevy's Funeral Home, Taylor Street Chapel, is in charge.

Mrs. Tucker died Sunday, May 4, 2003. Born in Columbia, she was the

Born in Edgefield County, she was a daughter of the late Jess and Bell Carson Derrick and the wife of the late Julian Claude Wheeler Sr. She was a graduate of Winthrop College, a former school-teacher and a homemaker. She was former president of the Yellow Jessamine Garden Club and was former chairman of the Beautification Committee of Saluda County and the Garden Club Council.

Mrs. Wheeler is survived by

Columbia police late Wednesday night were searching for suspects in two robberies that happened within two minutes on the city's north side.

The first happened about 10:20 p.m. at Renate's Auto Sales at 3320 Bolivia Blvd. The

about 11:30 p.m., officers followed a car that might have been used by suspects in the Renate's robbery. Two men who had been in the car bailed out before police could stop them.

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Overdue cleanup begins at Babcock

08/25/02

By Jerry Bellune

Our phone and e-mail were almost overrun last week with reports that the long overdue cleanup at the Babcock Center was finally underway.

Last week, the state Attorney General's office moved decisively to charge two employees — Wayne Wooten and Katherine Cook-Burgess — with taking advantage of vulnerable adult residents and taking their money at Babcock's Lexington and Wire Road facilities. Evidence indicates thousands of dollars may have been taken.

Executive Director Judy Johnson has dismissed Darrell Parks, the employee who abused a resident seven years ago, was fired and a week later rehired by Ross Robinson, who was in charge of the center's personnel.

Mrs. Johnson also has fired Ross Robinson and Trish Vinson, his assistant who sold jewelry to residents on Babcock premises when she was supposed to be working.

These violations were reported weeks ago by state auditor Steve Jeffcoat. Why did it take so long for Mrs. Johnson to act? Your guess is as good as ours. But more than two dozen Babcock employees and residents' parents have called us since our initial stories appeared two weeks ago. They say it is only because of the publicity in the Chronicle.

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"God bless you and the Chronicle," one caller said. He asked not to be identified.

Many parents don't want to give us their names. They fear Babcock employees will retaliate against their children if their names are published. To date, we have withheld the names of anyone — employees, former employees and parents — who have asked for confidentiality. We respect them and are proud of them for having the courage to speak up.

Not everyone feels that way. Babcock board chairman Patricia Harrison talks as if the Chronicle is the enemy, not the employees who have let her board down.

"I wouldn't put much credence in anything that little newspaper publishes," she said of the Chronicle in talking about our stories with a former Babcock employee.

The former employee, who still keeps up with what is going on through friends who work there, says we are on target.

If Mrs. Harrison knows of anything we have published in error, we invite her to come forward and point it out so we can correct the record.

jerrybell@aol.com

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Babcock employee re-arrested

09/01/02

By Jerry Bellune

A Babcock Center employee has been charged with taking more than $14,000 in residents' money.

State Attorney General Charlie Condon said Wayne Maxson Wooten, Jr., of Columbia was arrested Tuesday. He was charged with breach of trust and unauthorized transfer of more than $14,000.

One arrest warrant charges that Wooten "did knowingly and with fraudulent intention" take more than $5,000 in residents' money at Babcock's Clusters building near the Lexington County Sheriff's Department in Lexington.

A second warrant charges that he took $9,037.13 from Medicaid patients.

Wooten is being held at the Lexington County Detention Center with bond set at $20,000. A court date is set for Oct. 16.

He was originally arrested July 18, charged with exploiting a vulnerable adult at Babcock and released on $3,500 bond. The booking records did not show who posted his $350, 10%, bond.

Wooten could be jailed for up to 13 years and fined $1,000 on both charges.

Another Babcock Center employee, Katherine Cook-Burgess, was arrested June 18 on similar charges and is out on bail.

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Babcock's executive director, Dr. Judy Johnson, has been asked to respond to Wooten's second arrest and reveal whether he is still an employee at Babcock.

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State probes death at Babcock

09/08/02

By Jerry Bellune

The state Attorney General's office is investigating the mysterious death of a Babcock Center resident.

Arthur Slice, 37, was taken to Lexington Medical Center June 4 from the Babcock Center home at 412 Terrace Way, Leesville.

According to Lexington County Coroner Harry Harman's incident report, Slice died from an "aspiration pneumonia, small bowel obstruction and foreign body ingestion."

Two and one-half feet of plastic wrap was found in his lower intestine.

How it got there has not been explained.

Slice is one of three Babcock Center residents who have died under suspicious circumstances in the past year. Babcock cares for 1,100 disabled and mentally retarded residents.

The bodies of two other residents were found lying in their own vomit, sources have told the Chronicle.

One source reported a resident had been taken to the hospital too late to do her much good.

Her condition had so deteriorated that her weight had dropped to 66 pounds.

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Unsure 0%

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According to one source, records were falsified in two of the deaths and care givers lied to the coroner.

Rob McBurney of the Attorney General's Office said he could not comment on the investigation except to say that it was ongoing. He did confirm plastic wrap was found in Slice's body.

One source said Slice could not have swallowed the plastic wrap without gagging or suffocating. The source said the plastic wrap may have been inserted through Slice's rectum.

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$87,000 missing from Babcock

09/08/02

By Jerry Bellune

A state auditor has uncovered more evidence of financial problems at the Babcock Center.

In his latest audit report, state auditor Steve Jeffcoat reports receipts for $87,0873 in residents' purchases could not be located.

This is in addition to $8,018 in missing residents' money in which two Babcock Center employees have been arrested.

The second part of Jeffcoat's preliminary report was released by Dr. Stan Butkus, head of the state Department of Disabilities and Special Needs.

Butkus called a news conference last week to defend himself against complaints that he had assisted a coverup of abuses at the Babcock Center.

In resigning as Babcock board chairman last week, Patricia Harrison said Dr. Butkus and Dr. Judy Johnson, Babcock's new executive director, had refused to report beatings and other abuses of residents.

The state Department of Disabilities and Special Needs pays Babcock millions in taxes each year to care for 1,100 of the mentally retarded and disabled.

Jeffcoat's report on the $8,018 says the "thefts are currently under investigation by law enforcement." He reported that one

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supervisor threw away all receipts for previous years.

Sources have told the Chronicle that some Babcock employees took residents' money to buy things for themselves but had receipts purporting that the residents actually made the purchases. One such purchase was for video tapes supposedly bought by a resident who did not even own a VCR.

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Babcock gets 60 days to fix problems

11/08/02

By Jerry Bellune

The state has given the Babcock Center 60 days to fix problems at its workshops and homes for 1,100 mentally-retarded residents.

More than three months after the center received the results of a critical state Department of Disabilities and Special Needs audit, the state has approved Babcock's plan to correct:

• Unreported physical and sexual abuses of residents and employees.

• Mishandling and theft of residents' money.

• Abuse of Babcock vehicles and credit cards.

In neither the audit nor Babcock's plan of action does it mention an alarming rise in deaths from one or two a year to 16 within the last two years, 10 of them last year.

"In our opinion, the actions taken or planned to be taken, as indicated in the action plans developed by Babcock Center, adequately address the audit findings," state DDSN director Stan Butkus wrote in a letter to Babcock Executive Director Judy Johnson.

Butkus said Babcock would be required to report on progress this month and again next month and in early January.

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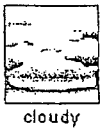

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Unsure	○	0%

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Butkus's letter threatened to end Babcock's contract with the state if it could not protect the health and safety of the residents.

State Auditor Steve Jeffcoat, in a letter to Dr. Johnson, complimented her and her staff on their cooperation with him during the audit.

He noted the audit dealt with abuses and other violations of state regulations before she took over as executive director.

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Babcock resident left alone overnight in city

11/08/02

By Jerry Bellune

A Babcock Center resident was left all night last week in a Columbia fast food parking lot.

A Babcock Center employee drove Johnny Taylor, 49, from his home at the Jay William Pitts Apartments to the Wendy's Restaurant on Assembly Street Wednesday afternoon, Oct. 30, to apply for a job.

By the time the restaurant closed, no one had returned to pick him up. As a result, Taylor stayed in the parking lot all night without food or shelter.

Babcock Center attorney Mike Malone said Babcock was aware of the incident and was investigating.

Whoever was responsible would be disciplined, Malone said.

This is the latest in a series of incidents that have endangered Babcock Center residents. The center cares for 1,100 disabled and mentally retarded residents under a contract with the state Department of Disabilities and Special Needs.

Wendy's Restaurant Manager John Brasington, who was not present at closing, said he has instructed his managers to call the police if anything like this should occur in the future.

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Babcock fires 5 after abandoning man

11/20/02

By Jerry Bellune

The Babcock Center moved swiftly last week to let five employees go after a resident was stranded overnight in a parking lot.

Dr. Judy Johnson called the Lexington County Chronicle to report the five employees responsible for failing to pick up Johnny Taylor, 49, at the Wendy's restaurant on Assembly were no longer employed by the Babcock Center.

"We're stunned by this incident," Dr. Johnson said. "We took swift and severe action. They are no longer employed here.

"Our primary concern is the health, safety and security of our residents."

But in a call to the Chronicle, some of those who said they were fired in the incident questioned if it was fair that their supervisor was given a paid five-day suspension.

"That's a five-day paid vacation," one said. Dr. Johnson has been asked to confirm or deny that their supervisor at the Jay William Pitts Apartments where Taylor lives was given A paid suspension.

Taylor was driven to the Wendy's restaurant the afternoon of Oct. 30 to apply for a job. By the time the restaurant closed, no one had returned to pick him up and Taylor stayed in the parking lot all night without food or shelter.

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This is the latest in a series of incidents that have endangered Babcock Center residents. The center cares for 1,100 disabled and mentally retarded residents under a contract with the state Department of Disabilities and Special Needs.

"We knew we had a challenge," Dr. Johnson said. "We're working hard to correct the problems.

"I can't fix the past but I hope to have a profound impact on the future."

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Families ask for Babcock probe

12/07/02

By Jerry Bellune

Concerned Babcock Center parents want an independent investigation of abuse and other violations.

The center, which cares of 1,100 mentally retarded residents, was the subject of a critical state audit which did not report the deaths of 16 residents within the last two years.

Many families have contacted the Lexington County Chronicle expressing concern over continuing abusive conditions at the center since 49-year-old Johnny Taylor was left in a Columbia parking lot overnight.

The families ask that their names be withheld for fear their children will be the targets of retaliation.

Under the state's Omnibus Adult Protection Act, the State Long-Term Care Ombudsman at the Department of Health and Human Services and the Adult Protective Services Program at the Department of Social Services have a memorandum of agreement with the S.C. Department of Disabilities and Special Needs to receive reports of and investigate allegations of abuse, neglect, or exploitation in facilities operated or contracted by DDSN.

By law, DDSN and its contractors, such as Babcock Center, are to notify the Ombudsman program or DSS within 24 hours or by the next working day if there is reason to believe that a resident suffered physical or psychological abuse, neglect or exploitation. Failure to report is considered a misdemeanor, which can result in being fined $2,500 dollars or imprisonment of not more than one

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Yes!	C	89%
No!	C	11%
don't know	C	0%
Unsure	C	0%

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being fined $2,500 dollars or imprisonment of not more than one year.

Babcock board chairman Patricia Harrison, board treasurer Fred Schmidt and board member Deborah McPherson resigned because they say the center's administration has not reported abuses in a timely manner.

Under the agreement, when DDSN and its contractors receive a report of alleged abuse and neglect, an internal investigation is to be conducted. Cases of a serious nature are to be reported by DDSN and its contractors to law enforcement and the Ombudsman or DSS are to be notified.

According to the state audit, cases of physical abuse were not reported to the Ombudsman or law enforcement as required by state and Babcock policy.

An employee who was fired for abuse was even rehired. The executive who rehired him has since left the Babcock Center and has brought suit against the Chronicle for libel.

In cases of abuse the resident's family is to be notified by DDSN or its contractors that they have a right to contact the Ombudsman or DSS directly to request an investigation.

After DDSN or its contractors complete an investigation, their findings are forwarded to the Ombudsman for review.

The Ombudsman program currently has 13 staff positions to investigate allegations of abuse and neglect in long-term care facilities in South Carolina.

In 2000-2001, the Ombudsman completed 4,791 investigations. Nearly 70% of the complaints involved nursing homes.

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December 31, 2003

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Babcock failed to investigate abuse, thefts at facilities

12/07/02

Three full-time Babcock Center employees were hired to receive and conduct investigations of alleged abuse and neglect.

The problem with that system of investigation, Babcock families and employees say, is that neither the state Department of Disabilities and Special Needs nor its contractors report allegations of abuse and neglect to the state Ombudsman as required by law.

When reports are made, DDSN investigations often determine that the reported abuse is unsubstantiated, sources tell the Chronicle.

The Ombudsman desperately needs more staff, one source told the Chronicle.

The money the state pays external reviews of facilities such as the Babcock Center should be transferred from DDSN to the Ombudsman, a source said.

"That's the only way that the state can ensure its most vulnerable citizens are protected," the source said.

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Story last updated at 9:23 a.m. Friday, January 10, 2003

Officials probing Babcock Center

Earlier audit found questionable practices

Associated Press

COLUMBIA -State officials are investigating the Babcock Center, one of South Carolina's largest facilities for the mentally disabled, at the request of the U.S. Department of Health and Human Services.

The federal agency said complaints of abuse, neglect and misuse of funds prompted officials to take a closer look at the center that cares for 1,100 people in Richland and Lexington counties, state Health and Human Services Department spokesman Frank Adams said Thursday.

The Babcock Center, which has 1,300 employees, has been the target of numerous complaints recently and been the subject of an audit by the state Disabilities and Special Needs Department.

Now, state health officials are investigating the center after the audit released this summer found 29 incidents of questionable practices by employees, Adams said.

The investigation focuses on Babcock's Medicaid billing practices, but Adams would not talk about specifics.

"The question the feds are asking us since they put up 60 percent, nearly 70 percent, of funding, is 'Hey guys, did we get the value for the dollars that we spend?' " Adams said. "The answer to that question will lead to other issues."

Adams said the investigation ó which began Dec. 2 ó should last a few months and involve other state agencies including the attorney general's office, Department of Health and Environmental

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Control and Social Services Department.

The final report will be presented to federal officials.

Other allegations at Babcock include nine deaths at residential facilities ó four requiring additional investigations, according to a letter from an official of the U.S. Health and Human Services' Centers for Medicare and Medicaid Services.

There are also allegations of sexual assault, physical abuse and mismanagement of consumers' personal funds, the letter said.

The audit found that a Babcock Center employee, fired for physically abusing a patient, was rehired a month later. And at least two employees have been charged with stealing patients' money since June.

In September, two Babcock employees were charged with neglect in the death of Babcock resident Arthur Slice, Attorney General Charlie Condon said.

The employees are accused of failing to provide adequate supervision and failure to seek medical help for Slice, who died in June after swallowing nearly three feet of plastic wrap.

Babcock Executive Director Judy Johnson, who took over in June and has promised reform, said Babcock will cooperate in the investigation.

"We have nothing to hide here," Johnson said.

Babcock received about $39 million this fiscal year from the state special needs department to care for people with mental retardation, autism and head and spinal cord injuries, department spokeswoman Kathy Newman said.

The department contracts with 40 other local boards to provide services for the mentally disabled in South Carolina's 46 counties.

Newman said the problems in the audit are being addressed, and the department isn't waiting for the federal review to make changes within Babcock.

"We have been real pleased with the response from Babcock to fix any problems that we've found," Newman said.

NEWS

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Posted on Fri, Jan. 10, 2003

The State

Agencies studying Babcock

The Associated Press
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The U.S. Department of Health and Human Services has asked state officials to investigate the Babcock Center, one of South Carolina's largest facilities that care for the mentally disabled.

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Adams said the investigation -- which began Dec. 2 -- should last a few months and involve other state agencies, including the attorney general's office, the Department of Health and Environmental Control and the Social Services Department. The final report will then be presented to federal officials.

Some other allegations at Babcock involve nine deaths at residential facilities -- four requiring additional investigation, according to a letter from an official of the U.S. Health and Human Services'

Centers for Medicare and Medicaid Services.

Other allegations include sexual assault, physical abuse and mismanagement of consumers' personal funds, the letter said.

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Babcock Center wants to hide the truth

06/29/03

BABCOCK CENTER attorneys want to muzzle the Chronicle, restricting what we publish about the abuses that continue in their client's operations.

It appears they want to stop us from further reporting on additional abuse at the center.

We have news for them. No such luck. We plan to publish whatever we find because the safety of the Babcock's Center's 1,100 mentally-retarded residents is at stake.

In addition, the taxpayers have a $40 million a year investment in seeing that these residents are well cared for and not physically or emotionally abused or their hard-earned money stolen from them.

We have now reached what attorneys call the "discovery stage" of lawsuits filed by the Babcock Center's executive director and two employees she fired. Our attorney, Jay Bender, has requested documents that support Chronicle articles. But Babcock attorneys want us to agree we will not publish any of their records. We have refused to agree to the ban in the conviction that the public — under the state's Freedom of Information Act — has a right to this information.

The Babcock Center likes to maintain the fiction that it is a private organization. Yet its work is supported by our tax dollars.

Some Babcock Center employees abused residents, stole

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don't know	C	0%
Unsure	C	0%

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Some Babcock Center employees abused residents, stole thousands of dollars from them and may have contributed to the suspicious deaths of at least four others.

Our attorney has responded that the Chronicle is not willing to be denied access to these documents. We will publish information contained in public records even if the same records are also provided for our attorney's use through the litigation process if we think it is in the public interest.

Responding to efforts to limit the paper's ability to obtain and publish the contents of public records, Bender wrote, "I have concern that Babcock's unwillingness to provide docu-ments in response to my subpena is designed to aid Judy Johnson's position in separate litigation against the newspaper."

The day is approaching when other providers of care to the mentally retarded will contest Babcock Center's monopoly in our state. It can not come soon enough.

JerryBell@aol.com

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The State
COLUMBIA • SOUTH CAROLINA
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SUNDAY, APRIL 11, 2004 • SECTION B

EASTER

Babcock to downsize, seek help

Center to reduce residential program, asks state to take over facility in Lexington

By JENNIFER TALHELM
Staff Writer

The Babcock Center for the mentally disabled plans to downsize after two years of trouble, and officials have asked a state agency to take over its largest facility in Lexington.

Over the past few years, state and federal reviews have found repeated problems at Babcock homes, ranging fro

Babcock and department officials agreed to reduce the center's residential program and wrote it into Babcock's contract at the beginning of this year.

Babcock's plan is to cut 153 of its 635 residential beds over five years. That would bring Babcock, by far the state's largest contract provider of services for the mentally disabled, closer in size to similar providers.

3142

PHOTOGRAPHS BY RICH GLICKSTEIN/THE STATE

center, picks up eggs Saturday at the Great Irmo Egg Hunt.

cracking at egg hunt

candy and getting balloon art, the Easter story also was told.

Lizette Harris called the hunt a nice family event. She was waiting to claim prizes with her three chil-

Babcock to downsize, seek help

Center to reduce residential program, asks state to take over facility in Lexington

By JENNIFER TALHELM
Staff Writer

The Babcock Center for the mentally disabled plans to downsize after two years of trouble, and officials have asked a state agency to take over its largest facility in Lexington.

Over the past few years, state and federal reviews have found repeated problems at Babcock homes — ranging from financial mismanagement and theft to reports of client abuse.

"Even before the complaints surfaced, officials with the state Department of Disabilities and Special Needs had concerns about Babcock's size and had talked with the center about cutting back.

Babcock treats more than 1,000 patients with mental retardation, autism, and head and spinal cord injuries at more than 100 locations across the Midlands.

Babcock and department officials agreed to reduce the center's residential program and wrote it into Babcock's contract at the beginning of this year.

Babcock's plan is to cut 153 of its 635 residential beds over five years. That would bring Babcock, by far the state's largest contract provider of services for the mentally disabled, closer in size to similar providers.

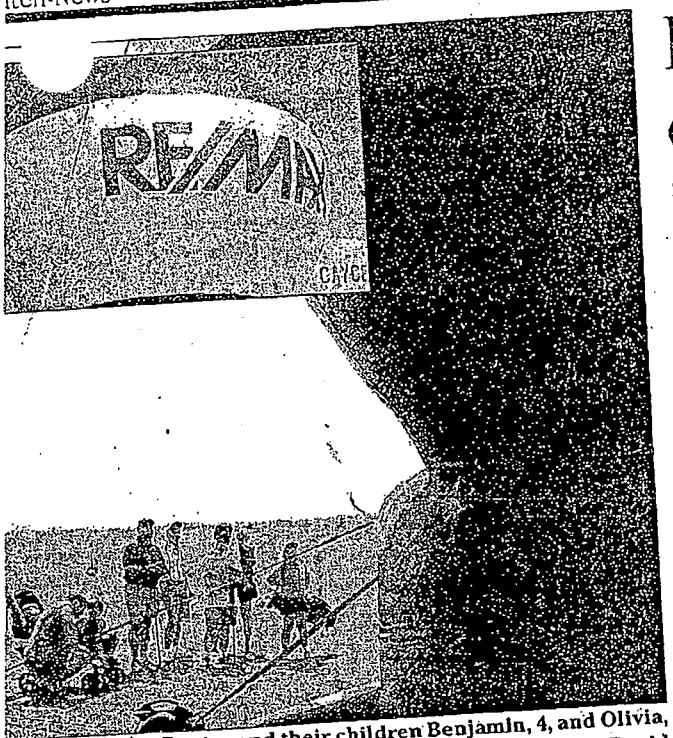
Disabilities and Special Needs officials were concerned Babcock's size had contributed to its problems, said Lois Park Mole, the department's spokeswoman.

Most other large private contract providers in the state serve 200 to 300 clients in residential programs, she said.

"You have to balance — at what point do you begin to lose effectiveness?" Mole said. "When

SEE **BABCOCK** PAGE **B5**

Hootie and Co. tee off



heryl and Don Rueter and their children Benjamin, 4, and Olivia, 2, and Hank Ray and his children John, 10, and Jessie, 8, and David Ja ReMax Real Estate had fun Saturday at the ReMax balloon an ing golf balls at the West Metro Chamber of Commerce event at Par Tee Driving Range.

Ex-Babcock worker convicted of abuse

By Jerry Bellune
Editor@LexingtonChronicle.com

A former Babcock Center employee has been convicted of pouring scalding water on a mentally-retarded resident.

Circuit Court Judge Clifton Newsman sentenced Shakesha Cloress Bynum, 24, of Priceville Road, Gilbert, to a year in prison

Her sentence was suspended on serving a year's probation.

She also must pay a $200 fine and $1,040 in court costs.

The case is one in a long line of abuse and neglect charges against employees and former employees of the center which cares for 1,100 mentally-retarded people in the state.

Babcock Center officials have been the target of federal and state investigations after a series of articles in the *Chronicle* revealed the problems.

Babcock's exective director Judy Johnson and two of her former employees are suing the *Chronicle* for libel.

Bynum could have received up to five years in prison for neglect of a vulnerable adult, a felony in South Carolina.

Although Bynum told the *Chronicle* she was not guilty, she pleaded guilty to the charge.

Investigating officers said the defendant knowingly and willfully neglected the resident on April 23, 2003, by:

- Failing to accurately report visible signs of injury.
- Failing to seek prompt and immediate medical care.

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The State
COLUMBIA SOUTH CAROLINA
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SUNDAY, OCTOBER 3, 2004 SECTION B

WEATHER, Page B8

Babcock worker faces abuse charg

Employee charged with sexually assaulting mentally disabled co-worker

By LAUREN LEACH
Staff Writer

A Babcock Center employee was charged with sexually assaulting a mentally disabled woman at a Lexington County waste collection station where both of them worked, sheriff's officials said Saturday.

William Daniel Stephens, 26, of Pelion, was charged Friday with two counts of second-degree criminal sexual conduct for incidents that allegedly occurred between Sept. 17 and 30 in a station break room, Lexington County sheriff's spokesman John Allard said. Allard did not release the station's location to protect the identity of the woman, a Babcock Center client.

Second-degree criminal sexual conduct carries a maximum punishment of 20 years in prison.

Stephens, a crew chief, allegedly gave the 55-year-old woman bottles of soda so she would not tell anyone about the assaults, Allard said. But the woman confided to a friend about the incidents when the friend noticed the woman was using some type of ointment on the lower part of her body, Lexington County Sheriff James Metts said.

"It takes a pretty mean individual to take advantage of someone like this. It takes a sadistic individual to do that," he said.

Lois Mole, director of government and community relations for the state Department of Disabilities and Special Needs, said: "It's sad when any human being harms another human being. ... If they are vulnerable or mentally challenged, your heart goes out to the victim that mu

Babcock executive di
Johnson said Stephens
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"The Babcock Center
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By CHUCK CR
Staff Writer

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– From the First Amendment to the Constitution of the United States of America

26 days until the November 2 election. Are you registered to vote?

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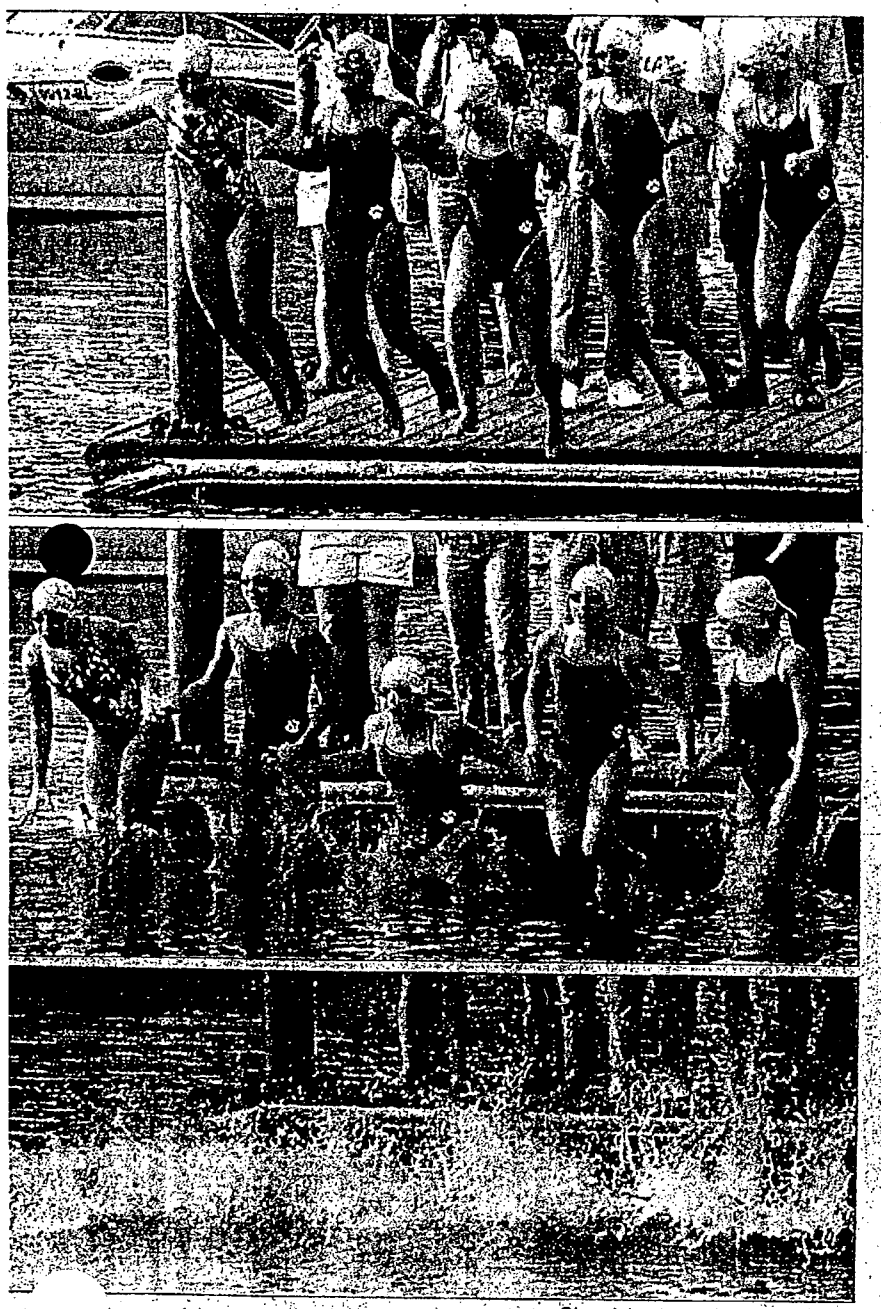
the *Chronicle*. "It's going we will file a counter claim members of town council natures on a petition calling the issue.



Chronicle photos by Mark Bellune

Taking the plunge

Lexington High School swim team members take the plunge in Lake Murray last week to swim the two miles from the Irmo side of the dam to the Lexington side in remembrance of Drew Smith, the 11-year-old student killed in a 1997 boating accident on the lake. Drew's parents were on hand and thanked the swimmers.

Sex assault charged at Babcock

Center suspends man without pay

By Jerry Bellune
ChronicleEditor@alltel.net

A Babcock Center supervisor has been charged with sexually assaulting a mentally retarded woman.

Lexington County deputies arrested William Daniel Stephens, 26, of 318 Bushberry Road, Pelion.

He is charged with sexually assaulted a 55-year-old resident who worked for him at a Lexington County waste collection station.

Babcock Center Executive Director Judy Johnson said Stephens has been in no trouble at the center before but was suspended without pay until the investigation is completed.

"We will not tolerate abuse of any kind at the Babcock Center," she said.

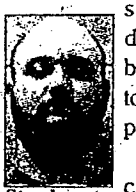
"We actually reported the incident to the Sheriff's Department."

The victim's name and station location are being withheld to protect her identity, Lexington County Sheriff James R. Metts said.

Stephens was a Babcock crew chief. The victim is a client of the Babcock Center who worked for him.

A co-worker reported the assaults Sept. 30, Metts said.

A Lexington County magistrate set bond for Stephens at $200,000 on two counts of second-degree criminal sexual conduct. He could be sentenced to 20 years in prison.



Stephens

Stephens coerced the victim into performing sex acts twice last month while they worked at the waste station, Metts said.

He said the victim, a small woman, feared she would lose her job if she did not do what Stephens wanted. Stephens is 6-foot-2 and weighs 280 pounds.

Metts said Stephens gave his victim sodas to keep quiet about the sex acts.

The sexual assaults occurred in a break room at the collection station. Lexington County contracts with Babcock for workers for nine of its 12 stations.

Lexington County Administrator Art Brooks said Babcock Center employees have had no serious conduct problems before

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"Congress shall make no law ... abridging the freedom of speech or of the press."
—from the First Amendment to the Constitution of the United States of America

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Babcock reveals plans for improvements

Proposal response to state cutbacks

By Jerry Bellune
ChronicleEditor@alltel.net

The Babcock Center has come up with its own plan to reduce its size and deal with abuse and neglect.

The center's executive director Judy Johnson said she had not been given an opportunity to participate in a state agency's plan of reform and criticized state agency officials for what she called making misleading statements.

That plan, devised by the state Department of Disabilities and Special Needs, was outlined in the *Chronicle* last week. A summary of that plan can be found at our web site www.Lexington-Chronicle.com

In a letter to Sen. Jake Knotts of Lexington County, Dr. Johnson outlined her ideas and attached a lengthy step-by-step plan.

"The Babcock Center has made significant progress during the past 2-1/2 years", she wrote.

That time frame begins with a first critical state audit detailing problems of abuse, neglect, theft, improper hiring and misuse of state and federal money and the center's credit cards, vehicles and property.

The audit did not mention 14 deaths in two years, four of them suspicious.

Two Babcock residents have died recently from choking despite orders that their food was to be pureed.

Dr. Johnson said a quality assurance plan adopted June 9 is now being executed.

A quality enhancement plan was adopted in May 2004 to evaluate progress in improving services and facilities for the 1,100 disabled and mentally retarded clients it serves.

On May 19, Babcock asked the state DDSN to help measure progress.

To give Babcock families information about other care providers, she said the center held a "Provider Fair" in March 2004, inviting other care providers and families.

The center, she said, is reducing its number of beds by 153 over four years, from 635 to 482.

Babcock to date has eliminated 60 beds and closed 10 facilities.

"In many cases, by preference, residents were relocated to vacant spaces in other Babcock facilities," she wrote. "Others transferred to providers in other counties located nearer to their families."

Dr. Johnson also noted that:

- Family members have been trained to inspect Babcock facilities using a detailed list and report back to her each month.
- Babcock's board voted to step down if the center becomes a public agency accountable to Richland and Lexington county councils.

Elections topped our year 2004

$27 a year
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Lexington County
Chronicle
& The Dispatch-News – Since 1870

"Congress shall make no law ... abridging the freedom of speech or of the press."
— From the First Amendment to the Constitution of the United States of America

Thursday, December 23, 2004 • Vol. 134, 11th Edition www.LexingtonChronicle.com PO Box 9, Lexington, S.C. 29071 • (803) 359-76

Forecast
dy. 49° high,
lay forecast,

Inside Stuff

Longtime Lexington Middle School girls basketball coach Jim Silvey is battling his toughest foe yet—cancer. For the details, see Dexter Hudson's story in Sports on Page 1-C.

annamaker, 2½-year-old daughter John Wannamaker of Lexington,

Lexington kills bond, OKs tax vote

By Jerry Bellune
ChronicleEditor@alltel.net

In less than 40 minutes Monday, the Lexington Town Council undid two major acts of the past administration.

Mayor Randy Halfacre and the other five council members voted 6-0 to repeal the $3.6 million bond and buy it back, paying off $13,000 in interest.

Council man Richard Thompson, who originally voted for the bond, made the motion to repeal it and voted with the others to buy it back.

But on a motion to place the 2% hospitality tax on the special election ballot March 1, Thompson voted against. The motion carried 5-1.

The tax referendum will be advisory only. But a council majority has said they will respect the outcome.

New council man Ted Stambolitis advised tax supporters to "educate the public about it. Let them go door to door. But let the citizens speak."

Council woman Constance Fleming said her major concern was the way the tax was thrust on the citizens by the last administration.

"The people deserve the right to vote," she said, predicting a majority of voters would back the tax.

Council woman Kathy Maness said she heard from many voters about the way the tax was thrust on them as she campaigned for office.

"This room was filled with people speaking against the tax and the council voted 4-3 to pass it. We're going to let the people speak."

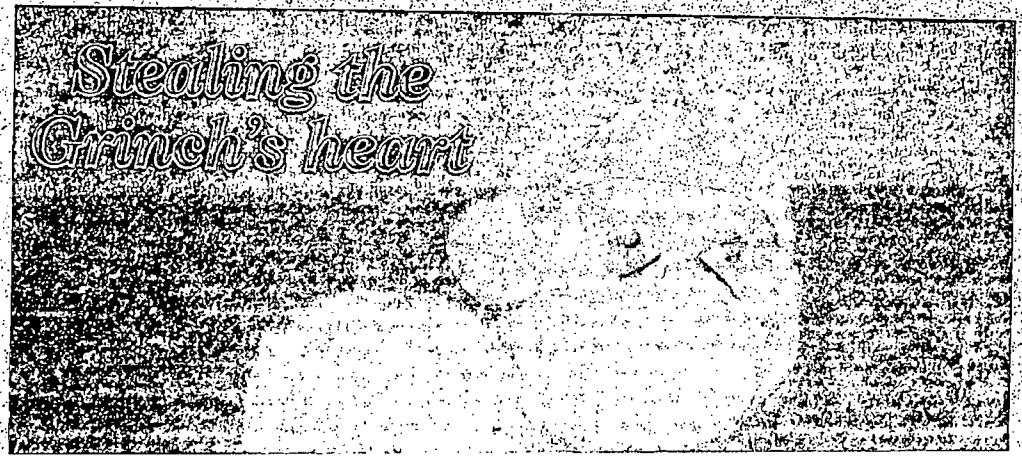
Thompson said he favors keepir the tax as he has heard no negativ comments about it.

Mayor protem Hazel Tyndall sai she heard comments from both side as she campaigned for re-election.

"The town is split," she said. "Thi is the way to solve the issue."

Mayor Randy Halfacre said he ur derstood why there was concern.

"You can't go wrong letting th people speak," he said.



State plans 50% cuts at Babcock

By Jerry Bellune
ChronicleEditor@alltel.net

The state plans to cut the Babcock Center

• Critics: Babcock thief given slap on the wrist.

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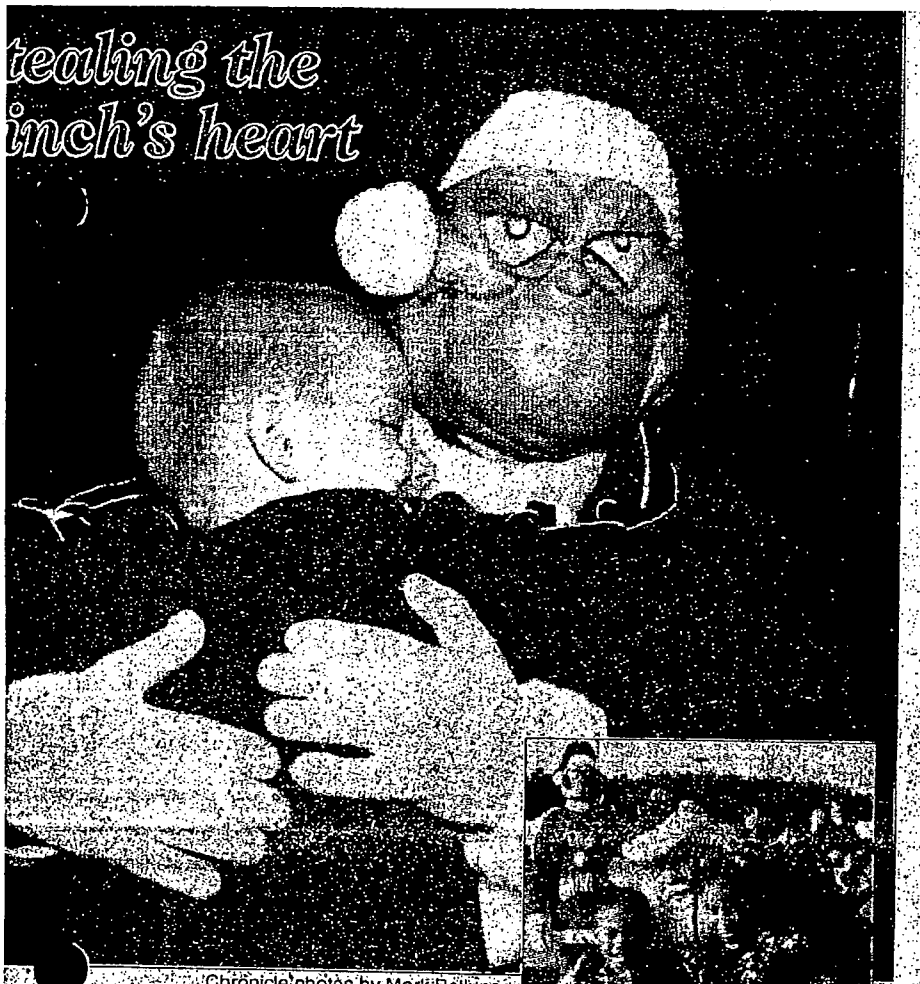

Chronicle photos by Mark Bellune

p Jr., a first grader at Saxe Gotha Elementary s the Grinch, played by David McClure of the rder of Police Midlands Lodge, at the FOP's an- vith a Cop at the Lexington Wal-Mart Saturday. , played by Phil Kuzilk, was also on hand. More t the event are on Page 5-A.

State plans 50% cuts at Babcock

By Jerry Bellune
ChronicleEditor@alltel.net

The state plans to cut the Babcock Center's size by 50% from 634 to 317 beds.

The state also plans to encourage families to report incidents of abuse and investigate complaints.

In a letter to Sen. Jake Knotts and Rep. Mac Toole of Lexington County, state Department of Disabilities and Special Needs Director Stan Butkus expressed concerns about Babcock's size and scope of responsibility.

The center provides care for 1,100 disabled and mentally-retarded clients including 634 residents. Babcock has been the subject of state and federal investigations and two critical state audits.

A number of Babcock employees have been fired for abuse, neglect, theft from clients and other violations of state policy and law.

In his letter, Dr. Butkus wrote that his department plans to:

- Hire investigators to review allegations of abuse and neglect.
- Ask families to contact DDSN's Office of Consumer Affairs with any concerns.
- Encourage them to report concerns about abuse and neglect to the S.C. Protection and Advocacy System.
- Initiate a requirement that Babcock make the cuts in three phases of six months each.
- Assign the care of disabled and mentally-retarded clients who leave Babcock to other care providers.
- Inform Babcock families about other choices and services.
- Ask families about their preferences.
- Monitor Babcock's progress in correcting its problems.
- Assess Babcock staff needs for training.
- Do an independent review of programs.

In his letter, Dr. Butkus wrote that some Babcock families have already chosen other care providers.

He said his department would respect their wishes "as long as we are confident that quality services are being received."

• Critics: Babcock thief given slap on the wrist. Page 3-A.

p 2% meal tax, backers urge

chairman: Letting citizens lure of town leadership

llune
tel.net

ington 2% upporters n Council

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to\ g commit- up with a three years agreed the e best way

to pay for them.

"Outside this room," he said, "I have not heard one complaint."

He said the Lexington Chamber of Commerce was not opposed.

Actually the chamber initially was opposed and has not yet taken a position for or against the tax.

"A referendum is to be used when there is not enough leadership among elected officials," O'Brien said.

He also criticized buying back the town's $3.6 million bond, saying the council was "throwing away $3.6 million that's not hurting anyone."

Business owner Frank Mogan, an early opponent of the tax, said he and his wife eat out three to four times a week but now don't mind the tax.

"I don't like the way the tax was rammed down my throat," he said, "but I say now leave it in. Do something to benefit the town."

Businessman Chuck Corley said he has talked with several restaurant owners who say the tax has not hurt them.

Carolyn Bryson, a tax supporter, asked if the town had surveyed the restaurant owners for the tax impact on them.

Former town council woman Virginia Hylton called the 2% tax "one of the best thing we've done. If we undo it, we'll regret it."

WELCOME TO LEXINGTON
PROGRESS UNDER WAY

$17 million sought for aging, recreation

By Vicki Shealy
VSFlash@aol.com

Lexington County recreation officials want

• What other projects the commission would like to do

Mims 1952

LEXINGTON COUNTY CHRONICLE & DISPATCH-NEWS

SECOND FRONT PAGE

Chronicle's Storm Team Forecast*	40° SATURDAY 12°	39° SUNDAY 17°	47° MONDAY 31°	55° TUESDAY 39°

Babcock exploitation sentence questioned

By Jerry Bellune
ChronicleEditor@alltel.net

Critics are calling the sentencing of a former Babcock Center supervisor a slap on the wrist.

"The judge should have sent a message," said Sen. Jake Knotts of Lexington County. "We're not going to put up with people who take advantage of vulnerable people."

Former Babcock Center board chairman Patricia Harrison questioned a series of light sentences handed down to former Babcock employees on charges of abuse and neglect.

Both were talking about Judge Casey Manning's sentencing of former Babcock supervisor Tyrone Suber, 41, to five years in prison and a $5,000 fine suspended to six months home detention and five years probation.

Suber was charged with exploiting mentally-retarded and disabled Babcock clients of $50 each on the pretense he would take them on a trip to the beach.

Suber admitted he never intended to make the trips and kept the money.

Judge Manning, a former Lexington attorney, ordered him to repay the Babcock Center $4,545 and serve 250 hours of community service.

The center's administration said it has repaid its clients' money.

Suber pleaded guilty to five counts of exploiting a vulnerable adult, a felony punishable by 25 years in prison, and seven counts of obtaining property under false pretenses, punishable by seven months in prison and a $3,500 fine.

Knotts said several light sentences for abuse at the Babcock Center told him — "We need to clean up our judicial system.

"If this is the type of message he is going to send, I may go to his judicial reappointment review."

New school building bids sought

By Vicki Shealy
VSFlash@aol.com

Lexington District One will take bids on two new Lexington area schools after Jan. 1.

A new elementary and middle school in the Lexington attendance area will be the first built under a $113 million program voters approved in November.

Construction is expected to begin in the summer of 2005.

The schools are to open for the 2006-07 school year.

Lexington One trustees got

MEMBER CENTER| Create Account| Log In SEARCH:

Former Babcock employee sentenced for cheating residents

Email to a Friend Printer Friendly Version

Jack Kuenzie on sentencing for a former Babcock employee

Also on WIStv.com

US Marshals arrest Lexington Co. shooting suspect in NY

Richland 1 Superintendent Epps resigns Friday

Spurrier: Investigators looking at 3 or 4 USC players connected with thefts

CPD searching for 3 suspects in Thurs. kidnapping, robbery

Doctor say man on SC's death row competent to give up appeals

Fort Dorchester HS ccustodian harged with stealing holiday money from disabled students

Health Alert: Laser treatment for damaged skin

Joe "Friday" Pinner's Midday forecast (12/17)

(Columbia) Dec. 16, 2004 - Tyrone Suber appeared in court to admit stealing thousands of dollars from residents when he worked at the Babcock Center.

Ken Moore with the Attorney General's office says last year, Suber took advantage of about 20 disabled clients, signing them up for bogus trips to Savannah, Atlanta and Myrtle Beach, "And he would get money from them as a deposit to take them on these trips. Of course the trips were never approved by anybody. The trips were never planned. The trips were just a way to get money."

Archie Jordan was one of Suber's victims.

Q: You didn't go on the trip, right?
A: No.
Q: What did you think of that?
A: Nothing much.
Q: That wasn't fair, was it?
A: No it wasn't.

Suber faced a dozen indictments either for exploitation or obtaining property under false pretenses. Authorities say he collected more than $4500 in payments before he was caught.

Critics say the Babcock Center's problems extend well beyond the actions of one employee. Attorney Patricia Harrison says this case again points out that higher-ups are not being held accountable when abuses are discovered, "This is the fourth major series of thefts at the Babcock Center."

Harrison wants the state to look at what she calls "systemic abuses" at Babcock, "It doesn't make the lower level employees less guilty. They're

Mims 1954

awfully guilty. But the higher level person who has allowed this to go on and who haven't reconciled the bank statements [that] were supposed to be reconciled and who haven't supervised and audited, should also be held accountable."

Jordan and three of his brothers lived at Babcock. Harrison says two were physically abused.

Their sister, Betty Jackson, says Billy Cothran died under questionable circumstances after choking on food, "Evidently there's been a lot of cover-up. And I've seen this. And I think it should be brought out into the open."

Suber could have served more than 25 years in prison. He avoids that with a sentence of six months house arrest, 250 hours of community service and repayment of the money he took.

By Jack Kuenzie
Posted 7:44pm by BrettWitt

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The State
COLUMBIA SOUTH CAROLINA

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SATURDAY, DECEMBER 2, 2000 / SECTION B

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ADING PAGE B5

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PPEALS PAGE B5

Babcock Center ex-employee sentenced

Judge orders house arrest on exploitation charge

BY J.R. GONZALES
Staff Writer

A former Babcock Center employee pleaded guilty Thursday to defrauding several residents there last year.

Tyrone Suber, 46, of 1912 Spotswood Road, was convicted of five counts of exploitation of a vulnerable adult and seven counts of obtaining property under false pretenses, according to the state attorney general's office.

During a seven-month period, Suber took money from clients and led them to believe the money was for a trip to Savannah or Myrtle Beach, according to prosecutors. Instead, Suber used the money for himself.

Suber was sentenced to six months' house arrest and five years' probation on the exploita-

SEE SENTENCE PAGE B5

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Annie Rouse, Bennettsville
May Sanders, Charleston
Agatha Scherffius, Columbia
Thomas Seegars Jr., Fort Lawn
Donald Seigler, Aiken
Leon Shealy, Little Mountain
Wade Taylor, Gilbert
James Welch Jr., Columbia

M. Onnie Wood, Orangeburg
Barbara Ziemba, Columbia

DETAILS, DEATHS ELSEWHERE
See Page B4

3153
EXHIBIT
56

She died Dec. 16, 2004. Surviving: mother; husband, Eddie; sons, Allen Douglas Jr., Marvin Robinson Jr.; grandbrothers, David Jr., Milton, Durham Hamilton.

James Rogers

LAURENS — A graveside service for [redacted] Dick" Rogers, 75, is [redacted] ward in New Prospect Bap[redacted] Cemetery. Masonic rites [redacted] Kennedy Mortuary is in [redacted] Laurens to David [redacted] Estie Darnell Rogers, he died Dec. 16, 2004. Surviving: wife, Jane Martin Rogers; children, Janie Cassell, Gladi Goldman, James Stewart [redacted], sisters, Louise Hall; 5 grands, [redacted] cousins, Margaret, Curtis Fuller.

Annie Rouse

BENNETTSVILLE — Services for Annie Pauline Dew Rouse, 88, homemaker, widow of Douglas Dew and Neal Rouse, will be 2 p.m. Sunday at Pentecostal Holiness Church; burial in McCall Cemetery. Visitation is 7-9 tonight at Whitner-Evans Funeral Home. Born in Marlboro Co. to Nathan and Allie Taylor Rouse, she died December 16, 2004. Surviving: sons, William, Jennings, John and Billy Ray Dew.

May Sanders

CHARLESTON — Services for Vivian M. T. Sanders, 85, retired teacher, widow of Rev. Dr. James Sanders, [redacted] a.m. Monday (10 a.m. visitation) at Stephens Funeral Home. Manning; burial, Calvary Baptist Church Cemetery. Born in Pinewood [redacted] George and Cora Taylor Tindal, [redacted] died Dec. 16, 2004. Surviving: [redacted] daughters, Joy, Edie Sanders, Kathy [redacted], brother, Norman Tindal, [redacted] granddaughter, Robin Boyd.

Agatha Scherffius

COLUMBIA — Agatha Frierson Wom[redacted] Scherffius or "Aggie" as she was [redacted] everyone, died Thursday, [redacted] 2004. Born to a large [redacted] Natchitoches, Louisiana, on [redacted] 1919, Aggie lived all [redacted] country with her husband, Andrew M. "Buck" Scherffius, a [redacted] plant engineer, and they retired in [redacted] South Carolina. For the past [redacted] years she made her home with [redacted] daughter in Columbia where she [redacted] many friends.

Aggie graduated from LSU in [redacted] where she was a member of [redacted] Omega fraternity and worked as [redacted] social worker before her marriage. [redacted] wherever she lived, Aggie was ac[redacted] in the Presbyterian Church and [redacted] Shandon United Methodist [redacted] Church in Columbia for many years. [redacted] When she first moved to Aiken, she [redacted] started the Girl Scout program in [redacted] community and was a Brownie [redacted] Girl Scout leader for many [redacted] years. She was active in the garden [redacted] club and other community activities.

Aggie is survived and missed by [redacted] loving family: daughter, Margaret [redacted] McClatchey of Atlanta, Georgia; [redacted] grandson, Devereaux Fore McClatchey V, of Boston; Massachu[redacted] daughter, Joy S. Goodwin of Christopher Seigler; 8 grandchildren; sisters, Judy Barfield, Dora Davenport; nieces, nephews.

Leon Shealy

LITTLE MOUNTAIN — Services for Leon Fred Shealy will be conducted at 2:00 p.m. Sunday at Mt. Tabor Lutheran Church with burial to follow in the church cemetery. Visitation will be Saturday from 4:00-6:00 p.m. at McSwain-Evans Funeral Home. Memorials may be made to Pets, Inc., PO Box 6394, West Columbia, SC 29171.

Mr. Shealy, 83, widower of Mae Shealy, died December 17, 2004. Born in Little Mountain, he was a son of the late Rufus Benson and Rosabelle Mae Sease Shealy. He was retired from Coburg Dairy, was a member of Mt. Tabor Lutheran Church and was a member of the Little Mountain Masonic Lodge.

Surviving are his sons, Ken Shealy of Panama City, FL and Murray Shealy of Little Mountain; a daughter, Barbara Hiott of Walterboro; stepdaughters, Sandra Bunch of Hannihan and Ann Cannon of Goose Creek; sisters, Florence Wheeler of the Lowman Home, Louise Bedenbaugh of Prosperity and Christine Metts of Columbia; a brother, Cary Shealy Sr. of Summerton; fourteen grandchildren and fifteen great grandchildren.

www.mcswainevans.com

Wade Taylor

GILBERT — Wade Taylor, 48, of Gilbert, died Friday, December 17, 2004. Funeral services will be held at 11:00 am Monday, December 20, 2004 at Milton Shealy Funeral Home Chapel with interment in Ridge Crest Memorial Park with Rev. Mark Wilkes officiating.

Pallbearers will be Adam Maroney, Jr., John Summers, Patrick and J.W. Taylor, John Webb, Jr. and Mach Webb.

Mr. Taylor was born in Batesburg to Linus and Lila Adam Taylor. He had worked construction.

Surviving are his father and mother; wife, Lisa Rucker of Gilbert; sons, J.W. Taylor, Patrick Taylor both of Gilbert; daughters, Jenna Taylor of Gilbert, April Taylor of N.C.; brother, Linus Taylor, Jr. of Lexington; sisters, Frankie Smith of Gilbert, Becky Comalander, Reba Durst both of Lexington; stepsons, John Webb, Jr., Mach Webb, both of IN; 2 grandchildren.

Family will receive friends from 6:00 to 8:00 p.m. Sunday, December 19, 2004, at Milton Shealy Funeral Home.

Milton Shealy Funeral Home 803-532-6100 is in charge of all arrangements.

Mary Tyler

ORANGEBURG — A memorial service for Mary Louise Tyler, 58, is 9 a.m. today at Orangeburg Wilkinson High School Gym; funeral services are 3 p.m. Monday at Greater Faith Baptist Church, burial in Belleville Memorial Gardens. Glover's Funeral Home is in charge of arrangements.

Colie Wooten

DARLINGTON — Colie Brown Wooten, 91, of Darlington, S.C. and formerly of St. Stephen, died Thursday, December 16, 2004.

The funeral will be 3:00 PM Sunday afternoon, December 19, 2004, at the First Baptist Church, St. Stephen. Interment will follow in Sunset Memorial Cemetery. Friends may call at the church from 6:00 until 8:00 PM this Saturday evening. Directed by the St. Stephen Chapel of Dial-Murray Funeral Home.

Mrs. Wooten was born December 19, 1912 in Friendfield, S.C., a daughter of the late Thomas Preston Brown and Nancy Stephens Brown. She was the widow of John Robert Wooten and was preceded in death by a son-in-law, Leon I. Schurlknight, and eight brothers and sisters. Mrs. Wooten was a graduate of J.C. Lynch High School and Southeastern Commercial College and attended Winthrop College and Moody Bible Institute in Chicago.

Mrs. Wooten was devoted to her Lord, family, and to serving her church, community, and State. She was a member of First Baptist Church of St. Stephen where she served as church organist for over 40 years.

Mrs. Wooten was Associational WMU Missionary of the Charleston and Screven Association, State Mission Study Chairman of South Carolina Women's Missionary Union and served for five years on The Board of Directors.

Mrs. Wooten was President of the Berkeley County Cancer Society for 19 years and a member of the Berkeley County Department of Social Services for over 25 years. She was named "Woman of the Year" in Berkeley County in 1958 for her outstanding work in the American Cancer Society, church, PTA, Community Fair, Garden Club, St. Stephen Library, St. Stephen Health Center, County Planning Committee, Chamber of Commerce, and the Federation of WMS of St. Stephen and Russellville.

Mrs. Wooten, affectionately known as "Miss Colie," touched the lives of many children in her community through the Jack and Jill Kindergarten which she operated for 17 years.

Mrs. Wooten was a contributing reporter for The Berkeley Democrat for many years and authored the book *The Brown Saga of Remembrance* on the history of her family. Mrs. Wooten's motto for her life was "Only one life" - twill soon be past, only what's done for Christ will last.

Mrs. Wooten is survived by three daughters, Ann W. Sanders, Nancy W. Schurlknight, and Johnie R. Wooten; Son-in-Law William D. Sanders; five grandchildren, John L. Schurlknight and wife Malinda Sheri S. Thompson and husband Matt, William D. Sanders, Jr. and wife Jill, Rebecca S. Malcom and husband Steve, and Thomas P. Schurlknight; and a host of R.M.C.

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The State will publish the first 12 lines of an obituary at no charge; additional lines may be purchased. Funeral home codes or confirmation of death will be required. Your funeral home can assist you with details. Obituaries may be edited for style and policy. Information, along with your name, address, and phone number, may be e-mailed, faxed or delivered to the Obituary Desk at our offices, 1401 Shop Road, Columbia, SC 29201. All corrections must be faxed.

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APPEALS

FROM PAGE B1

chiatrist Dr. Donna Schwartz-Watts was asked to evaluate Wise within a week of his execution.

"I don't think anyone knows what effects an impending execution will have on Wise's competency," she said.

Cooper said he wasn't sure whether the state Supreme Court allows him to order that. The judge asked both attorneys to write briefs on the matter by Jan. 15. Until then, Cooper will not formally issue his ruling.

Once Cooper releases his ruling, the justices will review it. If they approve, Wise's execution could take place within a month or so, Assistant Attorney General Creighton Waters said.

Wise, 50, has said he wanted to go to the death chamber since shortly after he was convicted in February 2001. He was within weeks of dying by lethal injection in June, when the state Supreme Court stopped his execution because Wise's lawyer said he wanted to appeal and Wise wrote a letter to the court saying he wanted to die.

wanted or who helped to get him fired, prosecutors said.

At his 2001 trial, Wise told his lawyers he wanted to take responsibility for the killings. He refused to let them call 13 family and friends in an attempt to get a life sentence instead of death.

A year later, Wise wrote the attorney general's office asking for help to hasten his execution.

The psychiatrists testified Wise always has been a religious man and thinks he should face just punishment for the killings.

When police found Wise, he had swallowed a mix of bug spray and sleeping pills.

SENTENCE

FROM PAGE B1

tion charge. If he fails to complete that, he will be sentenced to five years' imprisonment, prosecutors said.

On the obtaining property counts, the judge sentenced Suber to 30 days imprisonment on each count, but suspended the sentence.

State Circuit Judge Casey Manning ordered Suber to pay restitution of $4,545 to the Babcock Center. He will also have to serve 250 hours of community service.

The center reimbursed the residents for the money they lost.

Efforts to reach an official with the Babcock Center were unsuccessful.

The plea comes months after a

put a book into a child's hands. It's a great gift to the community," Nicholson said.

After being gathered by the volunteers, the books are being distributed through First Steps offices statewide, food banks, interfaith community programs, the United Way's Success by Six initiative and other human service agencies.

Additionally, some of the books are being donated to such human service agencies as Hanna House, Sister Care, Salvation

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"Congress shall make no law ... abridging the freedom of speech or of the press."
— From the First Amendment to the Constitution of the United States of America

Thursday, January 6, 2005 • Vol. 134, 13th Edition www.LexingtonChronicle.com PO Box 9, Lexington, S.C. 29071 • (803) 359-7633

Babcock director criticizes state plan

By Jerry Bellune
ChronicleEditor@alltel.net

The Babcock Center's executive director says a state reform plan would economically destroy her center.

Dr. Judy Johnson accused the state Department of Disabilities and Special Needs planners of "inaccurate and misleading statements".

DDSN officials were notified of her allegations but did not choose to respond.

In a letter to Sen. Jake Knotts of Lexington County commenting on the DDSN plan, Dr. Johnson said the agency failed to credit the Babcock board with requesting an audit after ex-Babcock CEO Risley Linder was let go.

The agency, initially asked Babcock to cut its 635 beds in half. She said the state finally approved a plan to cut 25% of the beds over four years.

But Dr. Stan Butkus told Sen. Knotts that DDSN still wants Babcock's 635 beds reduced by half to 317.

She accused DDSN of agreeing to take over Babcock's Clusters facility near the Lexington County Sheriff's Department, then backing away from the commitment.

Babcock had to close the facility and transfer clients to other facilities on its own, she said.

She said Butkus' statement was misleading in saying 29 families chose to move from the Babcock Center.

• Director criticizes Chronicle, former chairman. Page 2-A

"These people had to move out of Clusters (in Lexington)," she said.

She said Babcock helped all families relocate some to other care providers.

She said it is unrealistic to cut Babcock beds more than 25% although Dr. Butkus told Sen. Knotts that Babcock had agreed to cuts its beds by 50% to 317 beds.

"A 50% reduction in Babcock's residential program is an arbitrary and capricious decision," she said. "It does not support choice."

She complained that her center has been "scrutinized by virtually every investigative agency in the state" as well as federal officials.

"For more than two years this non-stop level of inspections, investigations and reviews has put Babcock in a reactionary role", she said, preventing attempts to start new and better quality services to the 1,100 disabled and mentally retarded people the center serves.

"If 90% of Babcock's current consumers/families do not want to leave Babcock Center," she said, "what happens to this plan?"

She said she anticipates that Babcock Center families will object to cutting the center's beds in half.

Social Security reform likely in

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help improve the safety of the community.

Citizen's groups and individuals from Pelion, West Columbia, Cayce, the Town of Lexington, Gaston and Chapin, plus a yet to be determined business in the county will be asked to supply three volunteers each.

For those wishing to volunteer for this program contact Neil Ellis at Lexington County Emergency Management, (803) 359-8342.

served by the Mendenhalls dating back

see Disney World this summer
id have two new fans in the
bleechers next fall.

Plans for future employment are still in the formative stage, but they focus on the heating and air conditioning industry. The Mendenhalls will keep the 8,000-square-foot building and the 2.5-acre lot it sits on.

Unfortunately, Chester is going to have to find a new spot to snooze.

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Lexington County Council man [illegible] presents a resolution to twins Carlene Corley and Darlene Wooten thanking them for their service to Lexington County as [illegible] volunteers.

Lexington County Council man Todd Cullum presents Frank Smith and his wife Doris a resolution thanking him for his service as a Lexington District Two school board member, Lexington Medical Center trustee and Lexington County Planning Commission member.

Director criticizes Chronicle, former Babcock chairman

By Jerry Bellune
ChronicleEditor@alltel.net

Babcock Center's executive director blames some of the center's problems on a former board chairman and the Lexington County Chronicle.

Writing to Sen. Jake Knotts, Dr. Judy Johnson said the center "has carried out its mission in spite of repeated attacks and allegations by one person and a local newspaper."

She apparently is referring to former Babcock Center board chairman Patricia Harrison and the Lexington County Chronicle.

Mrs. Harrison said she resigned in 2002 when it became apparent the board would do nothing to stop abuse and neglect. The Chronicle started reporting on Babcock problems in the summer of 2002 after we received a copy of a critical state audit.

Dr. Johnson said Harrison has refused to acknowledge Babcock's "significant improvements".

In testifying under oath in a lawsuit against Mrs. Harrison and the Chronicle, Dr. Johnson said Dr. Butkus, the State Director of South Carolina Department of Disabilities and Special Needs, advised her that she did not need to report rapes to the state ombudsman, Mrs. Harrison said.

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—From the First Amendment to the Constitution of the United States of America

Is anyone's life, liberty or property safe?

A preview of the what's ahead in the 2005 State Legislative session next week

Thursday, January 13, 2005 • Vol. 134, 14th Edition www.LexingtonChronicle.com PO Box 9, Lexington, S.C. 29071 • (803) 359-7633

State wants to cut Babcock beds by nearly half

By Jerry Bellune
ChronicleEditor@alltel.net

State officials want to cut the Babcock Center's residential population by at least 25% if not 50%.

In a letter to the *Chronicle*, state Department of Disabilities and Special Needs Director Stan Butkus said the center had housed 635 mentally-retarded and disabled residents.

Even with a reduction to 317 beds, Butkus wrote, "Babcock will still be the largest provider of DDSN's community services in the state.

"The next largest is 265 beds."

Babcock receives $42 million a year in tax dollars to care for up to 1,100 disabled people.

It has been the target of both federal and state investigations.

The *Chronicle* is being sued by two fired Babcock executives for reporting a DDSN auditor's criticism of their conduct on the job.

Responding to a letter of criticism by Babcock director Judy Johnson, Butkus said his agency directed her last spring to reduce the center's size by 153 residents.

He and two Lexington County lawmakers, Sen. Jake Knotts and Rep. Mac Toole, have agreed that Babcock's problems with abuse and neglect stem from its unwieldy size.

Part of the downsizing included Babcock's closing of its much-criticized Clusters facility near the Lexington County Sheriff's Department.

"There has been a high level of scrutiny and review at Babcock by outside entities," Butkus wrote. "When there is a complaint or accusation of abuse, it needs to be investigated.

"Babcock serves 576 residential customers at 90 locations. When DDSN and Babcock closed the Clusters residences, 48 people needed to move."

Some chose to move to other Babcock facilities, others to other state-approved care providers, he said.

Butkus said his agency has conducted two audits of Babcock, completed special reviews, monitored audits by other agencies and worked with Babcock management to resolve the issues turned up by investigators.

"Our number one responsibility is to consumers and families," he said.

LMC expansion takes form

$28 million to reroute town traffic

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Cayce rejects Bearcat stadium, page 1-B

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Probers find new Babcock violations

By Jerry Bellune
ChronicleEditor@alltel.net

State investigators have found numerous violations at the ock Center.

The investigation for the state Health and Human Services Department found:

- Unsanitary conditions at residences.
- Dangerous chemicals left where disabled residents could reach and consume them.
- Ill-trained residence and administrative staff members.
- Poor record keeping and few protections of confidentiality of client records.

The center cares for up to 1,100 disabled clients in Lexington and other Midlands counties.

letter to Sen. Jake ..., Health and Human Services Director Robert M. Kerr wrote hat he was concerned hat these deficiencies may indicate "more pervasive problems" at Babcock.

> "They're blasting us rather than taking care of the problems"
> - Sen. Jake Knotts

Knotts said Babcock administrators have been busy writing letters to clients' families condemning him, Rep. Mac Toole and the *Chronicle* for exposing abuse, neglect and theft.

"They're blasting us rather than taking care of the problems," Sen. Knotts said.

Kerr also wrote Babcock Executive Director Judy Johnson that it is "critical that you coordinate with DDSN (Department of Disabilities and Special Needs) to immediately develop a corrective action plan."

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February 17, 2005

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BABCOCK CENTER

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Compiled by Dargan Richards

---- INDEX REFERENCES ----

INDUSTRY: (Longterm Care (1LO33); Healthcare (1HE06); Construction (1CO11); Healthcare Post-Benefits (1HE10); Healthcare Services (1HE13); Healthcare Service Providers (1HE78); Commercial Construction (1CO15); Commercial Offices (1CO24))

Language: EN

OTHER INDEXING: (Judy Johnson) (BABCOCK CENTER; DDSN; HEALTH; HUMAN SERVICES; MEDICAID; MIDDLEBURG OFFICE; MIDDLEBURG OFFICE PARK; SC DEPARTMENT OF DISABILITIES; STATE DEPARTMENT; US DEPARTMENT OF HEALTH) (Babcock; Bartles; Dargan Richards; James W. Babcock; Judy Johnson; Lexington; Richland; Richland Woman; Robert L. Bartles; Waverly Sanitarium; Wee Care) (LU/us.sc.columb; LU/us.sc; LU/us)

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The State
Thursday, February 17, 2005
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State orders nonprofit that serves mentally retarded to cut back

Babcock to lose half its residents

JILL RICHARDS/THE STATE

Babcock Center residents Kelly Taylor, left, and Allison Jeffcoat sit down for dinner on Monday. Three women currently live in the Lexington group home, which provides around-the-clock care.

BY THE NUMBERS

ABOUT 90: *Number of facilities operated by Babcock Center*

637: *Residents in Babcock Center homes*

317: *Number of residents the state will permit Babcock to have by June 2006*

$37 MILLION: *The value of Babcock's contract to house and care for mentally retarded South Carolinians*

By RODDIE BURRIS
Staff Writer

Myrna Jeffcoat says her 40-year-old daughter, Allison, has been well cared for during her 19 years as a resident of Babcock Center, South Carolina's largest care provider to mentally retarded residents.

"Having been in three other states previously, this is the best we have found," Jeffcoat, of Lexington, said about Babcock.

But after 35 years of operation, Babcock will have to cut in half the number of residents it serves by June 2006, the state Department of Disabilities and Special Needs says.

The number of residents the state will allow Babcock to care for will plummet to 317 from 634, state officials told The State newspaper this week.

The latest cutback in Babcock's residents comes about a year after the state devised a plan to cut its clients by 25 percent over three years because of continuing controversies.

Babcock has $37 million in contracts — all state and federal Medicaid money — with the state Department of Disabilities and Special Needs to operate about 90 facilities in Richland, Lexington, Fairfield and Kershaw counties.

However, a series of damaging audit reports, legal problems centered on patient abuse and deaths, and a lack of oversight have led to Babcock's unraveling as South Carolina's dominant provider of residential services for the mentally retarded.

Among the blows:

- Last year, a Babcock facility, Lexington Clusters, was closed when it lost its state license after a federal investigation into whether the facility met minimum requirements to take part in the federal

SEE BABCOCK PAGE A10

ON THE WEB

The Babcock Center has experienced its share of troubles in recent years, from allegations of worker abuse to funding cuts. Find out more about the Center's troubles online.
thestate.com

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BABCOCK

FROM PAGE A1

Medicaid program.

- The federal agency that administers Medicaid and Medicare also found problems at another Babcock facility in the fall of 2004. The agency said the health and safety of residents at Babcock's Kensington I Group Home were in jeopardy, citing the September death of resident William "Billy" Francis Syminton Cothran, who choked to death.
- Audits into finances at 24 Babcock Center homes also cited problems. One audit said receipts for nearly $63,000 of residents' money could not be accounted for. It also said mentally retarded residents had used nearly $32,000 of their money to pay for towels and wash cloths, sanitary napkins and bed linens. Those items are covered by Medicaid, and Babcock should have paid for them, the audit said.
- A 2002 audit reported a male resident at one Babcock facility arranged for sexual activity with a female, and staff members failed to report the incident — considered abuse and neglect — for nearly a month.
- Audits in 2003 and 2004 found Babcock clients repeatedly suffered medication errors, and were drugged or physically restrained unnecessarily.

A spokesman for Special Needs says Babcock has "significantly higher rates of abuse, neglect and exploitation" among its residents than similar S.C. facilities. The agency says Babcock's rate of substantiated abuse, neglect and exploitation is twice the statewide average.

Special Needs is the state agency with authority over services and programs for the treatment and training of persons with mental retardation and related disabilities.

PROBLEMS UNCOVERED

Babcock's unraveling accelerated late last year when Robert M. Kerr, director of the state Department of Health and Human Services, ordered a review of the private, nonprofit agency. Kerr acted after a federal agency voiced concern about residents in several Babcock homes.

Kerr, whose agency administers Medicaid and Medicare money in South Carolina, subsequently outlined his concerns in January letters to state agency heads, including Stan Butkus, director of Special Needs.

Kerr told Butkus that Special Needs — which provides the state's share of matching Medicaid dollars required to operate

"(Additional) improvements can best be reached and, very importantly, sustained by reducing Babcock's size and scope of responsibility," he said in a statement provided to The State. "There has been a high level of scrutiny and review at Babcock by outside entities."

FAMILIES CONCERNED

The controversies surrounding Babcock have some families of residents in a nervous uproar.

They worry about finding a new care-providing agency for their relatives. They worry about where that new shelter will be located and who will care for their loved ones.

Some want their relatives out of Babcock.

Others like Babcock and want their relatives to stay.

"These handicapped children adjust to new (surroundings) very poorly," said Myrna Jeffcoat, whose daughter, Allison, is mentally retarded and has epilepsy. "Where is Allison going to be? We want to keep our children close to us."

"Over the past two years, Babcock has been bombarded with negative press, resulting in numerous audits," said Bevelry Byars, whose son, Douglas Day, lives at a Babcock home. She says Babcock swiftly has cooperated with each concern raised and resolved the issues.

Columbia resident Jim Carlson, 75, led a group of 12 parents of Babcock clients who met Monday with Butkus of Special Needs.

"We told him that the problems at Babcock are merely a mirror of what happens in society," said Carlson, whose 46-year-old son, David, lives in a Babcock home in West Columbia. "This is the nature of human error."

Carlson said he fears the cutbacks could render Babcock insolvent, forcing even those who like the agency to seek care elsewhere.

Butkus said Special Needs will devise a plan over the coming weeks to determine which homes Babcock will continue to operate. It also will determine who has to move from the Babcock facilities and identify new care providers.

Legislators are involved, too.

"I figure there are 40 to 60 percent of parents who are satisfied with Babcock and 40 to 60 percent of parents who are not satisfied," said state Rep. McLain R. "Mac" Toole, R-Lexington, who has been monitoring the situation.

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— Compiled by Dargan Richards

BABCOCK CENTER

WHAT IS BABCOCK CENTER?

Babcock Center Inc. is a private, nonprofit organization founded in 1970. It serves people with mental retardation, autism, head and spinal cord injury and related lifelong disabilities.

It is the largest residential care provider for mentally retarded in South Carolina.

There are about 90 Babcock Center homes in Richland, Lexington, Kershaw and Fairfield counties. Babcock serves approximately 635 clients.

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February 17, 2005

Babcock to lose half its residents

By Roddie Burris

Feb. 17--Myrna Jeffcoat says her 40-year-old daughter, Allison, has been well cared for during her 19 years as a resident of Babcock Center, South Carolina's largest care provider to mentally retarded residents.

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However, a series of damaging audit reports, legal problems centered on patient abuse and deaths, and a lack of oversight have led to Babcock's unraveling as South Carolina's dominant provider of residential services for the mental retarded.

Among the blows:

--Last year, a Babcock facility, Lexington Clusters, was closed when it lost its state license after a federal investigation into whether the facility met minimum requirements to take part in the federal Medicaid program.

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REGION: (South Carolina (1SO63); USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

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The State
Sunday, April 10, 2005
APER

EXCLUSIVE

Babcock Center says it will close 14 facilities

State ordered nonprofit that cares for the disabled to downsize in 2004

By RODDIE BURRIS
Staff Writer

To meet an order that it downsize by 50 percent, the Babcock Center notified the state it will stop operating 14 residential care facilities for the disabled — nine in Lexington County and five in Richland.

Babcock officials said the plan is the least disruptive for its clients and their families because it could allow patients to stay in the houses they currently occupy, with the same staff, under new management.

"We don't want to downsize," said Judy E. Johnson, Babcock's executive director. "We have critical families (on waiting lists) begging for service, but we are not admitting people at Babcock."

The contract terminations take effect in 90 days, but could be extended.

Babcock also has been in negotiations with the state Department of Disabilities and Special Needs for nearly a year to relinquish large group homes it operates in Kershaw and Fairfield counties, Johnson said.

Babcock has been under a state

SEE BABCOCK PAGE A17

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BABCOCK

FROM PAGE A1

order to downsize since March 2004. Deeper cuts were mandated in February.

Still, Babcock's response to Special Needs' order to downsize by June 2006 might have caught the department unprepared to accept custody of the Babcock clients or to provide suitable alternative care.

Special Needs is the state department responsible for services and programs for training and treatment of people with mental retardation and related disabilities.

Department director Stan Butkus, citing the need "to maintain the health, safety and welfare of all consumers," invoked a clause in the state's contract with Babcock requiring the agency to continue operating the 14 facilities for at least 90 days, until July 1. Babcock offered to turn the facilities over to Special Needs within 30 days.

Babcock, which said it owns most of the 14 properties, wants to lease the facilities to a new provider designated by Special Needs, or sell the properties outright.

Special Needs officials, meanwhile, are conducting their own survey of Babcock clients' preferences.

"We will use it to determine the number of individuals who are in the (14) homes that may want an alternative provider," Butkus said in response to Babcock's offer. "I assume that Babcock will also work with families that wish to stay with the center if substitutions can be made."

One issue that will have to be resolved is management of the five intermediate care facilities that Babcock has included in its termination notice. Intermediate care facilities provide the highest — and most expensive — level of care for mentally retarded patients. Babcock is the only provider of that round-the-clock level of care in Richland or Lexington counties.

Critics have said Butkus mandated the Babcock cuts in response to political pressure from two state legislators, Sen. Jake Knotts and Rep. Mac Toole, both Lexington Republicans.

Knotts said he met with Butkus and other state agency heads about Babcock out of concern for its clients. "There were complaints coming in, phone calls, audits," Knotts said.

"We tried for years to get Babcock to recognize they had a problem, and their response was that they didn't have a problem."

Knotts said he did not ask Butkus to downsize Babcock.

"I would love for Babcock to get their ducks in a row so as to be able to handle, manage and give care to the people that need it," he said.

Butkus said caring for fewer clients will enable Babcock to improve its performance and better ensure the safety and welfare of those clients.

In February, Special Needs said Babcock, one of the largest agencies of its kind in the Southeast, had one of the worst records of "abuse, neglect and exploitation" of its residents of any residential provider in abuse and neglect allegations are handled at the agency. Johnson, Babcock's executive director, said she now handles those allegations directly.

If Babcock's expedited request to terminate contracts at the 14 facilities goes through, the agency says it will have met 34 percent of the total reduction mandated by Special Needs.

Butkus has said that if Babcock brings its performance levels and incidences of abuse, neglect, exploitation and critical incidents in line with other providers in the state, he might not require the full 50 percent cut.

Babcock said before going public it called each family that has relatives at the 14 affected facilities to inform them about plans to terminate their contracts.

For Debby Jernigan of Lexington, that call made for a bad morning. Her 19-year-old daughter,

HOW BABCOCK GOT HERE

Babcock Center, a private, nonprofit organization, has been around since 1970, growing from a kindergarten for eight mentally retarded children to one of the largest residential care providers in the Southeast.

It operates about 85 facilities that are home to 550 clients in Richland, Lexington, Fairfield, Newberry and Kershaw counties.

Before it began downsizing, it held $41 million in annual contracts through the state Department of Disabilities and Specials Needs. Most of the money comes from Medicaid contracts for administering care to the disabled, mentally retarded, autistic and others.

Reacting to federal audits of Babcock over the past few years, the state said in January it could not assure that all Babcock facilities met the minimal federal requirements to continue funding eligibility under Medicaid guidelines.

Last year the state ordered Babcock to cut its residents by 25 percent. This year, it boosted the cuts to 50 percent by June 2006.

- **Homes already closed:** Clusters (6 homes), Condos (2 homes), Wesley, Menlo, Batchelor II
- **Richland homes Babcock could stop operating:** Apple Valley, Wilson I and II, Denton, Clarence McKinney Court
- **Lexington homes Babcock could stop operating:** Wire Road I and II, Platt Springs, Nazareth Road, Hendrix, Shady Lane, Marlboro, Middleton, Bruton Smith

— *Roddie Burris*

Mims 1973

quiring the agency to continue operating the 14 facilities for at least 90 days, until July 1. Babcock offered to turn the facilities over to Special Needs within 30 days.

Babcock, which said it owns most of the 14 properties, wants to lease the facilities to a new provider designated by Special Needs, or sell the properties outright.

Special Needs officials, meanwhile, are conducting their own survey of Babcock clients' preferences.

"We will use it to determine the number of individuals who are in the (14) homes that may want an alternative provider," Butkus said in response to Babcock's offer. "I assume that Babcock will also work with families that wish to stay with the center if substitutions can be made."

One issue that will have to be resolved is management of the five intermediate care facilities that Babcock has included in its termination notice. Intermediate care facilities provide the highest — and most expensive — level of care for mentally retarded patients. Babcock is the only provider of that round-the-clock level of care in Richland or Lexington counties.

Critics have said Butkus mandated the Babcock cuts in response to political pressure from two state legislators, Sen. Jake Knotts and Rep. Mac Toole, both Lexington Republicans.

Knotts said he met with Butkus and other state agency heads about Babcock out of concern for its clients. "There were complaints coming in, phone calls, audits," Knotts said.

"We tried for years to get Babcock to recognize they had a problem, and their response was that they didn't have a problem."

Knotts said he did not ask Butkus to downsize Babcock.

"I would love for Babcock to get their ducks in a row so as to be able to handle, manage and give care to the people that need it," he said.

Butkus said caring for fewer clients will enable Babcock to improve its performance and better ensure the safety and welfare of those clients.

In February, Special Needs said Babcock, one of the largest agencies of its kind in the Southeast, had one of the worst records of "abuse, neglect and exploitation" of its residents of any residential provider in the state.

Babcock Center treats patients with mental retardation, autism and head and spinal cord injuries. Last year, before it began cutting back, Babcock treated more than 1,000 patients at 100 locations in a five-county area of the Midlands.

Audits the past few years have shown numerous deficiencies at Babcock, and at Special Needs, ranging from ill-trained staff, to medication errors, misappropriated funds and failure to report in a timely manner sexual activity that amounted to abuse and neglect.

Babcock says it has corrected its problems and changed the way abuse and neglect allegations are handled at the agency. Johnson, Babcock's executive director, said she now handles those allegations directly.

If Babcock's expedited request to terminate contracts at the 14 facilities goes through, the agency says it will have met 34 percent of the total reduction mandated by Special Needs.

Butkus has said that if Babcock brings its performance levels and incidences of abuse, neglect, exploitation and critical incidents in line with other providers in the state, he might not require the full 50 percent cut.

Babcock said before going public it called each family that has relatives at the 14 affected facilities to inform them about plans to terminate their contracts.

For Debby Jernigan of Lexington, that call made for a bad morning. Her 19-year-old daughter, Cassie, is a resident at one of the Babcock facilities up for termination, which is a few miles from her and her husband's home.

The Department of Disabilities and Special Needs "is always lamenting budget cuts for everything," Jernigan said. "Well, how much money is this going to cost?"

She blames bad politics for the predicament her family and others face and wants it to stop.

"I don't know who pushed the button to start this, but I want to know who it is that can let go of it."

Reach Burris at (803) 771-8398 or rburris@thestate.com.

comes from Medicaid contracts for administering care to the disabled, mentally retarded, autistic and others.

Reacting to federal audits of Babcock over the past few years, the state said in January it could not assure that all Babcock facilities met the minimal federal requirements to continue funding eligibility under Medicaid guidelines.

Last year the state ordered Babcock to cut its residents by 25 percent. This year, it boosted the cuts to 50 percent by June 2006.

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side stuff
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The Inside Stuff

TTLE FOR COLUMBIA

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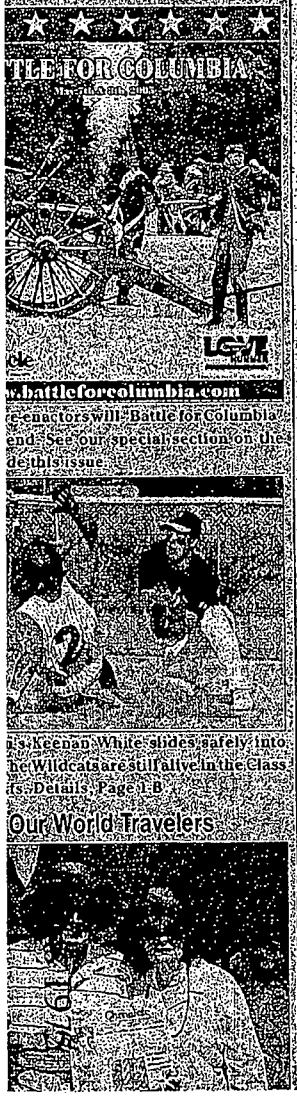
ts Details, Page 1-B

Our World Travelers



Property tax relief a dead issue this yea

By Jerry Bellune
Editor@LexingtonChronicle.com

Nobody wants to say so, but property tax relief appears dead on arrival.

Lexington County legislative delegation chairman Mac Toole said the four competing formulas for tax relief has complicated negotiations.

He expects the House will form an ad hoc committee to review all four proposals and work out a compromise to get a high priority when lawmakers go back to work next January.

"We don't care which formula is the winner," he said, "as long as it does three important things:

"• Supports public education.

"• Is fair to everybody – taxpayers and school districts.

"• Is permanent.

"That third one will require a constitutional amendment," Rep. Kenny Bingham said.

STATE HOUSE WATCH

Bingham blamed slow action on tax relief on work on the state budget which preceded everything this session.

"We want a constitutional amendment on the November 2006 ballot," he said.

"This would give taxpayers a chance to vote on the state paying all public school operating costs."

That would require a additional 2% sales tax but would relieve local property taxpayers of a major part of their current taxes.

Property taxes would continue to cover the cost of public education's capital costs, municipal and county operations and such costs as Riverbanks Zoo and the county recreations and aging agencies.

Rep. Ted Pitts said he expected the House group to start work on a compromise after the legislature adjourns on June 6.

He said the group will probably hold ings around the sta the opinions of s board members taxpayers.

Bingham saic added two cent sal would not relieve ta ers of vehicle prc taxes.

That would re three cents, he saic

"We're hearing people would go with two cents, not t he said.

Babcock may lose $500,000

By Jerry Bellune
Editor@LexingtonChronicle.com

A state agency decision could cost the Babcock Center an estimated $500,000.

Robert M. Kerr, state Department of Health and Human Services director, said his agency will terminate its Medicaid contract with Babcock Center's Kensington I facility where seven residents live on Broad River Road.

Town a haven for traffic ligh scofflaws

By Vicki Shealy
vshealy@aol.com

More than 100 drivers ignored red lights during a test of traffic cameras in Lexington in March.

A six-day test at three intersections recorded 708 vehicles running red lights.

Lexington town leaders agreed to take part in

Lawmaker thinks cameras may not fi current law, Page 3-A

"We knew we some people ru red lights, but I fathomed it wou this high," he saic

And these were red lights they wer

3172

Lexington's Keenan White slides safely into second. The Wildcats are still alive in the Class 4A playoffs. Details, Page 1-B.

Our World Travelers

Frank and Jeni Guffey took the Chronicle to Ayer's Rock in Australia back in January. Send us your travel photo with the Chronicle and we'll make you famous, too!

Your Opinion Counts

Would you pay three cents more in sales taxes to reduce auto and home property taxes?

The Chronicle poll is posted on www.LexingtonChronicle.com. If you want to comment on this question, please e-mail it to ChronicleEditor@alltel.net. Your comments will be published on our web site and the editorial page.

Bad news for property taxpayers

Too many cooks, or too many tax relief plans, have spoiled our chances of tax relief this year. But all is not lost. Our Lexington County lawmakers promise to give this a high priority in next year's legislative session.

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Robert M. Kerr, state Department of Health and Human Services director, said his agency will terminate its Medicaid contract with Babcock Center's Kensington I facility where seven residents live on Broad River Road.

It is one of Babcock's oldest, Babcock Deputy Executive Director Gene Marlowe said.

"You can bet your boots we're going to appeal," Marlowe said.

"No one's at risk. We've notified the families. We're not going to let this disrupt seven people's lives."

In a letter to Rep. Mac Toole, Kerr said two surveys found the facility "substantially out of compliance."

Babcock receives more than $400 million in federal and state money to care for about 1,100 people, many of them disabled.

Rep. Toole, who has worked with Sen. Jake Knotts on complaints about the Babcock Center, said "this is the very thing we were trying to keep from happening."

Marlowe estimated the loss of funding could amount to more than $65,000 a year per resident. He said the problem apparently arose after a psychiatrist changed two residents' medications.

Chronicle photos by Sally S. Taylor

Lexington's Junior Miss Pageant

Maryanne Garvin curtsies to Merideth Inman during the Lexington Jr. Miss Pageant at Lexington High School last Saturday, April 30. Below, little princesses share a moment during the pageant. More photos, Page 2-A.

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By Vicki S

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New heart center plan pits providers on both s

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Travis and Ann Guhlke took the Chronicle to Ayers Rock in Australia back in January. Send us your travel photo with the Chronicle and we'll make you famous, too!

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Bad news for property taxpayers

Too many cooks spoil the broth, too many tax relief plans have spoiled our chances of tax relief this year. But all is not lost. Our Lexington County lawmakers promise to give this another go during next year's legislative session.

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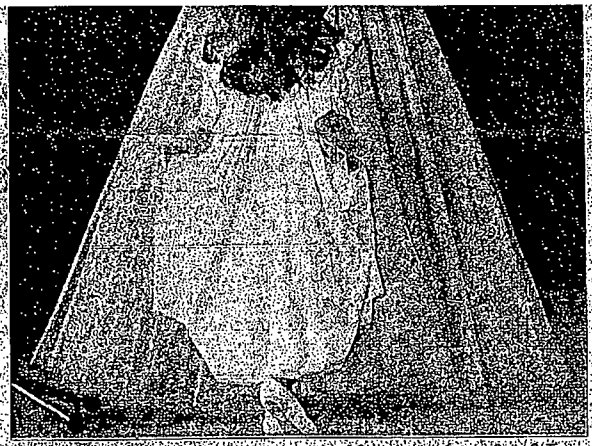

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New heart center plan pits providers on both side

By Vicki Shealy
vshealy@aol.com

Providence and Palmetto Richland Hospital leaders say health care services should be determined by the state health plan.

So neither hospital objects to allowing Lexington Medical Center to perform emergency angioplasty surgery.

Changes in the state health plan last year now allow that.

But adding a new heart center at the West Columbia hospital is another story.

Objections raised by the two Columbia hospitals helped DHEC to open its own heart center.

Both regional heart care centers, Providence and Richland have been providing heart care since 1974 and the early 1980s, respectively.

"We support the state health plan," said Dawn Catalano, Providence spokeswoman.

"We need a good plan that will look at what the area needs and what it can support," she said.

Where patients will come from to use a new heart facility is also a concern for Palmetto Richland.

Lexington Medical Center must have from open a new heart building in January 2006.

The $77 million building is not an expansion as much as a consolidation of services at the hospital, spokeswoman Judy Cochert Smith said.

She said Richland's certificate of need for the new building was based on demand for its services. 35% of its anticipated patients were expected to come from Lexington County.

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May 7, 2005

Section: b

Babcock might close home

By RODDIE BURRIS, Staff Writer

Site loses funding after failure to fix 2 citations Medicaid funding has been pulled from a Babcock Center home for mentally disabled adults in Richland County, state officials said Friday.

Site loses funding after failure to fix 2 citations

Medicaid funding has been pulled from a Babcock Center home for mentally disabled adults in Richland County, state officials said Friday.

Termination of the $504,000 contract means seven men at the group home, Kensington I, likely will be forced to leave.

The Department of Health and Environmental Control recommended removal of the home from Medicaid eligibility April 30 after Babcock failed to correct two violations dating to November 2004.

The citations say employees at the home used restrictive techniques and improper medication to control inappropriate resident behavior.

A Babcock consulting psychiatrist increased a client's medication dosage apparently without attempting less restrictive measures called for in the client's personal care plan, Babcock officials said.

"We are appealing the citation because we feel the decision made by the psychiatrist is in the best interest of the person being supported," said Dr. Judy Johnson, Babcock Center executive director. She said the psychiatrist had worked with that client for more than a year.

Kensington I is the third Babcock Center group home to lose Medicaid certification in two years. Two homes in Lexington County, the Clusters, lost Medicaid funds in 2003, after investigators found staff failed to help clients and mishandled behavior problems.

Today, Babcock's contract with the state is worth $41 million, nearly all of it in

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Medicaid money, and the agency cares for about 550 clients.

The problems at Kensington I surfaced in November 2004. DHEC surveyors listed nine violations and asked the agency to correct them. At subsequent inspections in March and April 2005, two violations remained uncorrected.

Regaining Medicaid certification once it is lost is very difficult, officials say.

The Department of Health and Human Services, which administers Medicaid funds in South Carolina, gave Babcock 30 days to move the seven patients from Kensington I and 60 days to appeal the termination.

Kensington I is an intermediate-care facility for the mentally retarded, which is supposed to provide the highest level of residential care available.

Johnson said Babcock Center notified families of the Kensington residents that action had been taken against the home.

Reach Burris at (803) 771-8398 or rburris@thestate.com

---- INDEX REFERENCES ----

INDUSTRY: (Longterm Care (1LO33); Health Insurance (1HE18); Healthcare (1HE06); Healthcare Cost-Benefits (1HE10); Healthcare Services (1HE13); Healthcare Service roviders (1HE78))

Language: EN

OTHER INDEXING: (Dr. Judy Johnson) (BABCOCK CENTER; DEPARTMENT OF HEALTH; DHEC; HUMAN SERVICES; KENSINGTON) (Babcock; Johnson; Judy Johnson; Kensington; Medicaid; Reach Burris; Regaining Medicaid) (us.sc.columb; us.sc; us)
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SEE **BABCOCK** PAGE **B7**

ROLINA DEATHS

The State
COLUMBIA • SOUTH CAROLINA
METRO
SATURDAY, MAY 7, 2005 • SECTION B

BABCOCK

FROM PAGE **B1**

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— From the First Amendment to the Constitution of the United States of America

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Where Babcock went wrong

Medications got Babcock into trouble

By Jerry Bellune
chronicleEditor@alltel.net

State officials have cut off $500,000 from the Babcock Center for improperly dispensing medications.

State Department of Health and Environmental Control officials made three inspections of Babcock facilities and found improper dosage of medications at Kensington 1 in Columbia. Seven residents were affected.

Susan Bowling of the Department of Health and Human Services said when the improper dosages were found the first time, state officials made two followup inspections and found the problems had not be corrected and additional deficiencies.

Robert M. Kerr, state Department of Health and Human Services director, said his agency will end its Medicaid contract for Kensington I on Broad River Road.

Babcock Deputy Executive Director Gene Marlowe said the decision will be appealed.

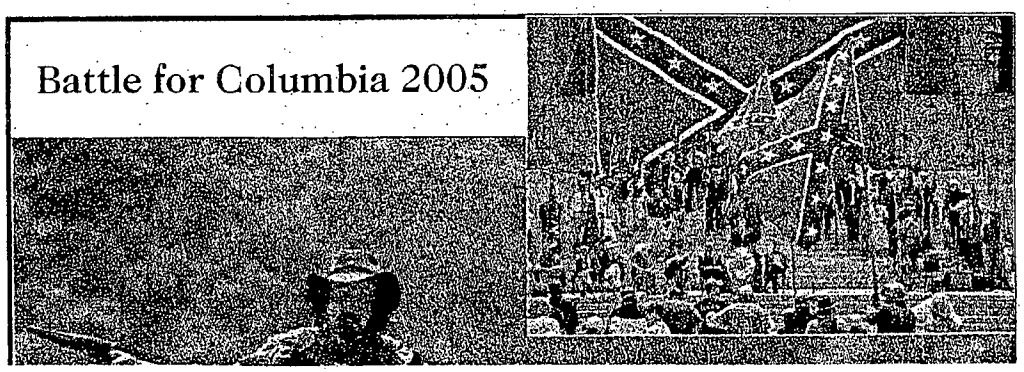
A pyschiatrist made the decision to change residents' medications, Marlowe said.

Brenda Hyleman of DHHS said Babcock would continue to receive the money for 30 days to give them time to move the seven residents elsewhere.

"If they are moved from Kensington," she said, they will continue to receive payments. The money follows the residents.

Babcock receives more than $400 million in federal and state money to care for about 1,100 people, many of them disabled or mentally retarded.

Marlowe estimated the loss of funding could amount to more than $65,000 a year per resident.



Late night search led to DUI arrest

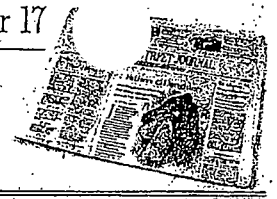
By Jim McGowan and Jerry Bellune
ChronicleEditor@alltel.net

Lexington County prosecutor Donnie Myers was looking for something for his wife Vance to eat

took two breath tests and registered .13 and .14 blood alcohol content. He said they told him it was .11. But in North Carolina, .08 is considered the limit.

Weekends will never be the same for WEEKEND EDITION Saturday, September 17

THE WALL STREET JOURNAL.



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Safe Place

Disabled People Find Group Homes Can Be Broken, Too

Patients Gain Independence, But Oversight Is Spotty; Challenges of Monitoring

'That Damn Boy Got Me'

By Clare Ansberry

COLUMBIA, S.C.—Billy Cothran spent most of his 63 years in a sprawling, state-owned treatment center for the developmentally disabled. His parents were told it was the best option for their only child, whose mind would never progress beyond that of a 3-year-old.

In the late 1990s, after his parents died, Mr. Cothran was moved by his guardian out of the institution and into a smaller group home, which offered recreational therapy such as horseback riding and took residents to church on Sunday. Staffers helped Mr. Cothran, who was blind and arthritic, don a rented tuxedo for an annual dance.

His new home, the Babcock Center, was one of the thousands of private, nonprofit facilities created during the past 30 years to provide alternatives to big institutions. Babcock was founded in 1970 by a woman who discovered a mentally retarded couple living in a chicken coop. It eventually became South Carolina's largest provider of Medicaid-funded housing, caring for more than 500 people at close to 100 homes and apartments.

Billy Cothran

In recent years, though, Babcock has been the focus of state and federal investigations after reports of abuse and neglect at

Continued on Page A5, Col. 1

What's News—

Business and Finance

ORACLE IS BUYING rebel Siebel Systems for $5.85 billion in stock and cash, extending its strategy of using acquisitions to try to catch up with business-software leader SAP. The deal also brings full circle the often-tumultuous relationship between Oracle CEO Larry Ellison and Thomas Siebel, his former lieutenant.

■ The government raised its top forecast as Katrina's damage in the South was offset by better weather elsewhere. Some Gulf Coast shipping curbs were lifted.

■ Wachovia is acquiring Westcorp for $3.91 billion, boosting the bank's auto-lending heft and giving it its first California branches.

Article on Page A3

■ EBay agreed to buy Internet-calling start-up Skype for about $2.6 billion in cash and stock, a new challenge for phone firms.

Article on Page B3

■ A Koc-Shell consortium fended off eight other bidders to win control of Turkish refiner Tupras with a $1.3 billion offer.

Article on Page C3

■ The Dow industrials edged up 4.38 points to 10682.94, aided by several corporate deals and a drop in oil prices to $63.34 a barrel.

■ Japan's Nikkei 225 average rose 204.36 points to 12096.43, its highest level since June 2001, on the ruling party's landslide

World-Wide

■ BUSH FACED critics in New Orleans as FEMA's Brown resigned. Republicans shelved tax-cut plans.

The White House appointed a new emergency-management chief from within FEMA's ranks. Search teams found more than 40 bodies inside a flooded New Orleans hospital. School districts have begun recruiting displaced teachers. Refugees in Southern safe havens began competing for jobs with unemployed locals.

Columns 1-6, Page A10; Page A11; B1

Congress Republicans, shattered by storms and the costs of rebuilding the Gulf Coast, delayed their major fall budget agenda to extend dividend and capital-gains tax cuts. It is unclear if tax cuts or construction money will support the rebuilding effort.

■ ROBERTS TOLD senators he has no agenda for the Supreme Court. Confirmation hearings for Bush's nominee for chief justice began. Judiciary Committee members aired their opinions on how much a nominee should be expected to divulge. Roberts steered away from controversy, saying judges and justices are "servants of the law, not the other way around." (Page A3; A4)

As chief justice, Robert Jackson would have a case on the controversial issue of assisted suicide. States' rights conservatives want the court to deny states the right to set policy on the issue. Senators today will have a chance to probe Robert's views.

Article on Page A4

■ Israeli troops pulled out of Gaza after 38 years. Palestinians plundered in the rubble of Jewish settlements and set fire to synagogues.

■ Businesses in China's Hubei today delayed by Katrina readers arrived in New York for tomorrow's U.N. General Assembly opening. (Page A10)

Walled Off

Wiretaps of an Executive in Italy Put Central Banker in Hot Seat

Fazio Appears to Have Helped Compatriot Beat Foreigner In an Acquisition Battle

Share Purchases on the Sly

By Gabriel Kahn And Sabrina Cohen

ROME—In the midst of a takeover battle this July, which pitted Italian and foreign banks for the prize of Italy's Banca Antonveneta SpA, the Italian suitor's chief got a call in the middle of the night. "Did I wake you?" the caller asked.

Antonio Fazio

It was Italy's central banker, Antonio Fazio, phoning at 12:12 a.m. He had good news. He had just approved the Italian suitor's bid for control—a move that would thwart the foreigners and keep the target bank in Italian hands. "OK, OK, I just put my signature on it," he said replied Gianpiero Fiorani, chief executive of Banca Popolare Italiana Scarl, using a nickname for Italy's central banker. "I've got goose bumps.... I'd give you a kiss right now, on the forehead."

Unknown to the two prosecutors were listening. For more than a month this summer, they monitored calls in which Mr. Fazio, and sometimes his wife, counseled Mr. Fiorani on how to pull off the takeover. The central banker arranged clandestine meetings with Mr. Fiorani and went out of his way to ensure that his bid prevailed, prosecutors say in a dossier of their allegations.

Mr. Fiorani, for his part, concocted fictitious deals concerning his bank's finances, prosecutors allege in the dossier, which has been presented to a judge. Eventually Mr. Fiorani and allies, suspecting surveillance, switched cellphones and deleted some computer files in the middle of the night, according to the dossier and to people familiar with the probe. But it was too late.

Early last month, a judge suspended Mr. Fiorani from his CEO position at Banca Popolare Italiana, or BPI. The judge also impounded a $3 billion shareholding BPI had accumulated in the take-

The Bus to Memphis Promises a New Life And a New Church

Keep Out

Despite EU pledges of unity, nationalistic sentiment sometimes arises when foreign takeovers are threatened.

■ October 2003: Procter & Gamble's attempt to buy Germany's Wella AG stalls when coalition of German shareholders, including city of Hamburg, rallies to Wella's defense. German government supports defense.

■ Spring 2004: France discourages Switzerland's Novartis from bidding for France's Aventis to merge with French firm Sanofi.

■ July 2005: French finance minister Dominique de Villepin pledges to defend food giant Danone from possible takeover after U.S. investor Pepsi Co. is interested.

■ August 2005: France says it will use powers of limits to foreign control following report Brazilian firm is looking at French printing company Fermel.

Congress Delays Plans to Extend Bush's Tax Cuts

Republicans See High Costs, Political Risk after Katrina; Limited Window for Action

By Brody Mullins

WASHINGTON—In a major shift of priorities after Hurricane Katrina, Republican leaders in Congress have delayed plans to extend dividend and capital gains tax cuts and may shelve them for the rest of the year.

The House and Senate had planned a fall legislative agenda around a massive budget bill that extended to 2010 the 15% tax rate on dividends and capital gains signed by President Bush two years ago. The cut was one of the president's signature initiatives and is seen inside the White House as a key part of his economic legacy.

The 15% rate isn't scheduled to expire until the end of 2008—meaning there's still time to push an extension through. But Republicans, chastened by the costs of rebuilding the Gulf Coast and negative public assessments of Washington's initial response to the hurricane, have decided that taking any action on the bill is politically untenable at least until late October in the suddenly changed political and budgetary environment.

The Katrina Cleanup

■ Gulf Coast schools risk losing experienced teachers to recruiters A10

■ Jobless locals may resent evacuees who win jobs in their markets B1

■ Claims adjusters find pressure only grows in the hurricane's wake C1

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PAGE ONE

Safe Place

Disabled People Find Group Homes Can Be Broken, Too

Patients Gain Independence, But Oversight Is Spotty; Challenges of Monitoring

'That Damn Boy Got Me'

By CLARE ANSBERRY
Staff Reporter of THE WALL STREET JOURNAL
September 13, 2005; Page A1

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COLUMBIA, S.C. -- Billy Cothran spent most of his 63 years in a sprawling, state-owned treatment center for the developmentally disabled. His parents were told it was the best option for their only child, whose mind would never progress beyond that of a 3-year-old.

In the late 1990s, after his parents died, Mr. Cothran was moved by his guardian out of the institution and into a smaller group home, which offered recreational therapy such as horseback riding and took residents to church on Sunday. Staffers helped Mr. Cothran, who was blind and arthritic, don a rented tuxedo for an annual dance.

Billy Cothran

His new home, the Babcock Center, was one of the thousands of private, nonprofit facilities created during the past 30 years to provide alternatives to big institutions. Babcock was founded in 1970 by a woman who discovered a mentally retarded couple living in a chicken coop. It eventually became South Carolina's largest provider of Medicaid-funded housing, caring for more than 500 people at close to 100 homes and apartments.

In recent years, though, Babcock has been the focus of state and federal investigations after reports of abuse and neglect at some of its homes. Mr. Cothran died last September. An autopsy determined that Mr. Cothran, who was on a pureed-food diet, had portions of what appeared to be a sandwich in his trachea and died of asphyxiation.

After his death and complaints by his family -- which included a former chairman of Babcock's board -- a federal investigation looked into the incident. It found that the home where Mr. Cothran lived "failed to take appropriate actions to ensure client protections" and that conditions there "pose immediate jeopardy to the health and safety of clients." It gave Babcock 23 days to submit a plan and correct the problems.

A spokeswoman for the Centers for Medicare and Medicaid Services, which provides most of Babcock's funding,

's the federal agency is satisfied that the problems it found after Mr. Cothran's death have been corrected.

Mr. Cothran's cousin and guardian John Harrison has filed a wrongful death suit against Babcock Center in South Carolina's Richland County Court of Common Pleas. The case alleges Babcock didn't properly care for Mr. Cothran and failed to properly supervise and train the staff assigned to care for him. Babcock officials are fighting the suit and say it has no merit.

Over the past three decades, there has been a concerted effort to move people with developmental disabilities out of large institutions, which had been long criticized for being overcrowded and isolated. A widely lauded effort to move people into smaller group homes has succeeded in bringing the developmentally disabled into communities where they can learn new skills, get jobs or attend special schools.

But this progress has come at a price. It has strained the systems that support people living in the smaller settings and created big gaps in oversight. Twenty-five years ago, people with developmental disabilities lived in about 16,000 publicly funded homes. Today, they are scattered in about 140,000.

"The systems of quality monitoring have really been taxed beyond what they can manage," says Charlie Lakin, who heads a University of Minnesota program that tracks services to the developmentally disabled. "By and large, a lot of it is pretty loosely organized and pretty loosely monitored."

Only a half-dozen states require that residential programs serving the developmentally disabled be accredited by an independent third-party organization. Developmental disabilities, which affect about 4.6 million people in the U.S., include a range of mental and physical impairments, such as cerebral palsy, autism and mental retardation.

bcock offers a stark look at the flawed monitoring of group homes, which sometimes leaves family members d other advocates feeling they need to police the care themselves.

Last December, the state ordered the entire Babcock chain to reduce the number of people it houses by half within 18 months. "The growth of Babcock Center happened over a relatively short period of time," says Judy Johnson, Babcock's executive director, who was hired in 2002. "They didn't have the right system of support to manage the larger, different sites."

She says Babcock has made significant progress since she arrived, including improved staff training and procedures to provide additional oversight.

In spite of such efforts, the rate of substantiated cases of abuse, neglect or exploitation at Babcock has averaged 6.7 per 100 residents in each of the past three years, according to the South Carolina Department of Disabilities and Special Needs. The statewide average is three cases per 100 residents, the agency says. Ms. Johnson attributes that, in part, to the kind of people Babcock houses. Babcock takes individuals with complex physical and emotional problems, she says, who are aggressive and sometimes self-abusive. "Babcock Center supports people with severe disabilities that other providers would not," she says.

As for Mr. Cothran, she says, "Billy was loved by many people. I also believe there was nothing the staff could have done to prevent his death." She says Babcock hired a pulmunologist, who, based on a review of the autopsy and staff statements, concluded Mr. Cothran didn't have trouble swallowing his meal, but later regurgitated, causing asphyxiation. He concluded Mr. Cothran's death wasn't the result of any failure on the part of Babcock or its staff.

versight of homes for the developmentally disabled is fragmented between the federal government, states and thousands of community-based agencies. The U.S. Department of Health and Human Services -- which pays

about half of the $27 billion spent annually on community services for the developmentally disabled -- is ıately responsible for their protection. But the federal agency assigns the creation and enforcing of rules over ı homes to each state. As a result, laws and monitoring vary by state.

States aren't required to report all incidents of abuse or neglect to the federal agency. The federal government typically only gets involved if families, advocates or employees of homes provide credible concern about the thoroughness of a state investigation. HHS, which oversees the Centers for Medicare and Medicaid Services, is drafting new procedures following a 2003 report from the General Accounting Office, saying states should be required to report more information about how they protect people with developmental disabilities.

Thousands of nonprofit group homes offer well-supervised programs for the developmentally disabled. But problems exist to some degree in nearly every community, says Curtis Decker, executive director of the National Disability Rights Network, a nonprofit group. Investigators may overlook flaws, he says, because of a lack of other housing options. "They don't know what to do with these folks if they closed a place down."

The number of abuse and neglect cases among the developmentally disabled isn't collected nationwide. Many states don't keep central databases on employees involved in such cases, allowing workers to move from one agency to another. "You put people in tough jobs, who are underpaid, not well-trained or supervised, and the potential for abuse is big," says Mr. Decker. "It's endemic to the country."

A 62-year-old woman in an Illinois group home died in April 2004 after receiving burns from scalding water. Another nonprofit agency in that state, which operated several homes, was decertified after an advocacy group learned the executive director asked a dentist to remove all the teeth of a man who was biting himself.

3-year-old New Jersey group-home employee was found guilty earlier last month in Middlesex County ɛrior Court of aggravated criminal sexual contact with a 19-year-old developmentally disabled woman, with the mental capacity of a child.

Ms. Johnson, Babcock's executive director, says she has a zero-tolerance policy for abuse. Any employee involved in cases of abuse or neglect is terminated, including those who see, but fail to report incidents, she says. "I don't know that we are ever going to eliminate abuse in our society," she says. "Our job is to do the best we can to support and protect individuals with disabilities."

Family members inspect Babcock facilities and report back to her monthly.

One of those is James Carlson, whose son lives in a Babcock home. He and other parents meet with Ms. Johnson to present any findings and concerns. "Next time we meet, she gives a list of all the corrections made," he says.

Babcock has had several serious problems. In late 2002, one mentally retarded man was left overnight in the parking lot of a Wendy's restaurant where he had been taken to apply for a job. A Babcock employee forgot to pick him up. That employee has been fired, Babcock says.

In April 2003, a man received first- and second-degree burns after a 23-year-old employee at a Babcock home said she accidentally poured scalding water on him, according to police reports. That employee has been fired, Babcock says. A supervisor at another Babcock home was arrested last fall and charged with sexually assaulting a 55-year-old female resident and giving her sodas to keep her quiet. The man was fired and the case is pending.

It's often up to relatives to keep tabs on how their family members are treated. Betty Jackson was initially happy when her four developmentally disabled brothers moved into homes run by the Babcock Center more than a decade ago. The brothers, ranging in

Fred Rollison/FilmMagic

Betty Jackson with her three brothers, from left to right. Archie (standing), Arthur and James Jordan (seated).

age from 58 to 81, were born with mental retardation. They were raised at home, with their six siblings, on a South Carolina tobacco farm, until their parents died.

The Babcock Center housed the brothers in different homes, according to their level of disability. "I was very thankful," says Mrs. Jackson, a 63-year-old widow. "They didn't have to be in an institution and they could be in a home setting."

Her brother Archie Jordan got a job carrying groceries at the local supermarket. A TV crew filmed him years ago proudly sweeping the driveway in front of his house to show how Babcock residents keep their homes tidy.

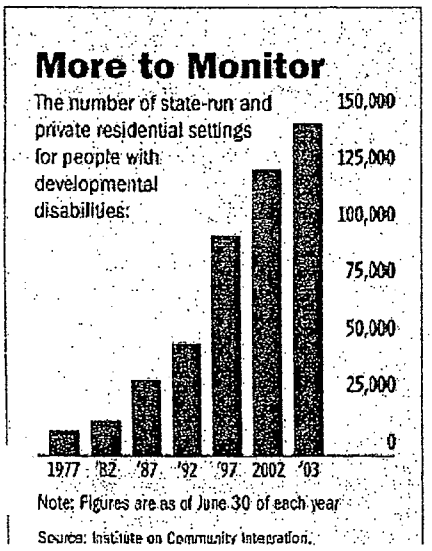
To Mrs. Jackson, everything seemed fine until about three years ago. Her brother James, then 78, a thin, slightly stooped man who likes to wear a baseball hat, was struck with a belt and attacked by a 16-year-old housemate. After he was found bleeding from his rectum, James told Babcock's internal investigator "that damn boy got me last night." Stephanie Marshall, of the federal Centers for Medicare and Medicaid Services, said the allegation of rape was substantiated by an investigator it sent to the home. Babcock's Ms. Johnson says other agencies, including the state ombudsman, didn't substantiate a rape.

James remained in the same home with the 16-year-old for two months because no other housing was available, Babcock said. For safety, an alarm was put over the youth's door, sounding whenever he left his room. Weeks later, James suffered a broken finger. A Babcock internal report concluded he broke it himself, while throwing his bed rails around the room and beating on the walls. Records show he was screaming, "I want out of this hell hole."

ɔcock reached an out-of-court settlement with Mrs. Jackson, who is James's guardian. Babcock's Ms. Johnson said she couldn't comment on the settlement.

Mrs. Jackson grew increasingly concerned. Her brother Archie was one of several Babcock residents who collectively gave more than $4,500 to a supervisor who promised to use the money to take them on vacations in 2003 and never did. The man later pleaded guilty to defrauding residents.

Babcock says it has since hired a full-time accountant to make monthly unannounced audits of residents' funds.



In 2003, Keith, 75, Mrs. Jackson's second-eldest brother, had been losing weight and was, at times, listless, she says. In the fall, Mrs. Jackson received a call that Keith was in the hospital. When she arrived, she says he was unconscious. Doctors said he was dehydrated, had a potassium imbalance and asked if he could have gotten hold of any chemicals, according to Mrs. Jackson and Leigh Flynn who was a court-appointed guardian of the brothers. Staffers said cleaning chemicals at the home were locked up, according to Mrs. Jackson. Keith was put in intensive care.

Babcock's Ms. Johnson said she couldn't comment on an individual's medical information because of federal laws protecting the privacy of clients' medical records.

Mrs. Jackson notified Babcock that she planned to take all of her brothers out of the organization's homes. "I felt like I had to move them while I still had them," she says.

hat point, there were no other residential options in her area. So in November 2003, while Keith remained in nospital, Mrs. Jackson took her other three brothers to live in her brick ranch house.

Mrs. Jackson, who worked driving a delivery truck for a sheet-metal company, modified her home to accommodate her brothers. In a back room, she installed a special shower and a toilet. She cooked for them and took them to doctors' appointments. She changed diapers regularly for James, then incontinent, fed him and held on to his arm when he walked. Her daughters helped. Keith was eventually transferred from the hospital to a nursing home, where he died of heart failure in January 2004.

In April 2004, the three remaining brothers moved into a home operated by United Cerebral Palsy of South Carolina. They celebrated Archie's 70th birthday with a chocolate cake. Each brother has a private room. Arthur's smells of Old Spice. Archie has an African-print bedspread. A fisherman's hat hangs on James's bedpost and family photos are on his dresser.

Mrs. Jackson has spoken out about the treatment her brothers received, including discussions last summer with members of Congress. Joining her were relatives of other residents, a former Babcock worker, and Babcock's former chairman, Patricia Harrison, who has been a frequent critic of the organization.

Ms. Harrison had been on Babcock's board, an unpaid position, since 1995. She resigned in 2002. Her husband was the cousin of Billy Cothran, the Babcock resident who died last year. The Harrisons were the legal guardians of Mr. Cothran.

Babcock's Ms. Johnson has a suit pending in the Fifth Judicial Circuit Court in Richland County, S.C., charging that Ms. Harrison made statements that were defamatory and intended to "impeach the honesty, integrity and reputation" of Ms. Johnson. Ms. Harrison is fighting the case. "I look forward to telling my story on the witness stand," she says.

Early last year, the Harrisons decided they wanted to move Mr. Cothran out of Babcock. "We were worried that something would happen to Billy," says Mr. Harrison. They bought a house for him and filled it with family photos and his mother's dining-room table. They asked that Medicaid funding for Mr. Cothran, and two of his Babcock housemates, be transferred to another agency that would staff the house.

Mr. Cothran died four days before he was supposed to move. A worker who prepared lunches that day was arrested on a charge of involuntary manslaughter but hasn't been indicted or issued a formal plea.

Mark Plowden, a spokesman for the South Carolina Attorney General's office, said the case is still under investigation to determine what, if any, prosecutorial action is warranted. No other state or federal investigation is pending.

Babcock had been previously warned about choking hazards. Its assistant vice president of food services sent out an internal email in 2002, saying food wasn't being properly mechanically altered, which means pureed, ground or softened, for residents whose diets required that. The memo described the situation as "Red Alert." In 2003, federal Medicaid investigators found a staff member feeding a sandwich, cut in eighths, and cookies to a man whose food was to be ground into rice-size pieces. Babcock said staffers were retrained on dietary matters, satisfying the agency.

After Mr. Cothran's death, there was a federal investigation in October 2004 by the Centers for Medicare and Medicaid Services. It found there was "evidence that mechanically altered diets were not consistently prepared as ordered to meet the developmental needs of all the men" at the home where Mr. Cothran lived. The report also concluded that "direct support staff were not assigned in sufficient numbers to supervise mealtimes at the facility

on weekend days."

Babcock says it has retrained its staff and Ms. Johnson says the staffing exceeded minimum requirements.

After finding conditions at the home posed "immediate jeopardy to the health and safety of clients," the agency ordered Babcock to submit a plan to correct problems found in its survey or lose Medicaid funding. Babcock did submit a plan that was approved. A subsequent visit by investigators satisfied the agency, and no penalties were levied against Babcock, says Sharon Fisher, a spokeswoman for the Centers for Medicare and Medicaid Services.

In November, the South Carolina Department of Health and Human Services commissioned a special audit of Babcock, in light of the federal findings. It found "management and staffing issues, lack of evidence of ongoing active treatment, and lack of evidence of assessments for appropriate level of care."

Ms. Johnson, of Babcock, disagrees with those findings. She says the audit was performed by an organization that isn't familiar with specific program requirements for the developmentally disabled and investigators didn't spend enough time at Babcock homes to gauge active treatment. "I don't think they did a fair appraisal," she says.

Stan Butkus, head of the state's Department of Disabilities and Special Needs, ordered Babcock to reduce its number of residents by 50%, saying "system improvements can best be achieved ... by reducing Babcock's size and scope of responsibility."

Babcock has proposed turning over facilities to the state so residents won't have to move. Other agencies will be asked to operate the homes.

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Editorial

Greater protection needed for vulnerable adults

A RECENT REPORT OF abuse at a state-run residential care facility in Columbia, coming on the heels of similar reports at the state-subsidized Babcock Center facilities, raises serious questions about whether the state has appropriate safeguards in place to protect vulnerable adults.

The latest report involves allegations that employees at the Midlands Center kicked, pushed down and beat a 26-year-old mentally retarded woman and attempted to hit her with a wall sconce. The attorney general's office is investigating, and three employees have been fired, but officials at the residential home weren't even aware of the assault until police showed up, called by the woman's mother.

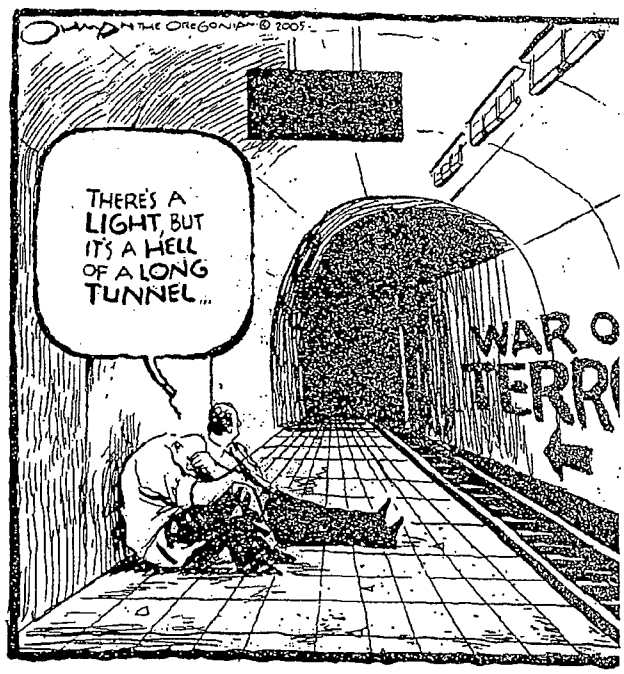
That means there probably wouldn't have been an investigation, and the people alleged to have assaulted the woman would still be caring for her and other people with mental retardation, autism and other developmental disabilities, if the woman's sisters had not happened by for a visit the day after the assault.

As bad as it is that such an assault could occur, it's even worse that it could happen and no one in the facility would report it, or even raise questions about the woman's injuries. That suggests a serious problem in the culture of such institutions, which could be putting other people in the care of the state Department of Disabilities and Special Needs at risk.

Changing such a culture starts with passing laws that make not reporting abuse or neglect a crime comparable in seriousness to the abuse itself. That type of "incentive" to report crimes is particularly important in situations in which the victims are unable to speak up for themselves. Lawmakers should put that change near the top of their "to do" list when they return to work in January.

Lawmakers also need to make sure that the people who investigate allegations of abuse are independent of the agency where the abuse occurred. That doesn't automatically happen in South Carolina, where the state's long-term care ombudsman has contracted out to the Department of Disabilities and Special Needs and to the Department of Mental Health the duty of investigating problems within their own agencies. An independent investigator is more likely to make sure possible criminal activity is referred to law enforcement, and to make sure appropriate steps are taken when problems don't rise to that level.

As Columbia attorney Patricia Harrison told *The*



Letters to the Editor

Most Muslims abhor terrorist attacks

I express my sincere condolences to the families of the loved ones who were killed or injured in the London attacks on Thursday. As a Muslim, I am outraged as well as sad to see those committing this heinous crime in the name of Islam. They not only are destroying innocent lives, but also are betraying the values of the faith they claim to represent.

The national office of Council on American-Islamic Relations sent out a release on Thursday condemning the attacks. As media relations director for the S.C. chapter of CAIR, I have sent out releases to all local media condemning these attacks as well. These barbaric crimes can never be justified or excused. We hope those who committed these acts are swiftly ap-

Our cause is ill-served by the Democrats' shrill rhetoric. As long as they believe that President Bush is the enemy, that the war is a hopeless Vietnam-like quagmire and that it is "jingoistic" to praise our country, they can't energize us against the real enemy. Instead, they sap our will to fight.

That, coincidentally, is the enemy's strategy, too. Democrats hate it when we criticize their patriotism, but when their rhetoric supports the enemy's strategy, they should be criticized.

ELIZABETH HERRING
Lt. Col., USAF (Retired)
Lexington

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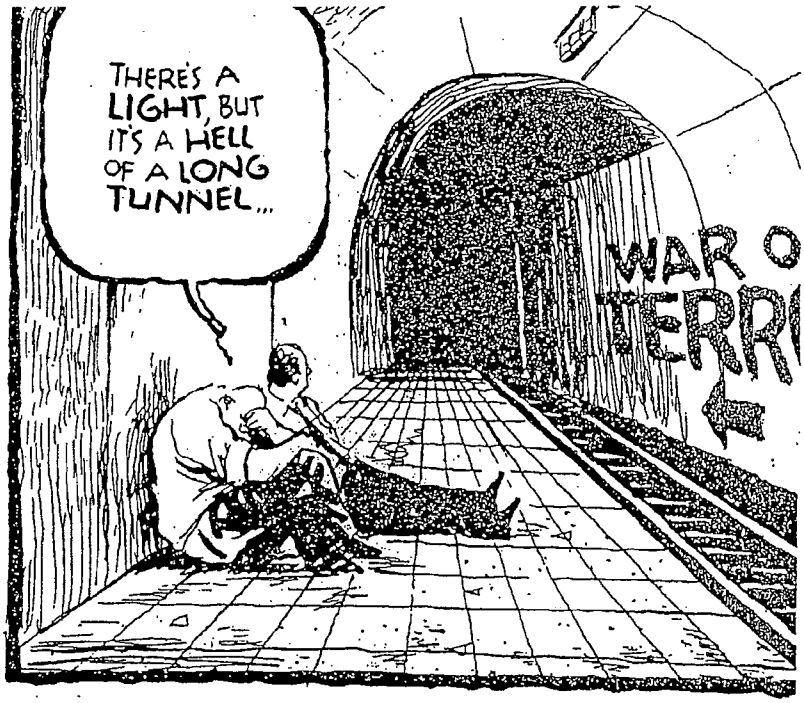
Changing such a culture starts with passing laws that make not reporting abuse or neglect a crime comparab' ·eriousness to the abuse itself. That type of ' e" to report crimes is particularly important in si. .is in which the victims are unable to speak up for themselves. Lawmakers should put that change near the top of their "to do" list when they return to work in January.

Lawmakers also need to make sure that the people who investigate allegations of abuse are independent of the agency where the abuse occurred. That doesn't automatically happen in South Carolina, where the state's long-term care ombudsman has contracted out to the Department of Disabilities and Special Needs and to the Department of Mental Health the duty of investigating problems within their own agencies. An independent investigator is more likely to make sure possible criminal activity is referred to law enforcement, and to make sure appropriate steps are taken when problems don't rise to that level.

As Columbia attorney Patricia Harrison told *The State's* Roddie Burris, it's not uncommon for abuse to go unnoticed and, even when it is noticed, for abusers to be quietly fired without facing criminal prosecution. Ms. Harrison and other advocates for the mentally disabled are calling for the state to establish a central registry of people who have abused or neglected vulnerable adults, so that abusive employees would not be able to move from facility to facility. Such a registry could serve the dual purpose of offering some level of protection to the mentally ill and the elderly in nursing homes, who likewise are vulnerable to abuse and ne

.mply inconceivable that the state doesn't al. operate such a registry, and that institutions that provide care for those who cannot report their abuses — be they public or private — are not required to vet their employees. We maintain a registry to keep up with people who have abused or neglected children. Adults with developmental disabilities, mental illnesses and age-related vulnerabilities deserve, and need, every



Letters to the Editor

Most Muslims abhor terrorist attacks

I express my sincere condolences to the families of the loved ones who were killed or injured in the London attacks on Thursday. As a Muslim, I am outraged as well as sad to see those committing this heinous crime in the name of Islam. They not only are destroying innocent lives, but also are betraying the values of the faith they claim to represent.

The national office of Council on American-Islamic Relations sent out a release on Thursday condemning the attacks. As media relations director for the S.C. chapter of CAIR, I have sent out releases to all local media condemning these attacks as well. These barbaric crimes can never be justified or excused. We hope those who committed these acts are swiftly apprehended and punished.

Because a few Muslims conduct these violent crimes, CAIR launched an online petition drive in 2004 called "Not in the name of Islam," designed to disassociate Islam from the violent acts of a few Muslims. There are 689,000 signatures on the petition, which includes my signature as well.

I hope non-Muslims will understand these acts don't represent the true teachings of Islam and don't let the acts of a few stereotype all Muslims as terrorists.

SABRINA KIDWAI
Media relations director, CAIR-SC
Columbia

Democrats' rhetoric supports the enemy

Our cause is ill-served by the Democrats' shrill rhetoric. As long as they believe that President Bush is the enemy, that the war is a hopeless Vietnam-like quagmire and that it is "jingoistic" to praise our country, they can't energize us against the real enemy. Instead, they sap our will to fight.

That, coincidentally, is the enemy's strategy, too. Democrats hate it when we criticize their patriotism, but when their rhetoric supports the enemy's strategy, they should be criticized.

ELIZABETH HERRING
Lt. Col., USAF (Retired)
Lexington

Wilson should try independence

Congressman Joe Wilson said at a press conference on June 23 that Democratic leaders are "conducting guerrilla warfare on American troops." This follows a similar incendiary statement by Karl Rove saying Democrats responded weakly to Sept. 11 and had placed U.S. troops in greater danger by criticizing their actions.

When Karl Rove speaks, you know there's a strategy behind the words. The strategy is to get people arguing about rhetoric, so they won't be talking about how badly the Iraq war is going, how the Bush administration lied to get us into Iraq or how using torture to extract terrorism information has backfired horribly.

Joe Wilson should follow Sen. Lindsey Graham's lead and establish state independence. Other-

administration collap:

SAMUEL L. BAKER
Columbia

TERI partici narrow-mi

I am more than a li by the TERI lawsuit. I ulate as to whether Na is a valuable senior en hanger-on who is takin of the old version of th gram. Sadly, well-int lation became an entit gram that distorted intent. It failed to pr agement with a tool to ity workers while al productive employees free a position for a y frequently less costly

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Let's all hope that system quickly dispo

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The State

Tuesday, August 15, 2006

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S.C. SUPREME COURT

Justices rule against state in rape lawsuit

Ruling expands legal obligation to ensure suitable patient care

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THE DECISION

Go to **thestate.com**

By RODDIE A. BURRIS
rburris@thestate.com

The state cannot cast off its duty to provide reasonable care to patients even in cases where work

Chapin area who pay taxes and some ...

SEE **ANDERSEN** PAGE **A7**

S.C. SUPREME COURT

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THE DECISION

Go to **thestate.com** *to read the text of the S.C. Supreme Court decision.*

The state cannot cast off its duty to provide reasonable care to patients even in cases where work is contracted out to private vendors, the state Supreme Court ruled Monday.

The decision was a reversal of lower court rulings. It came after a 10-year battle in a case brought by Lexington County resident Brenda Bryant on behalf of her daughter.

The court's extension of the state's responsibility could affect suits in a range of areas beyond the Department of Disabilities and Special Needs, which Bryant sued.

Bryant alleges that, as a 21-year-old with mental retardation,

SEE **COURT** PAGE **A7**

MIDEAST CRISIS

CEASE-FIRE HOLDS

A fragile cease-fire between Israel and Lebanon held during its first day Monday. Both Israel and Hezbollah claimed victory as Lebanese and Israelis warily started returning home.

SEE PAGE A4

From left, Brent Weaver, Josh Howell and David Carmea
to two Lexington High School teens who d

Law enforcement officers want to know how the underage students got adult beverages

By ADAM BEAM
abeam@thestate.com

The State Law Enforcement Division is investigating how three teenagers and a 20-year-old got access to alcohol that led to two vehicle accidents, three deaths and a felony DUI charge.

Two seniors at Lexington High School and a 20-year-old White Knoll High School graduate died in alcohol-related wrecks about 30 minutes apart early Sunday morning.

Killed were:

- Donald Edward Schwartz Jr., 17
- James Nicholas Young, 16
- Brent Joseph Nachel, 20

Schwartz's father, Donald Schwartz Sr., said Monday af-

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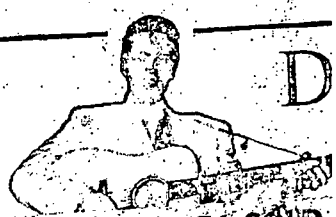

TUESDAY

WEATHER
Hot and humid.
High 92, low 72.
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Mims 1993

COURT

FROM PAGE A1

disabilities and special needs; her ghter, "Madison," was raped one or more men after she left ner Babcock Center home with them in 1995.

The state claimed it had no duty of care to Madison because she voluntarily admitted herself to state care and Babcock is a contractual service provider.

The state also alleged the sexual incident involving Madison was her fault — the result of voluntary and intentional acts — and that the case was outside a statute of limitations.

Because the court found a duty of care exists on the part of the state, it held the agency could be found negligent in carrying out that duty.

A lower court is set to handle that question. The Supreme Court sent the case back to the circuit court for a decision.

Babcock Center is a 40-year-old, private, nonprofit corporation in Columbia. It provides housing and medical services for people with autism, mental retardation, head and spinal cord injuries, and forms of disabilities.

center contracts with the Department of Disabilities and Special Needs under an annual, multimillion-dollar contract.

The Supreme Court said Circuit Judge Casey Manning erred on several points in issuing a summary judgment in favor of the state in 2004, rather than allowing a jury trial.

"Babcock Center had a duty to control appellant's conduct to the extent necessary to prevent her from harming herself or to prevent others from harming her while staying at the center," the justices wrote.

According to court documents, Madison, a court name used by the woman, who is now 32 years old, alleges to have the emotional and intellectual maturity of a 7- to 10-year-old.

While Madison can read and write, in court papers Bryant said her daughter understands math on only a second-grade level. She is unable to do common activities like wash clothes; cook, perform personal hygiene or tell time.

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Bryant said she tried to get Madison released from Babcock

BABCOCK REDUCING BED CAPACITY

Babcock Center has completed most of a state-required bed capacity reduction ordered last year after problems were found with its operations.

The full reduction, originally expected by June 2006, likely won't be completed until the first of the year, said Kathy Newman, spokesman for the state Department of Disabilities and Special Needs, which contracts with Babcock.

The agency ordered Babcock, which once was one of the largest private care facilities in the Southeast, to reduce its bed capacity to 317, down from 634.

The order came after both Babcock and Special Needs came under fire. Several audits and inspections between 2002 and 2004 showed Babcock had twice the client abuse, neglect and exploitation rate on average of other such facilities in the state.

Babcock informed Special Needs in April 2005 it would turn over operation of 14 facilities to the state. The effort was undertaken to avoid displacing residents in its facilities.

Efforts to reach Babcock officials Monday were unsuccessful.

Newman said Babcock is down to 370 beds and enough new providers are in place to meet the transitions under way.

Both men were former residents of the Babcock Center home, according to the court. Neither man was criminally prosecuted for having sex with Madison.

"(Madison) has no kind of moral judgment," said Lexington attorney Orrin G. Briggs, who represented Bryant and her daughter and said the ruling could have "far-reaching implications for all agencies that render care to people."

"This is a very good decision," Briggs said. He said he was unsure what the next step in the case would be.

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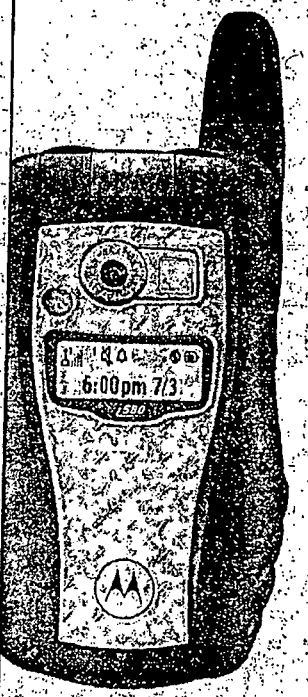

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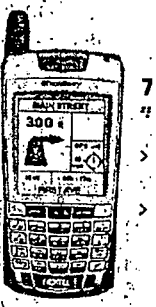

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Bryant, who is Madison's legal guardian, said she warned Babcock and state officials about inappropriate sexual contacts between the girl and current or former male residents of Babcock Center but was ignored.

Bryant said she tried to get Madison released from Babcock, but unsuccessfully.

According to the court, Madison left the center home one night with two men at 1 a.m., after going to bed with her clothing on, then sneaking out. Madison initially said she was raped, but in a later deposition said she was talked into having sex.

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"The court said the same principles of law apply to people with mental incapacities as it does to people without," said Harriett McBryde Johnson, an independent attorney in Charleston who focuses on cases involving people with disabilities.

"This decision says give her a chance and let the parties litigate what the standard of care is."

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Audit cries out for agency reforms, Gov. Sanford says

Lawmakers say they need time to fix services for people with disabilities

BY BEN SZOBODY • STAFF WRITER • DECEMBER 6, 2008

The revelation this week that millions in taxpayer funds have gone unspent or diverted and that abusive staff members may have remained on the job at the state agency for the mentally disabled quickly became part of an ongoing row between legislators and the governor over who appoints agency heads.

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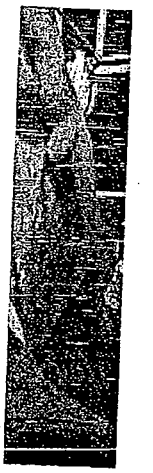
In the process, some lawmakers downplayed the audit in which they were involved. Five lawmakers called for the audit last year, questioning whether "the money follows the client" at the $170 million Department of Disabilities and Special Needs and called for scrutiny of $9.2 million appropriated for new beds.

Gov. Mark Sanford's spokesman, Joel Sawyer, said the muted reaction from legislators is "borderline dereliction of duty," and that "there has never been a clearer case for government restructuring."

Rep. Dan Cooper said, "Good for them." State Sen. David Thomas said that charge is "naive" and "ridiculously accusatory."

Thomas, Cooper and several other legislators said they hadn't yet read the audit and would need more time to absorb its findings and take it up in committees. A spokesman for House Speaker Bobby Harrell said the legislature would address its findings in next year's session but declined further comment.



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The audit said the agency left millions of dollars in state and federal funding on the table, may not have fired some staff members involved in abuse and neglect, didn't follow up on numerous safety and welfare violations and failed to implement independent financial audits while limiting consumer choices and denying its own board members access to public information.

In response, the agency said the audit confirmed its compliance with federal health and safety regulations and said it agrees with the audit's recommendations for improvements.

The Governor's Office called for a complete restructuring of the agency to include a director appointed and held accountable by the governor. Although Sanford already appoints DDSN commissioners, Sawyer said the report makes clear that they can't get the information they need from agency leadership, calling it a classic example of the maxim, "When everybody's in charge, nobody's in charge."

The Greenville News reported last year that the then-chairman of the agency supported new rules to prevent individual board members from inquiring about agency operations without the consent of the full board.

Sen. Mike Fair served as an ex-officio member of the Legislative Audit Council, which conducted the audit, and said he wanted to meet with DDSN officials before passing judgment. Friday, he said he hadn't yet read the audit.

Thomas, who has championed the mothers who lobbied for $10.5 million in total funding for a new autism program, said he's "not happy" about the audit's finding that $9 million of that funding went unused or was diverted, but said he gave credence to the agency's argument that it took time to ramp up the program.

He said any call by Sanford to shake up DDSN would take time to deliberate.

Cooper, chairman of the Ways and Means Committee and one of the legislators who called for the audit, said Friday he'd read part of the document and had nothing to say about Sawyer or Sanford.

"I'm done with their comments," he said.

State Rep. Rex Rice, R-Easley, said any outside audit of an agency will find areas for improvement, but that the agency is "probably doing a better job than the report says."

State Rep. Jim Harrison, one of the lawmakers who called for the audit, said the audit's findings were "not very complimentary" of DDSN.

He said he intends to renew his proposal to restructure the agency, giving Sanford the Cabinet-level appointment he wants.

Fair and Cooper are leaving the door open.

"They have to hold the director accountable, the board does," Fair said, adding, "Otherwise, you beg for reform."

In Your Voice

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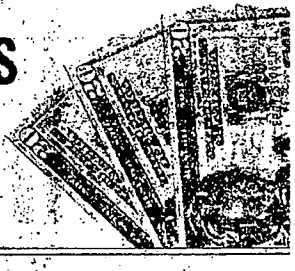

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FRIDAY, DECEMBER 19, 2008 ■ FINAL EDITION

Greenville, South Carolina

Audit: Agency slow to seek review

DDSN told twice before to get costs probe; office says one coming soon

By Ben Szobody
STAFF WRITER
bszobody@greenvillenews.com

A new audit of the state agency for people with mental retardation and brain injuries is the third in four years to call for an outside audit of its costs — a step the agency hasn't taken.

That leaves a significant gap in accountability for millions of dollars, the audit said.

Lois Park Mole, spokeswoman for the state Department of Disabilities and Special Needs, said the independent audit is a work in progress that is on track to be implemented soon, and that another state agency already audits its costs.

State Sen. David Thomas said DDSN is stonewalling and that it would be an understatement to accuse the agency of lacking transparency.

The Greenville News reported 18 months ago that the agency hadn't implemented the recommended cost audits despite a 2006 report that said it's "almost impossible" to connect the agency's advance payments for treatment with what is actually spent on an individual and that local care providers were not able to track costs.

At the time, in Jun 2007, Mole said the age cy was still waiting 2006 data in order implement the indepe dent oversight.

This month, a new auc said the agency still "ha not complied with the re ommendation" and th

See DDSN on page 5

MORE ONLINE
■ Read a proposed bill to reform DDSN, as well the new state audit and the agency's response at greenvilleonline.com

NATION / WORLD

Clemson grads score points

Riverside High ranks high on toxic air model

EPA: Numbers don't necessarily mean

3195

DDSN
FROM PAGE 1A

the state Auditor's Office, which must approve any outside audit, hadn't received a proposal as of October.

In a written response to the audit, DDSN said it agrees with the need for independent audits, and that cost reports starting in 2006 "are to be audited this fiscal year."

Mole said the new audit "did not understand" the agreement already hammered out between the state Department of Health and Human Services and the state Auditor's Office to audit 2006 costs, and that audits of subsequent years could follow. She said it's true that DDSN has yet to officially request the cost audit, but that such a request will only formalize what has already been arranged.

The agency's cost reports are an annual tally of what it costs to provide care for state consumers, and the reports are used to claim Medicaid payments from the federal government, the new audit said.

A 2004 audit by the federal Centers for Medicare and Medicaid Services said the state should have independent audits performed on those cost reports, and expressed concern with the way DDSN allocated costs, reimbursements and "cost settlement methodologies," the new audit said.

Mole said that after a rebuttal by the then head of DHHS, the federal agency relented and didn't make the recommendation in its final report.

Two years later, it was DHHS that recommended external audits of the agency's four regional cost reports, according to Mole and the new audit. A March 2008 follow-up found the agency had not complied with the recommendation, the new audit said.

The audit released this month found errors in the way DDSN prepares its cost reports and said DHHS "is not adequately independent to audit DDSN because of the agencies relationship. DHHS is the Medicaid funding agency for DDSN and is involved in the cost reporting process," the new audit said.

"DDSN's failure to implement repeated recommendations to have the cost reports audited leaves a significant gap in accountability for millions of dollars," the new audit said.

Mole said it took time for the state Auditor's Office to decide on an approach and fashion an agreement with DHHS.

Asked about the usefulness of an audit involving costs that will soon be three years old, Mole said it's necessary for time to elapse because there's a long window in which federal Medicaid reimbursements can be received.

Thomas and state R
Jim Harrison said they
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The News that he could
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state agency, possibly
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Mark Sanford.

"You clean their clocl
what you do," Thon
said. "You start from
top."

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SPECIAL 19.99
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COURT
FROM PAGE 1A

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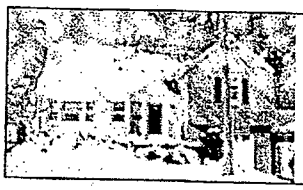
Mims 1999



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State senators question DDSN officials about agency audit

BY BEN SZOBODY • STAFF WRITER • FEBRUARY 11, 2009

Read Comments(1) Recommend (1) Print this page E-mail this article Share

COLUMBIA -- A member of the commission that governs the state Department of Disabilities and Special ds told a special Senate committee today that the agency has strengthened the independence of its ...ernal auditor, who will now investigate numerous complaints of favoritism among providers and retaliation against families that complain about their care.

ADVERTISEMENT Senators said the new moves don't go far enough to ensure that DDSN's internal auditor isn't a "crony" of the director and they criticized the commission for its "disconnect" when it comes to agency operations.

The hearing was one of several to be held to investigate what a new audit said are health and safety failures and problems with the way taxpayer funding is used.

DDSN commissioner John Vaughn, a retired Greenville pastor, told senators that the commission is taking seriously concerns raised in the audit but that compared with other states, DDSN's level of complaints is "not very bad."

Sen. David Thomas, R-Fountain Inn, said that may be because families fear reprisals if they speak up. He said complaints from employees and families have "almost crippled" his staff, including claims the agency has spent taxpayer money to build new care faciliities instead of funding faith-based providers who are qualified.

Vaughn said the agency is sensitive to faith-based groups, that many of them aren't qualified. He said the agency is concerned about claims of retaliation that would be among the issues investigated by the internal auditor.

...ors grilled Vaughn about how much the commission knew about $3 million appropriated by the legislature for autism but diverted for operations, and told commissioners to go farther in making sure the

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internal auditor answers directly to the board.

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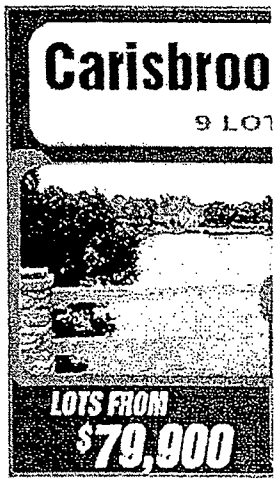

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In Your Voice

READ REACTIONS TO THIS STORY

fedupcaretaker wrote:

I would be more than happy to discuss the reprisals and abuse that we have gone through since moving to South Carolina in June 2007. I have repeatedly called DDSN about my son not receiving services on the MR/RD Waiver. DDSN did nothing. It was 6 months before I received one diaper or one suction canister and that was with the assistance from Governor Sanford! I e-mailed the Governor finally about not receiving the necessary medical supplies and nursing. After I contacted the Governor with my complaint the Case Coordinator from the Charles Lea Center filed against me with DSS, Adult Protective Agency, that my son was at risk being in the home with me! I then e-mailed Governor Sanford again as to what they had done. I didn't know at the time that this is not an unusual thing to happen. They didn't file a report such that they could go to jail for a false report. Of course I was found not to be a perpetrator. Well I could go on but already ran out of space... to be continued...

2/11/2009 8:14:44 PM

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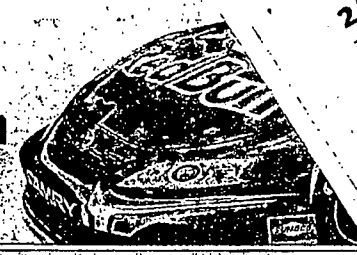

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The Greenville News

GreenvilleOnline.com

SATURDAY, FEBRUARY 21, 2009 ■ FINAL EDITION

Greenville, South Carolina

High 54°
Weather, 6B

Feds offer state trooper alternative to trial

Civil rights charge will be dropped if officer completes program, lawyer says

By David Dykes
STAFF WRITER
ddykes@greenvillenews.com

Federal prosecutors have recommended that a misdemeanor charge against a South Carolina trooper, videotaped pursuing a suspect through a Columbia apartment complex, be put on hold while the trooper participates in a pretrial diversion program.

First Assistant U.S. Attorney Kevin McDonald said Friday the government is recommending Alexander Richardson spend 18 months in the program, which includes community service, as an alternative to the court process.

If he successfully completes the program, the charges are dismissed. If he fails to complete the program, the charges are reinstated, McDonald said.

"Our analysis of the case was that it was properly classified as a misdemeanor due to the absence of serious bodily injury."

Richardson was accused of violating an individual's civil rights by using unreasonable force against a man the trooper was chasing in his car through a Columbia apartment complex in 2007.

According to court records, Richardson struck the suspect with his vehicle.

The trooper said in a statement to internal investigators that he didn't try intentionally to bump the suspect with his car.

Richardson's attorney couldn't be reached for comment.

McDonald said Richardson faces a maximum sentence of one year in prison if convicted.

The federal civil rights charge against Richardson marked the third time since last summer that a trooper has faced civil rights charges.

A federal jury acquitted one trooper, while another trooper pleaded guilty.

A shake-up at the Highway Patrol began last February following the release of a videotape obtained by *The Greenville News* under the state Freedom of Information Act.

According to the government's recommendation, Richardson, with federal prosecutors' authorization, would apply to federal probation officials for acceptance into the pretrial diversion program, McDonald said.

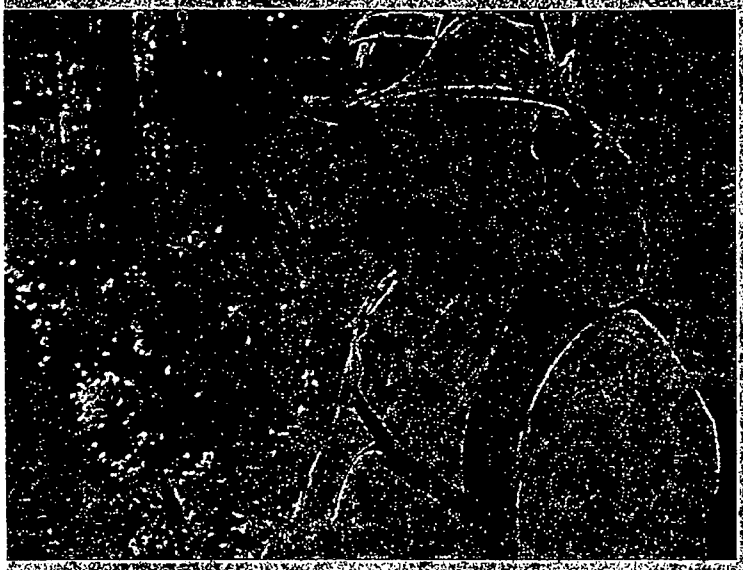
NATION / WORLD

Fire concerns flare up again

Disabilities leadership

3199

e concerns flare up again



Staff file

ficials say drought conditions continue to pose a fire threat, as t year when lightning sparked a blaze by Lake Jocassee.

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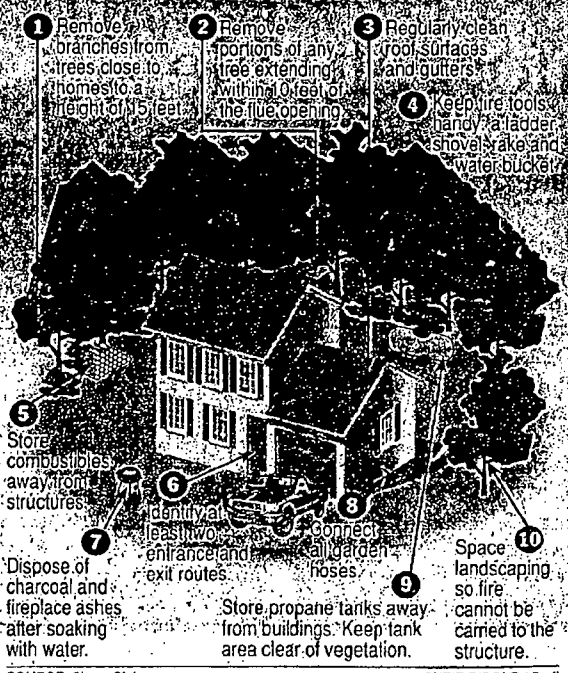

SOURCE: Sierra Club

SUZIE RIDDLE / Staff

ES on page 9A

Disabilities leadership could be next to go

Sanford asks commissioners to consider a change in top posts

By Ben Szobody
STAFF WRITER
bszobody@greenvillenews.com

Gov. Mark Sanford's office has told commissioners of the state Department of Disabilities and Special Needs to look at removing top agency administrators and one commissioner, said Friday he wouldn't be surprised if it happens soon.

Attempts to reach commission Chairman Bobby Harrell were unsuccessful Friday. Through a spokeswoman, agency director Stan Butkus declined to comment.

The move comes after Sanford asked for the resignations of four of the agency's seven commissioners this week, citing a critical audit that alleged problems including health and safety gaps, unused funds and a lack of transparency.

Sanford spokesman Joel Sawyer said Friday the Governor's Office has also told commissioners that a change in agency leadership "may be appropriate."

Sanford has previously called for legislators to restructure DDSN as a Cabinet agency, which would give the governor the power to hire and fire the director.

When asked if Butkus is resigning, Sawyer said he would defer to the commission.

Spokeswoman Lois Park Mole said the commission discussed a personnel matter behind closed doors Thursday, but that as far as she knows, no one has been asked to resign.

John Powell, one of the four commissioners asked to resign, told *The Greenville News* he doesn't yet know if top administrators are leaving, but that the commission could make such a move soon.

"I wouldn't be surprised if that's not coming down," Powell said. "It may be even a little deeper than that, probably."

Retired Greenville pastor John Vaughn, who was also asked to leave, declined to comment when asked this week if administrators are leaving.

MORE ONLINE

■ Read December's audit, the agency's response and proposed DDSN legislation at greenvilleonline.com

See DDSN on page 9A

d a month after tragedy

Ga. man put to death

Newberry; [illegible] sisters, Dorothy [illegible] inger of West C[illegible] a and Sara Sutton of Columbia; and six grandchildren, Wayne and Jason Beaty, Michael Campbell, Stacy Bailey, Chris and Tiffany Wright.

He was predeceased by four brothers, Earl, W.B., Ralf, and Roland Rikard; and two sisters, Ola Mae Wentworth and Martha Rikard.

Funeral services will be conducted on Sunday at 2 p.m. in the Gray Funeral Home Chapel, with interment in Pinelawn Memory Gardens.

The family will receive friends Saturday from 7 to 9 p.m. at the funeral home.

The family will be at the home of Joyce Ferguson, 382 Thompson Road, Fountain Inn, SC.

A special thanks to all the visitors and the hospice staff.

Condolences may be expressed to the family at www.grayfuneralhome.com.

Gray Funeral Home of Clinton.

June D. Sweatt
Modesto, Calif.

Mrs. June D. Sweatt, 84, wife of Bishop Charles Sweatt, of Modesto, Calif., formerly of Honea Path/Ware Shoals, died Friday, Feb. 13, 2009, at her home.

Visitation: Sunday, February 22, 2009,

election method discriminates

ACLU says similar case would be more difficult in Upstate

By Jenny Munro
BUSINESS WRITER
jmunro@greenvillenews.com

A federal judge has ruled that Lexington County School District 3's method of election was racially discriminatory and has ordered new proposals to change the election method within 60 days.

Laughlin McDonald, director of the ACLU Voting Rights Project, said the Lexington County case was the only one currently pending in South Carolina although the ACLU has filed dozens of similar cases over the years. The first was in Dorchester County in the 1970s.

The decision deals solely with the Lexington County district's at-large election method, but any decision can be used as precedent in subsequent lawsuits, he said.

Although the ACLU would investigate any complaints about discriminatory voting methods anywhere in the state, McDonald said such cases could be more difficult to bring in the Upstate because of the smaller minority population here.

No similar cases are pending in South Carolina, he said.

The decision is a victory for political equality, he said. The judge's decision made it very clear that racially polarized voting in the school district is a major problem. We have made a lot of progress when it comes to voting rights, but this decision shows the continuing importance of the Voting Rights Act to ensure effective minority participation in the political process.

Lexington County School District 3 has a significant minority popula-

tion. When school board elections were held annually in February, three blacks were elected to the board. In 1994, the elections were changed from the February date to a date every two years in conjunction with the general election.

Following the change, no minority was elected to the board until after the ACLU lawsuit was filed in 2003.

The problem, McDonald said, is that the February elections attracted minuscule participation and minority voters had a chance to be heard. In the larger turnout of the general elections, the minority voice was overwhelmed, he said.

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DDSN

FROM PAGE 1A

December's audit said the agency diverted or left unused $9 million in autism funding, may not have fired some staff members involved in cases of abuse and neglect didn't follow up on numerous safety and welfare violations and denied commissioners access to public information, among other issues.

The agency has said appropriate action was taken in cases of abuse and neglect 100 percent of the time, that it's the job of providers to correct quality problems and that the commission doesn't bar in-

The News reported in 2007 allegations that the agency let a private contractor review claims of abuse at its own facility, that it was almost impossible to connect state payments for care with what was actually spent on patients and that the commission had barred individual members from inquiring about agency operations without the consent of the full board.

Burglary suspect held in pool at gunpoint

THE ASSOCIATED PRESS

BATESBURG-LEESVILLE — Authorities say a homeowner threw a man he caught stealing from his home into a pool and held him at gunpoint until sheriff's deputies arrived.

Lexington County Sheriff James Metts says the homeowner found Ruben Silva-Aguilar, 19, taking things out the back door.

Authorities say when Robert Hartley, 52, confronted the burglar, he was stabbed in the arm. Hartley grabbed him and tossed him into his pool, ordered him to stand in the water and held a rifle on him.

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The State
COLUMBIA SOUTH CAROLINA

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TUESDAY, MARCH 3, 2009 • SECTION B

AGENCY UPHEAVAL

Embattled DDSN head resigns

Butkus leaves S.C. disabilities department amid outcry for reform

By RODDIE BURRIS
rburris@thestate.com

The state director of the Department of Disabilities and Special Needs abruptly resigned Friday, ending a 13-year stint at the helm of the agency charged with caring for the state's disabled.

Stan Butkus, hired by the department's commission to lead the agency in 1996, leaves his $157,765 post amid continuing upheaval at DDSN and public calls for reform.

Butkus joined the ranks of four agency commissioners, a board majority, who were fired less than two weeks ago by Gov. Mark Sanford.

The department has been the subject of long-standing criticism by advocates and caregivers who have com-

Girl Scouts learn to close the deal when selling cookies

Bertram Rantin
News Columnist
brantin@thestate.com
(803) 771-8306

The variety of flavors alone makes for an enticing sales pitch: Peanut butter. Caramel deLite. Shortbread.

"Would you like to buy some Girl Scout cookies?"

It's a chorus being echoed across the Midlands as Girl Scouts from the Mountains to Midlands council hold their annual cookie sale. But for hundreds of Scout troops that have set up shop at area storefronts, it's not just about tradition, but closing the deal.

"We just have to be sociable. I just talk to random people to make the sale, and they actually talk back," said **Amber Dorsey**.

Amber and others from Troop 977 in Columbia were stationed at the Gamecock Bi-Lo on Devine Street on Saturday. Theirs was among many spots where Scouts braved chilly temperatures to push the eight varieties of cookies being sold this year. And for members of Troop 977 it wasn't a passive process.

"You have to ask them what they like," troop member **Alanina Spigner** explained, adding she's happy to offer suggestions to those who have no preference. "I would have to say Caramel deLites."

Candice Johnson said one of the best sales techniques is friendliness, noting many people are already sold on the brand.

"They know that they like Girl Scout cookies," she said.

Carol Edwards certainly knew what she liked. Troop members had barely made their pitch Saturday before the Columbia woman was sizing up her options.

"I was wondering where I was going to get some Girl Scout cookies this year," said Edwards, whose two adult daughters once sold

SEE **COOKIES** PAGE **B2**

THE STANDBY: The [illegible] only cookie variety tha changed except for the l

A HEALTHIER TREND: All eties of Girl Scout cookie fat free.

OK, THEY'VE BEEN AROU The first national Girl S sale was in 1936.

OH, JUST ONE MORE: Gir about 200 million boxe nationwide each year. C Chips Ahoy are eaten m Scout cookies.

WHERE CAN A COOKI

For the dates, times ar cookie booth sales, Scouts of South Carol www.gssc-mm.org

AT THE HEAD OF HER CLASS

Dywanna Smith, a teacher at Richland 1's Hand Middle School, was announced Monday as one of five finalists for S.C. teacher of the year.

Smith, the only Midlands fi-

York 3.

The winner, who receives a cash award and a yearlong leave to serve as a roving ambassador for the state's 50,000-plus public school teachers, will be announced [illegible] becomes the state's

Neighbors. (Log on to thestate.com for the complete text.)

What inspired you to choose teaching as a career?

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own childre

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Mims 2005

AGENCY UPHEAVAL

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rburris@thestate.com

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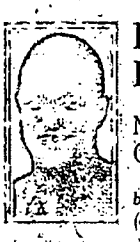
Butkus joined the ranks of four agency commissioners, a board majority, who were fired less than two weeks ago by Gov. Mark Sanford.

The department has been the subject of long-standing criticism by advocates and caregivers who have complained of secrecy, mistreatment of patients and mismanagement of agency funds.

A December state audit drew the ire of state lawmakers and some caregivers of the 28,000 patients for whom

SEE DDSN PAGE B5

Girl Scouts learn to close the deal when selling c



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News Columnist
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(803) 771-8306

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SEE COOKIES

AT THE HEAD OF H

Dywanna Smith

Dywanna Smith, a teacher at Richland 1's Hand Middle School, was announced Monday as one of five finalists for S.C. teacher of the year.

Smith, the only Midlands finalist, teaches seventh-grade English/language arts. Other finalists are Amanda McKee, Florence 5; Derenda Marshall, Georgetown County; Deborah Moore, Newberry County; and Bryan Coburn, York 3.

The winner, who receives a cash award and a yearlong leave to serve as a roving ambassador for the state's 50,000-plus public school teachers, will be announced this spring and becomes the state's nominee for national teacher of the year.

Here is a Q&A with Smith in her own words, edited from a longer feature published Feb. 5 in Nei thes text Wha teac I wo gene teac serv I wa thei

SOUTH CAROLINA DEATHS

Eleanor Arms, Columbia
Leroy Bigham, Rock Hill
James Bittle, Ruby
Laura Boone, Lexington
Luwanna Boone, Rowesville
Roberta Bostic, Hopkins
Herman Brazell, Elgin
Henry "Hank" Chada, Sumter
Grace Cherry, West Columbia
Dorothy "Dot" DeLoach, Estill
Berlyn Dimmery, Columbia
Robert Fowler, Lancaster
Rebecca Frank, Swansea
Z. Juanita Free, Union
Eric Geiger, Irmo
Helen George, Sumter
Dorothy "Faye" Hutto, Orangeburg
Charles "Chuck" McCorkle, Lexington
Robyn McCraw, Lexington
Blandina Morrison, Columbia
Sgt. 1st Class George Morrow Sr., Kershaw
Richard Nelums, Columbia
Albert Praylow, Columbia
Alberta Reeves, Columbia
Alonzo "Zoe" Richardson, Columbia
Jerold
Sara F
James
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Dr. La
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Mims 2006

at Camonage University, ... of Durham, and several institutions in Belgium.

Dr. Strachan, a member of the Summerville Presbyterian Church, served as an elder at Eastminster Presbyterian Church and as a deacon at the First Presbyterian Church, in Columbia. She was a former ...ber of the Board of Visitors of Columbia College, and a charter member of the Suzanna Smith Elliott Chapter of the DAR. In 1980, she was honored as the Volunteer of the Year by the United Way Midlands. She was also a founder and former president of the Robert Burns Society of the Midlands; a founder and former board member of The Women's Shelter in Columbia; and a founder and board member of the Southeastern Section of the Zane Grey West Society.

Dr. Strachan was born on April 13, 1922, in Greenville, S.C. She was the daughter of Frances Lyles Brock of Newberry County and Edgar Brumitte Lewis of Ridgeway. Dr. Strachan was predeceased by her husband of 60 years and by her daughter, Frances Helen Strachan. She is survived by her daughter, Sally Strachan, her granddaughter, Sara Strachan, and her sister, Betty Sanders.

The family will receive visitors in Columbia on Friday, March 13, 2009, from 5:30 p.m. to 7:30 p.m. at 1735 Roslyn Drive. A memorial service will be held in Summerville at 2:00 m. Saturday, March 14, 2009, in chapel at The Presbyterian Vil...e of Summerville. Burial will be private. In lieu of flowers, memorials may be made to the Lewis-Strachan Scholarship, Columbia College, Development Office, 1301 Columbia College Drive, Columbia, SC 29203. Arrangements by Parks Funeral Home, Summerville, SC (843) 873-3440.

Bobby Tate

WINNSBORO — Funeral service for Bobby Lee Tate, age 48, will be held at 2 p.m. Wednesday, March 4, 2009, at Gordon Memorial United Methodist Church, conducted by Rev. Walt Ballenger. Burial will follow in Lebanon Presbyterian (PCA) Cemetery. The family will receive friends from 6-7:30 Tuesday evening at Pope Funeral Home.

Mr. Tate died March 1, 2009, in Palmetto Health Richland. He was the husband of Darlene Loftin Tate and son of Ernest Earl Tate and the late Brennie Starnes. He was born in Lancaster County, October 16, 1960. Mr. Tate managed the printing department of a business based out of Tampa, FL.

In addition to his wife, Mr. Tate is survived by a son, Josh Ramsden and his wife, Victoria, of Blythewood; a daughter, Nicole Tate of the home; a brother, Allen Tate of Fort Lauderdale, FL; a sister, Barbara Tate Jones of Bamberg, SC; and a dearly loved granddaughter, Janena

LAWSUIT

FROM PAGE **B1**

amount of money in its risk management fund to pay for the lawsuit. The city won't disclose how much.

However, in 2007, which is the latest year audited numbers are available, the city had about $15 million set aside for lawsuits and other liabilities.

Harpootlian said the settlement amount is for what Stevens and Wilkinson believes the city owes it for the work it did between November 2003 and April 2004.

If the case goes to trial, Harpootlian said, the firm would seek the $1.6 million plus any money it would have received had the plan gone forward — boosting the potential liability for taxpayers by several million dollars.

"We believe this is a fair offer," Harpootlian said.

In 2003, City Council members planned to use taxpayer money to build a hotel by the Columbia Metropolitan Convention Center. In March 2004, after public opposition to the project, the city opted to go with a private developer instead.

Stevens and Wilkinson was paid through November 2003. But the firm continued to work after that point because it said the city told it to. The city disputes that claim.

The project eventually went to developer Bo Aughtry, who built the Hilton Hotel. Stevens and Wilkinson also has sued Aughtry.

Stevens and Wilkinson is one of several parties suing the city over the hotel deal. Other parties include Turner Construction Co., Gary Realty and Garfield Traub Development.

Along with the $1.6 million Stevens and Wilkinson is seeking, Gary Realty and Garfield Traub Development are seeking about $2 million, according to their attorney, Ken Suggs.

John T. Lay, who represents Turner Construction, could not be reached for comment.

John Nichols, past president of the S.C. Trial Lawyers Association, now known as the S.C. Association for Justice, said attorneys use offers for judgment as a way to pressure the other side into settling.

"You're taking a pretty good chance here that you are going to end up worse off," he said. "You're showing a lot of confidence in that case if you reject it."

Reach Beam at (803) 771-8405.

"everybody wants a piece of it, and everybody wants to justify why they should get a piece of it."

The written settlement does not specify which group should get the money.

So now, for the politics.

When Jackson found out about Washington's arrangement, he said he was furious.

Jackson said he worked for the settlement on behalf of the landfill provided the grant, she said. "We were very reluctant to even get involved."

But they are involved.

Tonight, the issue comes before the council, at Jackson's request, in an attempt to determine which group should get the money.

Reach Hinshaw at (803) 771-8641.

DDSN

FROM PAGE **B1**

DDSN is responsible. The audit found possible conflicts of interest in the way DDSN licenses care facilities, a failure by the agency to make sure bad employees are kept out of the system, and state funds intended to care for children with autism left unspent.

"Given what was found in the audit, we believe this was an appropriate step to take," said Sanford spokesman Joel Sawyer of Butkus' resignation.

When the commissioners were let go Feb. 19, Sawyer said the agency needed "a new direction" adding Sanford, in a bid to reshape the agency, would have preferred to make some administrative changes at the time.

The state Constitution blocks Sanford's intrusion into the agency's operations, however, because it is not a part of the governor's cabinet. Sanford appoints the agency's seven commissioners, who must be approved by the state Senate.

The commission then hires a director, who is responsible for the department's day-to-day operations.

Commissioners John Vaughn of Greenville, Edythe Dove of North Charleston, John Powell of Walhalla, and William Bishop of Leesville will be replaced by Sanford.

Butkus' resignation came in a letter dated Feb. 27 from the commission chairman, Bobby Harrell, sent to employees, consumers and their families. In the letter, Harrell said Butkus' resignation would take effect immediately.

"Dr. Butkus has done an outstanding job for our state and department in many ways," Harrell said in the two-page letter. "He is innovative and also willing to make the really tough decisions.

"It is with great regret that I announce on behalf of the Commission receipt of his resignation."

Butkus did not return a phone call for comment Monday.

Harrell said Butkus did not give a reason for his resignation. He said the commission has had no contact with Sanford's office about replacing the fired commissioners, and Harrell said he would appoint a search committee to find a replacement for Butkus.

Some of the agency's loudest critics welcomed the change.

"The reign of terror at the South Carolina Department of Disabilities and Special Needs is finally coming to an end," said Columbia attorney Patricia L. Harrison, who had a relative die while under state care at a Columbia facility for the disabled.

"So many families and people who receive services from the agency have suffered terrible abuses and reprisals," Harrison said. "Some, like our relative, Billy Cothran, paid the price with their lives."

She said employees have been threatened with their jobs for refusing to "cover up abuses" by the state.

But DDSN, citing the legislative audit report, disagreed. The agency points out findings favorable to the agency from the federal Centers for Medicare and Medicaid Services included in the audit.

"The (state audit) was requested to audit if there were any merit to reports of reprisals by DDSN on clients," the agency said in a statement. "The (audit) had no (such) findings."

Reach Burris at (803) 771-8398.

GAMECOCKS AND TIGERS AND WRITERS — OH, MY!
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News - Local / Metro
Thursday, Feb. 17, 2011

Senators say they were misled over deficit

By JOHN O'CONNOR - joconnor@thestate.com

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The former head of South Carolina's health care agency said she followed the instructions of then-Gov. Mark Sanford's office in not raising her agency's projected deficits, now totaling more than $200 million.

Senators who heard the testimony of former Health and Human Services director Emma Forkner said they thought they had been misled by the Sanford administration, which — for political reasons — would not admit the spiraling cost of health care for the state's poor and disabled.

Sen. Jake Knotts, R-Lexington, said he plans to investigate the chain of decisions, using subpoenas if necessary to order testimony.

But Sanford's former chief of staff, Scott English, blamed legislators, saying the health agency's budget collapsed when lawmakers denied it the ability to cut what doctors and hospitals are paid.

Lawmakers pressed Forkner on why her agency projected its budget would grow just 4 percent this year, noting growth has been near 10 percent since the recession started in 2007, forcing more South Carolinians onto Medicaid.

"Did the governor's office force you to project a lower number?" asked Sen. Vincent Sheheen, D -Kershaw.

"I followed the directions," Forkner replied.

Sheheen, who unsuccessfully ran for governor last year, and other lawmakers said they thought they had been misled.

Knotts agreed. "She was following the directions as the head of a cabinet agency," Knotts said. "She was told to stick with the four percent."

English, now chief of staff to new State Superintendent of Education Mick Zais, said Sanford's office told Forkner only to get her agency's budget back in balance. The agency's 4 percent projected growth rate, he added, was tied to cost-cutting measures that Sanford requested and lawmakers denied.

"We've always tried as hard as we can to be clear and transparent," he said.

The agency told lawmakers in April 2010 it had spent $67 million more than previously estimated, forcing lawmakers to cut the state budget to offset that overrun. In October, the agency sought a State Budget and Control Board hearing on its continuing deficits.

Forkner told lawmakers her agency knew its budget would not balance after the General Assembly overturned a handful of Sanford's vetoes last spring. Legislators said they were perplexed that they did not learn of the deficit until the fall.

Forkner said she was told "it will all work out" but was given no details. She said she never spoke with Sanford, dealing only with English.

Forkner said the deficit grew quickly as Medicaid enrollment increased. In addition, she said, the agency had trouble keeping track of its finances as it adapted to a new accounting system.

But Forkner also said her agency regularly updated lawmakers and was not trying the mask the problem. "We kept hoping that the enrollment would level off or our expenditure control would kick in," she said. "We do not keep any of this secret. It was never secret."

Lawmakers have railed against deficits in cabinet agencies, which must be balanced before they can address a looming $700 million budget shortfall for the budget year that starts July 1.

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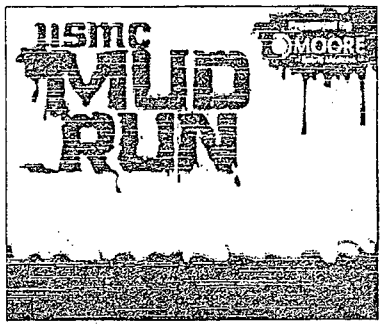

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Like Sanford, new Gov. Nikki Haley also wants the state's health agency to be given the ability to cut what doctors and hospitals are paid so it can reduce its deficit, now about $225 million.

Haley stepped up her criticism Wednesday of lawmakers for not yet approving that move. She also called "immoral" a proposal by hospitals to increase the taxes that they pay — now $264 million a year — rather than cut rates that they and doctors are paid. Haley, a former hospital fundraising executive, said the added taxes would be passed on to patients.

Reach O'Connor at (803) 771-8358.

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tomasgato

More results of sanfraud "slime"!!!

02/17/2011 07:12 PM
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cosmotwo

Politicians have no common sense.

02/17/2011 05:19 PM
2 likes Like Reply

beforehere

Before you say this is not a civil rights issue, read and think. As late as the late 80s, there were virtually no black people in upscale mental hospitals in upstate S. C. At that time, they kept people up to six weeks. Some returned to work. Many were there as a means of getting on SS disability. Many were in and out because they were on SS disability. There were many dirty little secrets that neither the hospitals nor doctors want to discuss today. Now, they "make you well" in five days because insurance companies force them to. Note that--there are exceptions, but the "rule" has changed drastically, and it is not because of better meds. or better doctors. As I recall, the same could be said for several Mental Hospitals near Alanta at that time.

A black nurse who worked at an upscale Mental Hospital in the late 80s, once commented that she never saw a black person on SS disability. My observations, back then, were the same as hers---there were a lot of white patients at on mental disability who were in these hospitals.

Today, I hear people, who apply for aid, say blacks know how to work the system. My response is always, "so, you are saying you need aid, but you are not as smart as black people who know how to work the system"? That ends the conversation--most of the time.

I would have to see the statistics to know if a larger percentage of blacks than whites are being denied health care because the Republicans continue to Hail on medicade. But, I know that it has not been two decades , that for whatever reason, black people did not receive equal treatment for mental problems in S. C. Either that, or we whites just have a million more mental problems than they do.

I am sure things have improved. But, if a C. R suit will get the heartless Tea Party to insure

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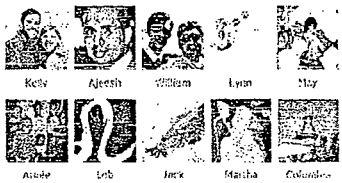

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Mims 2009
4/5/2011

deserving poor people get reasonable care, I frankly dont give a rip that the people I may sit with in church dont like health care funding.

02/17/2011 04:43 PM
5 Likes

Like Reply

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templeton

I work in a hospital and no one is turned away because of race, or economic status. Everyone gets treatment and most get definitve treatment but all emergency rooms are required to do is stabilize you if they can. Some doctors will only see a certain amount of medicaid patients because if they see more than whatever amount the deem the maximum they risk not being able to pay their bills. Some doctors will not take people who only rely on medicaid to pay their medical bills but the doctor will take cash, credit card and in some cases they will set up a payment plan. People think that healthcare should be free for everyone; medicine gets more expensive every year due to new drugs and new treatments so therefore doctors cost go up also. No one can work just to break even and doctors, nurses and hospitals are not different. I have heard of the "treat and street" method due to insurance running out after 3 to 5 days but hey, there are other patients that can pay who need treatment also. I agree the worst thing this country did was to turn the mentally ill out into the street in the 1960's. I guarantee you if medicaid payments are cut to doctors then doctors will stop seeing those patients all together.

02/17/2011 10:30 PM
in reply to beforehere

Like Reply

gcderrick

It has gotten to the point that politicians on both sides of the aisle throw monetary figures around that no one should believe any of them. Of course the mess in the health care industry is ridiculous- hospitals and other health care providers (including doctors) send out bills for their treatment of patients for exorbitant amounts considering the amount of time they actually spend treating a patient, health insurance carriers and the government through Medicaid and Medicare then cut those bills and pay (or as they put it reimburse) the health care providers absurdly low amounts, forcing the health care providers to write off the largest parts of their bills, and then the patient is billed for their 20% of the "agreed upon" (I doubt that the health care providers really are voluntarily agreeing to accept the fee schedules/reimbursement rates that the health insurers and government impose on them) charges after the write-offs. What kind of nonsense is this? Health care providers deserve to be reasonably compensated for their services, but shouldn't be greedy; insurers and the government likewise shouldn't be allowed to arbitrarily set unfairly low reimbursement rates. I wonder if it would work if there was a panel of accountants, health care providers, insurers, and patients who could come up with some reasonable fee schedule that everyone, including the government, could agree on as a fair and reasonable charge for most typical medical procedures, and then require those fees to be the actual charges that health care providers would charge and the insurers, government, and patients would pay.

02/17/2011 04:04 PM
3 Likes

Like Reply

TruthArbitration

It appears to me that the real issue here is that Sanford, through his Chief of Staff, Scott English probably told Forkner to project a lower number of 4% knowing all the while it was 10%. Like Forkner said when asked if she was coercied into projecting the lower 4% by Scott English (for appearances), she replied, "I followed the directions." This sounds like some "cooking the books" sort of underhanded accounting by Sandford/English. Of course, our current Governess is very experienced in this accounting approach.

02/17/2011 03:48 PM
8 Likes

Like Reply

beforehere

1. Stupid Tea from Sanford to Hail. 2. Hospitals' management operate as if cost control equals instant death of their empire. 3. Hail, and other Teas, do not know cutting medicade payments only results in "bill shifting" to the poor guy who has too much income to get medicade, and does not have enough income to get other Ins. 4. When the guy with very low income cant pay the bill, the rest of us pay it. If that does not equal an unseen tax, what the heck does?

Mims 2010
4/5/2011

Hail and Co. are like the guy who puts a "stink item" in his drawers. He forgets about the stink item, scratches his behind and, without thought, rubs his face with the same hand.

02/17/2011 01:51 PM
5 Likes

Like Reply

CongareeGamecock

you are so wrong it's not even funny

02/17/2011 11:52 PM
in reply to
beforehere

Like Reply

PaultheMagyar, International education, travel and politics.

How is that Republican "more of the same" working for ya?

02/17/2011 01:13 PM
15 Likes

Like Reply

CongareeGamecock

How has the last 30 years of liberal control of the city of Columbia worked out?

02/17/2011 11:53 PM
in reply to
PaultheMagyar
2 Likes

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State has duty to protect disabled from abuse

WE OUGHT TO be ashamed. Not just because the latest review of assisted-living homes shows that some are taking our tax dollars in order to abuse the mentally ill and mentally disabled, the physically disabled, the frail elderly — locking them away in sweltering, roach-infested facilities, serving up rotting food and out-of-date medications, forcing them to do manual labor and beg for toilet paper.

Not just because our state is doing precious little to protect the current victims or even warn off potential victims, but instead is making it practically impossible for inspectors to do anything about living conditions we wouldn't tolerate at the county animal shelter.

No, we ought to be ashamed because this isn't news. We've known about it for years. We're told about it every time someone else dies of neglect or abuse in a community residential care facility, every time the government-mandated watchdog group Protection and Advocacy for People with Disabilities issues another report, every time auditors review how any of the half-dozen state agencies charged with regulating bits of the system aren't getting the job done.

We ought to be ashamed that we don't care about the most vulnerable among us, even when we pay their abusers to treat them like swine.

We don't care enough to see to it that the agencies with primary regulatory responsibilities have enough money to enforce state laws designed to protect those who cannot protect themselves. And agencies themselves don't care enough about doing this job right to acknowledge that if we didn't have such a fragmented government they might be able to do the job even on limited funds, because we could send one team of inspectors out to deal with each facility instead of sending one from every agency.

The scandalous treatment documented in Protection and Advocacy's latest report is not a result of the deep and dangerous budget cuts that state agencies have taken because of the recession. Regulators were[illegible]

LETTERS TO THE EDITOR

How much is too much government?

Lower taxes. Less government. Like motherhood and apple pie, nearly all good Americans would support both these goals. They are inexorably intertwined and positively correlated, like the song: "You can't have one without the other."

The problem lies with how much government is too much government? And the corollary, how much is[illegible]

and the unbelievably high cost and selectivity of medical care when we place private insurance companies between patients and doctors.

Do we want markets regulated? Do we want affordable healthcare? Do we want to be protected from criminals? Let's answer that final question: "How much government is too much?"

FRANK DOUGHERTY
Chapin

Clearly, City Council has a pathetic history of prudent cash management. If council wants to fund North Columbia, get a surplus in the annual budget then use that to fund the proposed improvements. This is no time to put more financial strain on the entire city of Columbia.

JAY GRAHAM
Columbia

Sgt. Crow may have a he and h Chicago an yard rules they decide and what's into hambu

KJ DOLNE
Columbia

Surprise

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Mms 2012

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Mims 2013

treat them[illegible]me.

We d[illegible]ough to see to it that the agencies with primary [illegible] responsibilities have enough money to enforce st[illegible] designed to protect those who cannot protect themselves. And agencies themselves don't care enough about doing this job right to acknowledge that if we didn't have such a fragmented government they might be able to do the job even on limited funds because we could send one team of inspectors out to deal with each facility instead of sending one from every agency.

The scandalous treatment documented in Protection and Advocacy's latest report is not a result of the deep and dangerous budget cuts that state agencies have taken because of the recession. Regulators weren't adequately funded even when state revenues were growing by hundreds of millions of dollars a year, because this has never been a priority for our state.

And money isn't the only problem. Many facilities get away with neglect and abuse not because no one knows what they're doing, but because our laws protect them more than the people they neglect and abuse, and because we let them keep operating, keep admitting new victims while their appeals of state sanctions slowly work their way through an overburdened court system.

Watchdogs say we need laws to prohibit new admissions to facilities with allegations of repeated and serious violations, to shut down facilities when a license has been revoked (that's not already the law?) and to make it easier for the public to learn about problems at individual facilities. They say the state should create an adult abuse registry to keep facilities from hiring abusers and hire more inspectors at DHEC and the Labor Department.

They're right about all that. Just as they were right the last time they said it. And the time before that. And nothing happened. That's because what we need most is elected officials who care what happens to people who can't care for themselves, or even complain when they're being abused. And we're not going to get that until the rest of us start to care.

How much is too much government

"Lower taxes." "Less government." Like motherhood and apple pie, nearly all good Americans would support both these goals. They are inexorably intertwined and positively correlated, like the song: "you can't have one without the other."

The problem lies with how much government is too much and the corollary, how much is too little. Somalia is an excellent example of a country without a functioning government. The United States emulates Somalia, our ultimate goal. Let's imagine the United States with a weak or nonexistent government. No highway patrol or police officers, no ambulance corps, no system for mental health care, no school systems, etc., etc. To fill the void, those who could afford to would develop their own militias to protect what's theirs, enterprising criminals would develop ways to increase their wealth and power and armed bands would roam communities robbing and killing people. The United States would become yet another example of Darwin's "survival of the fittest" concept.

So before we blindly wave the banner of "Less government," let's think about where that less is going to come from. We are currently experiencing the effects of less government oversight of financial markets and the unbelievably high cost [illegible] of medical care [illegible] private insurance [illegible] between patients and doctors.

So we want markets regulated? Do we want affordable healthcare? Do we want to be protected from criminals? To answer that final question, "How much government is too much?"

FRANK DOUGHERTY
Chapin

Nix special tax district for North Columbia

Adam Beam wrote a very accurate article about Columbia City Council members [illegible] Cromartie, Sam Davis and Pamela Isaac Devine's plan to jump start the community by playing Robin Hood. Columbia pacified police [illegible] $3 million general fund deficit at the end of this past fiscal years which ended June 30.

A tax increment financing district takes part of the taxes from a given area — instead of putting it all in the general fund — and allows it to be spent for improvements in that chosen area.

This clearly would put further financial strain on Columbia. The TIF worked in the Vista. But council still had to pay the county $5 million for errors the city made. And comparing the Vista to North Columbia is in fair comparison.

Clearly City Council has a pathetic history of prudent cash management. Council wants to fund North Columbia, get a surplus in the annual budget, then use that to fund the proposed improvements. This is no time to put more financial strain on the entire city of Columbia.

JAY GRAHAM
Columbia

Crowley should reject beer offer

No matter how attractive the invitation appears, Cambridge Police Sgt. James Crowley should pass on having that beer with the President and his college pal, Skippy (Henry Louis Gates). Should Sgt. Crowley or the Cambridge Police Department take the preferred path of this summons to the woodshed, I believe the two Harvard lads will verbally spank them both with their little diversity pledge paddles for the benefit of all the cameras.

If President Obama were really looking to apologize and not to organize a Kodak moment, he would be the one making the trip up to Sgt. Crowley's favorite taproom to deliver his personal apology in a sincere manner and not qualify it seven ways to Sunday. He'd leave the press corps out of this, along with Professor Gates, and do it [illegible]

Remember, [illegible] the Plumber.

[illegible]

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Lexington

Giese's experience with DUI charge all too commo

DESPITE BEING allowed to plead to far lesser charges, despite being able to keep driving after his license was suspended, despite being poised to have that suspension lifted, there's been nothing to suggest that 5th Circuit Solicitor Barney Giese has received any special treatment since Charleston police charged him with DUI last month. That's what's so outrageous about his case. It's an in-your-face demonstration of how pathetically weak our DUI law is.

It's possible that Mr. Giese was not drunk when police stopped him for driving the wrong way on Market Street, smelled alcohol on his breath and

Cindi Ross Scoppe
Associate Editor

number had been high. Lawmakers told us this sort of thing wouldn't happen after they "reformed" our DUI law last year — a law that had been "reformed" eight years earlier, and who knows how many times before that. But largely because of the overpowering sway that a minority of criminal defense attorneys holds in our Legislature, our DUI laws do far more to protect drunken drivers than the public.

The magic bullet of this latest "reform" was toughening up the automatic license suspension for people who refuse to submit to the breath test. The penalty was supposed to be so tough that it's not.

The attorneys who make their living representing people in hearings convinced the Legislature that anyone whose license is suspended for refusing the test should have a right to contest that suspension at a hearing as Mr. Giese is scheduled to do. And if you contest your license suspension, you get to drive with a temporary license until the hearing, which Mr. Giese is doing.

Now, it's all good and fine to say that our concept of justice requires that we allow people to defend themselves, although a driver's license is a privilege, not a right, but I can't quite figure out what it is that someone in this position needs to be able to argue. [illegible] reported that defense attorneys were using these hearings to try to trick police officers into saying something under oath that they could use to trip them up at trial and get the underlying DUI charge tossed. Since solicitors can't spare attorneys to attend license suspension hearings to keep the police officers out of trouble, the paper reported, most officers don't show up. And so in 2007, drivers got their suspensions lifted 83 percent of the time.

But even if Mr. Giese can't convince the hearing officer to rescind the suspension, another part of state law allows him to get a restricted license so he can drive anywhere he can demonstrate he needs to go.

What all this means is that as long as a driver can afford the fees [illegible] that go along with getting a temporary license and [illegible] route re-

month suspension.

That still might be an incentive to submit to the test — if it were real. It's not.

[illegible] blood alcohol reading that's higher than the allegedly legal limit of 0.08 percent, there's still no guarantee he'll be convicted. Contrary to what the drunk driver coddlers say, it's not really illegal in South Carolina to drive with a blood alcohol level of 0.08 percent — or 0.05 percent, to that matter.

We have something that masquerades as a per se law. It says it's illegal per se to drive with a blood alcohol content of 0.08 per cent or higher. But that law is so shot full of loopholes that police [illegible] ...quires a judge to tell jurors they can ignore the test results and conclude that the driver on the video didn't look drunk to them.

Instead police use the *old* absurd law that makes it a crime to drive "under the influence," but doesn't define that numerically, because at least that law doesn't bar the jurors

ited the farm operated by Dian mon.

n Babcock

Clus Lexington campus. The 16 and staff charged with cat nem were to be moved o Midlands Center on Farrow Road which one parent described as worse than Clusters.

Babcock executive director ludy Johnson told The State news- paper that similar problems were not found at Clusters' other four group homes. She said federal officials found the staff had not stopped residents from attacking each other.

Dr. Johnson said Babcock had added two staff members to House B, retrained all of the staff and modified the behavior plans or the residents.

Babcock in danger of losing up to $35 million in federal Medicaid $$

By Jerry Bellune
ChronicleEditor@alltel.net

Uncorrected abuse and theft could cost the Babcock Center $35 million of its $40 million in annual operating money.

That would become a catastrophe for Babcock Center residents' families who might have to find another place to care for their loved ones, families have told the *Chronicle* on condition their names not be published for fear of reprisals.

The center which cares of 1,100 mentally-retarded people has four months to improve conditions at dozens of its group homes or lose up to $35 million in Medicaid money.

Babcock and the state Department of Disabilities and Special Needs must submit their improvement plans by Dec. 23.

The federal Center for Medicaid and Medicare Services in Atlanta and the state Department of Health and Human Services set a March 31 deadline for Babcock to show it has corrected mismanagement of Medicaid money, thousands of dollars in theft of residents' money and repeated abuse and neglect including three residents' deaths under mysterious and unexplained circumstances.

Babcock officials have confirmed that the Center for Medicare and Medicaid Services already had decided to pull federal money from a group home at Clusters in Lexington because the staff has not stopped residents from abusing each other.

Federal officials have not yet revealed how much Medicaid money Babcock has lost.

Under Medicaid law, the money is assigned to the patients, not Babcock.

When House B at Clusters was decertified, the residents and their families are supposed to receive the money to pay for care elsewhere

DDSN officials say they have taen over management of patient care at House B at Clusters.

"We'll stay there as long as we need to," DDSN director Stan Butkus reportedly told *State* newspaper reporters.

Bryan Kost of the Department of Health and Human Services said his agency is developing a program to prevent problems such as Babcock's.

Kost said Babcock and other providers would be fined beyond the loss of Medicaid.

What if they lose $35 million?

Under the state Freedom of Information law, the *Chronicle* asked Babcock Center and state the Department of Disabilities and Special Needs for access to documents showing what they have done to:

1. Correct abuse, theft and other problems investigators discovered at Babcock?
2. What plans they have developed to correct other problems investigators identified?
3. What they will do if federal officials strip them of $35 million in Medicaid funds?

Under state law, both have 15 business days to reply.

Babcock can survive loss of $35 million, top official says

Babcock's top administrator says the center could operate without $35 million in lost federal money if it has to.

Dr. Judy Johnson, who became Babcock's executive director last year after former CEO Risely Linder was allowed to resign, told *The State* newspaper she is trying to correct problems federal investigators and a state auditor found.

Dr. Johnson said she hopes to recover an unspecified amount of lost federal Medicaid money by correcting problems federal investigators found.

State officials have forced Babcock to repay patients nearly $90,000, which Johnson confirmed has been done.

Dr. Johnson said residents — not staff — had beaten each other at House B. She did not say why staff had permitted the attacks to continue.

County Chronicle

ALTH & FITNESS

Monthly Fitness Tip

During the holidays, step up your regular exercise routine. With all the temptations before us, we need to burn calories.

ur Good Health

How to have a healthy holiday again this year

Weekly Health Tip

New Medications for Eczema

Pimecrolimus (Elidel) and Tacrolimus (Protopic) have been FDA approved for the treatment of eczema. Eczema is a

Mims 2014

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

LENNIE SCHLAGER MULLIS, Plaintiff, vs. DAVID ROTHOLZ, in his official capacity; et al. DEFENDANTS.	**Case No.: 6:10-cv-02319-TMC** **AFFIDAVIT OF SENATOR DAVID THOMAS**

PERSONALLY appeared before me, David Thomas, who after being duly sworn, deposes and says as follows:

1. I have served in the South Carolina Senate since 1985.

2. I represent District 8 in Greenville County and I practice law as a partner with Moore, Thomas & Taylor in Greenville.

3. I introduced a bill to provide $3 million beginning in 2006 to the South Carolina Department of Disabilities and Special Needs (DDSN) to provide services for children who have autism (PDD) and the legislature increased this amount was increased at the request of the agency to $7.5 million the following year. http://lac.sc.gov/LAC_Reports/2008/Documents/DDSN.pdf at page 58, which is incorporated herein by reference.

4. The South Carolina Legislative Audit Council audit of DDSN reported that only $10,454 of the $3 million of funds allocated for the PDD program in FY 2007 and only $661,463 of the $7.5 million provided to DDSN in FY 2008 were spent for the intended purposes. Id.

5. If these funds had been matched with federal Medicaid matching funds, more than $40 million should have been spent by DDSN during these two years providing PDD services to children who have autism.

6. DDSN reported that they did not utilize the funds for the intended purpose because they did not have enough providers of applied behavior supports to provide the services. LAC Audit at 58.

Mims 2016

7. After this audit was released, I led a Senate investigation of DDSN which included legislative hearings attended by Kathi Lacy inquiring about the problems reported in the audit and information provided to me by Lennie Mullis and other informants.

8. My office was flooded with phone calls about the LAC audit of DDSN from constituents and their families, employees of DDSN and former employees of that agency and many of these people reported to me and to my staff that they were fearful of retaliation by DDSN.

9. Ms. Mullis came to my office on February 5, 2008 to discuss problems with DDSN's operation of the behavior supports program and what she believed was misuse of funds.

10. Ms. Mullis told me when we met that she was fearful of retaliation by Kathi Lacy and David Rotholtz. Exhibit 1 documents the date of this meeting.

11. A few days after we met in my office, Ms. Mullis provided me with lists of questions related to the barriers to competition by private providers and the PDD program, which I had sponsored in the Senate. These questions are attached as Exhibits 2 and 3 and the e-mail attached as Exhibit 4 documents that the information was related to David Rotholtz.

12. I used these questions Ms. Mullis provided to me to prepare for the legislative hearings attended by Kathi Lacy and other DDSN officials.

13. In March of 2009, Ms. Mullis provided information to my staff about the large contract DDSN had with USC and the role of David Rotholtz through the behavior supports program. Exhibit 4 (Email dated March 23, 2009).

14. This email to my chief of staff discusses the role of Dr. Rotholtz in this contract between DDSN and USC. Id.

15. On July 1, 2009, Lennie Mullis emailed my chief of staff, Mary Riley, asking for assistance obtaining needed funding for services from DDSN for a child in Greenville County who had been injured when he was been placed at age 8 at Whitten Center in a unit with grown men. Exhibit 5. (Note that date automatically printed on the letter is the date the letter was printed as an attachment to this email, not the date it was sent).

16. On July 6, 2009, as is our regular practice, my chief of staff sent an email to Lois Park Mole and Sandra Delaney at DDSN forwarding the complaints that Lennie Mullis had provided about this parent's inability to obtain the services she needed for her child.

17. Based on my conversations with many parents, providers, employees of DDSN and former employees, there was a pervasive fear of retaliation for advocating for people who need DDSN services.

Mims 2017

FURTHER AFFIANT SAYETH NOT.

David Thomas

Sworn to and subscribed before me
this 15th day of December, 2011.

Notary Public for the State of South Carolina
My Commission Expires: 3/19/18

MARK BAIR NOTARY PUBLIC SOUTH CAROLINA

TABLE OF EXHIBITS

Exhibit 1: E-mails between Lennie Mullis and the Office of Senator David Thomas

Exhibit 2: Questions about DDSN PDD program provided to Senator Thomas by Lennie Mullis and used in preparation for Senate hearing

Exhibit 3: Questions about DDSN and barriers to competition provided by Lennie Mullis to Senator Thomas

Exhibit 4: E-mails between Lennie Mullis and the office of Senator David Thomas

Exhibit 5: Letter from Children's Hospital about problems obtaining DDSN services provided by Lennie Mullis to Senator Thomas and e-mail transmitting Lennie Mullis' request for help.

Exhibit I

E-mails between Lennie Mullis and the Office of Senator David Thomas

Mims 2020

Patricia L Harrison

From: "lennie mullis" <lenniemullis@hotmail.com>
Date: Monday, December 12, 2011 8:49 PM
To: "patricia harris" <plh.cola@worldnet.att.net>; <plh.cola@att.net>
Subject: FW: Meeting

Date: Thu, 12 Feb 2009 22:44:49 -0500
From: MMR@scsenate.org
To: lenniemullis@hotmail.com
Subject: RE: Meeting

I'm always saying I'm either slow or overworked.

Mary

>>> lennie mullis <lenniemullis@hotmail.com> 2/12/2009 10:31 PM >>>

agree!! I see that you keep late hours too - please take care of yourself - it takes time to heal - be kind to yourself!

Date: Thu, 12 Feb 2009 22:25:49 -0500
From: MMR@scsenate.org
To: lenniemullis@hotmail.com
Subject: RE: Meeting

I think this is opening lots of closed doors and letting the sunshine in!

Mary

>>> lennie mullis <lenniemullis@hotmail.com> 2/12/2009 10:24 PM >>>
Hellol

I would like to thank-you all! I thought Wednesday went very well - lots of talk in the community among the providers - I am hoping that others will step up to the plate! Thank-you again!

Lennie

Date: Thu, 12 Feb 2009 20:08:06 -0500
From: MMR@scsenate.org
To: lenniemullis@hotmail.com
Subject: RE: Meeting

Thanks again Lennie.

Mims 2021

Mary

>>> lennie mullis <lenniemullis@hotmail.com> 2/9/2009 8:55 PM >>>
Hello Mary,

Enclosed questions for budget and also the PDD waiver.

Thank-you,

Lennie Mullis

Date: Thu, 5 Feb 2009 13:11:01 -0500
From: MMR@scsenate.org
To: lenniemullis@hotmail.com
Subject: Meeting

Dear Lennie,

You are on Senator Thomas' calendar for a meeting today, February 5, 2008 at 2:00 P.M. We are in the Gressette Building directly behind the Statehouse.

Thanks,

Mary

>>> lennie mullis <lenniemullis@hotmail.com> 2/5/2009 8:27 AM >>>
Good morning!

I was e-mailing you to see if I could set up a meeting with Senator Thomas to discuss concerns regarding autism. I live in Columbia, however I am in Greenville on Monday, Thursdays and Fridays. Is there anything available on Monday in Greenville? I am also in Columbia on tommorrow (Feb 6). Please let me know by e-mail or my number is 803-289-4298!

Thank-you,

Lennie Mullis

Windows Live™: E-mail. Chat. Share. Get more ways to connect. See how it works.

Windows Live™: E-mail. Chat. Share. Get more ways to connect. Check it out.

Windows Live™: E-mail. Chat. Share. Get more ways to connect. Check it out.

Windows Live™: E-mail. Chat. Share. Get more ways to connect. Check it out.

Exhibit 2

Questions about DDSN PDD program provided to Senator Thomas by Lennie Mullis and used in preparation for Senate hearing

Mims 2023

Questions to be ask to DDSN regarding the PPD Waiver:

1. Who at Central Office is responsible for the implementation of the PPD Waiver?
2. What colleges, Universities and or existing programs were contacted or solicited to be providers for the PPD waiver?
3. What is the process to be a Qualified Provider for the PPD waiver?
4. Is their a certification process through the SC Licensure Board?
5. How many providers are certified in discipline through the SC Licensure Board i.e. psychologist, LPC, School Psychologist.
6. Are there SC legislative required certifications required to be a provider? What written exam is administered for a Qualified Provider?
7. Who at DDSN is responsible for approving qualified providers?
8. What are their qualifications? What SC licensures does a potential provider need to qualify them to do this job? How many providers are licensed by the SC licensing board? How many providers are BCBA?
9. What is the review process for qualified providers?
10. Who is responsible for reviewing qualified providers?
11. What system is in place to monitor the application process, employment and retention of qualified providers?
12. If someone is not successful in becoming a Qualified Provider, what process exists for them to be reviewed? Is he applicant aware of the appeal process? Is there a length of time before they can re-apply to be a provider?
13. Why are there are 83 QPL on the February 2009 list and there are over 1000 people who received a Medicaid number for being a Qualified Provider.
14. Where are the rest of the Qualified Providers and why are so many no longer in the field?
15. As of July 1, 2008 what was the total number of children, age ten and under, that receive services from DDSN? How many of these children receive the PPD waiver?
16. How many trainings were held and in what part of the state to inform families and providers of the PPD waiver?
17. Why is the Univ of SC the only college level program providing training i.e. applied behavior analysis training?
18. Why were the Hall institute and the MUSC programs not funded for as providers for PPD services? Both agencies operate small but efficient Autism programs?
19. How does a QP receive reimbursement for services through DDSN?

Mims 2024

Exhibit 3

Questions about DDSN and barriers to competition provided by Lennie Mullis to Senator Thomas

Questions pertaining to the audit for DDSN

1. Outside of the 39 county boards and the four regional centers – who else provides services for DDSN residential clients?
(UNITED CEREBRAL PALSY OF SOUTH CAROLINA, LUTHERAN FAMILY SERVICES, MENTOR, PRESBYTERIAN MINISTERIES, AND CAREFOCUS)

2. How many clients do these agencies serve in total?
(APPROXIMATELY 200 clients out of 2000)

3. How many empty/vacant beds exist as of February 1, 2009 in the 39 county boards and the 4 Regional centers?
(APPROXIMATLEY 50-60 BEDS)

4. How many clients are awaiting residential services?

5. What does a potential private residential agency need to do to provide residential services for clients?

6. Who at DDSN reviews these requests?

7. How many providers have made request and been refused?

8. Do private residential providers receive capital funds for the purchase of homes, the way the 39 counties do?

9. The home and community based waiver was implemented to keep clients with their families in the community. However, there is still a long lengthy list of people awaiting residential services. Why has the waiver not been successful?
(FAILURE TO RECRUIT, HIRE, AND MAINTAIN WORKERS IN THE COMMUNITY TO PROVIDE SERVICES IN HOME., TRAINING HOURS SCHEDULED AT INCONVENIENT TIMES, LOW PAY, AND NO QUAILITY ASSURANCE OR REVIEW BY DDSN.

10. Does each waiver client served in the DDSN system have a budget that is monitored by the Service Coordination Division? Are these budgets reconciled at the end of the Fiscal Year? Are these budgets considered and included as a line item in the general budget of each county agency at the end of the fiscal year? Would these individual budgets show surpluses and or deficits from the fiscal year? How would these surpluses or deficits be addressed in the county agency's

Mims 2026

yearly budget? How would DDSN yearly audit show each county's surplus or deficit?

Mims 2027

Exhibit 4

E-mails between Lennie Mullis and the office of Senator David Thomas

Mims 2028

Patricia L Harrison

From: "lennie mullis" <lenniemullis@hotmail.com>
Date: Monday, December 12, 2011 8:50 PM
To: "patricia harrisi" <plh.cola@worldnet.att.net>; <plh.cola@att.net>
Subject: FW: Information

Date: Mon, 23 Mar 2009 10:34:27 -0400
From: MMR@scsenate.org
To: lenniemullis@hotmail.com
Subject: RE: Information

We are working with USC on this issue now so I will be glad to get this info. Thanks, Mary

>>> lennie mullis <lenniemullis@hotmail.com> 3/22/2009 9:15 PM >>>
Hey there,

Hope you are doing well - I know things have been very busy!!! I am going to drop some information by this week that I think is very interesting - it is the contract between DDSN and the USC for a mere 626,898 !!!!!! This contract describes Dr. Rothloz "role" with DDSN and involment with Behavior Support Providers. My question after reading this contract and also the submitted (and approved) PDD wavier application is: who supervises Dr. Rothloz to assure that he is adhereing to State and Federal Guidelines - wonder if the President of USC - Dr. Sorenson can answer that one!!
I will bring this information by for you. Hope you're having a good weekend!

Thank-you,

Lennie Mullis

Date: Thu, 12 Feb 2009 22:44:49 -0500
From: MMR@scsenate.org
To: lenniemullis@hotmail.com
Subject: RE: Meeting

I'm always saying I'm either slow or overworked.

Mary

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I agree!! I see that you keep late hours too - please take care of yourself - it takes time to heal - be kind to yourself!

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To: lenniemullis@hotmail.com
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Thanks,

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Mims 2030

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Thank-you,

Lennie Mullis

Windows Live™: E-mail. Chat. Share. Get more ways to connect. See how it works.

Windows Live™: E-mail. Chat. Share. Get more ways to connect. Check it out.

Windows Live™: E-mail. Chat. Share. Get more ways to connect. Check it out.

Windows Live™: E-mail. Chat. Share. Get more ways to connect. Check it out.

Hotmail® is up to 70% faster. Now good news travels really fast. Find out more.

Mims 2031

Exhibit 5

Letter from Children's Hospital about problems obtaining DDSN services provided by Lennie Mullis to Senator Thomas and e-mail transmitting Lennie Mullis' request for help.

Mims 2032

Developmental - Behavioral Pediatrics
Located at Center for Developmental Services
29 North Academy Street, Greenville, SC 29601
Phone: 864.331.1383 ~ Fax: 864.331.1447

December 12, 2011

Re: [redacted]
Date of Birth: 01/01/[redacted]

To Whom It May Concern:

[redacted] is a child whom I have followed in developmental pediatrics since 1999 for behavior problems associated with his autism and severe developmental delay. [redacted] has severe mood swings associated with aggressive behavior which occur with changes and transitions from one activity to the next. As he has become physically larger, he has learned that when he becomes aggressive, people are more likely to give in to him so that he does not hurt them, so his aggressive behavior has become more severe. Ms. [redacted] has appropriately sought help with managing his behavior from all available agencies in the state of South Carolina. Multiple medications have been used to manage his aggressive behavior without significant improvement.

[redacted] was initially treated with Clonidine for sleep problems beginning at age three years. Daytime doses of clonidine and Risperdal was added by age 4 years due to continued sleep problems, aggression toward himself and others, and extreme hyperactivity and impulsiveness. Behavioral interventions through the Autism Division of the Department of Disabilities and Special Needs were also initiated but not maintained. Luvox was added at age 4 ½ years due to increased aggression associated with the inability to tolerate any change or transition. Daytime doses of clonidine were increased because of continued extreme hyperactivity and impulsiveness, but caused excessive drowsiness immediately following each dose, and he had no improvement in hyperactivity noted 1-2 hours after each dose. Trials of various delivery forms of methylphenidate, dextroamphetamine, and mixed salts of amphetamine were given over the next year, but he had much worsened aggressive and agitated behavior with each of those medications. Guanfacine was tried instead of clonidine, with improvement in daytime behavior, but much worsened problems with initiating sleep. He was most stable on a combination of Luvox given twice daily, Risperdal given twice daily, guanfacine given each morning, at noon, and after school, and clonidine given at bedtime, though he remained extremely hyperactive and impulsive. A trial of Strattera was given in the spring of 2003, with improvement in noncompliant behavior noticed at school, but worsened hyperactivity noticed at school and at home, as well as increased irritability, therefore Strattera was discontinued.

Mims 2033

[redacted] remained on Risperdal 3 mg twice daily, Luvox 50 mg twice daily, guanfacine 1 mg three times per day, and clonidine 0.2 mg at bedtime from mid 2001 until mid to late 2003, when he began having rage episodes with aggression whenever any demands were placed on him. He was given trials of Tegretol, Depakote, and Trileptal with an increase in agitation and aggression observed with each medication. His mother was not able to tolerate his behavior and manage him at home until he was up to a therapeutic level with each trial of medication; therefore we were unable to see whether he might have had an improved response with a therapeutic level. His dose of Risperdal was increased to 3 mg twice daily, and then Seroquel was added and increased up to 200 mg daily, but he had little improvement noticed with the addition of Seroquel.

[redacted] was then referred to Dr. Wynn Green, a psychiatrist through the South Carolina Department of Disabilities and Special Needs, for further psychiatric consultation. Dr. Green evaluated him in October of 2003, and felt that his aggressive behavior was most likely learned behavior, but may have an obsessive component as well. He recommended a trial of increased dose of Luvox, increasing his total daily dose by 25 mg each month. [redacted] became much more aggressive with the increased dose of Luvox. His mother and teacher noticed that he was having more rage episodes when food was withheld as well as whenever demands were placed on him. He began stealing food from other children in his classroom and attacking children and teachers to get to food hidden in cabinets at school. Because of this behavior, which was felt to be due to hypothalamic side effects of his Risperdal and Seroquel, he was started on Abilify, and the Risperdal and Seroquel were weaned and discontinued.

Initially on Abilify 10 mg daily, [redacted] was more aware of people around him and played more appropriately at home. He also began sleeping only 3-4 hours per night, became more hyperactive, and had even more aggressive outbursts whenever demands were placed on him at school and at home. His dose of Abilify was gradually increased to 30 mg per day with no improvement in behavior noticed. He was placed on homebound status at school in May of 2004 due to his behavior. He would physically attack his homebound special education teacher whenever she placed any demands on him. In the summer of 2004, I referred [redacted] to a neurobehavioral program at the Cumberland Hospital for Children and Adolescents in New Kent, Virginia, a program that specializes in gaining control of aggressive behavioral problems in children like [redacted]. He was accepted for admission to this unit, and they were willing to accept South Carolina Medicaid for payment for the program, but South Carolina Medicaid was not willing to pay for an out of state program, and Ms. [redacted] does not have the means to pay for such a program out of pocket.

Soon afterward, he was admitted for respite at Whitten Center in Clinton, SC. That facility is a residential facility for adults with mental retardation, and [redacted] was placed in a unit with adult men, though he was only 8 years old. Dr. Green helped to regulate his behavioral medications while he was at Whitten Center. He remained there for only a few months before his mother brought him back home, after he sustained multiple injuries inflicted by residents in that unit (most likely their reacting to his behavior.) Since that time, South Carolina Department of Disabilities and Special Needs has provided more in home behavioral support for his mother, and he returned to school at the Washington Center. Behaviors were best managed when he was

on Guanfacine given each morning, noon, and mid afternoon, Clonidine at bedtime, and Risperdal 2 mg given 3 times per day.

Over the next several months, [redacted] began to experience extrapyramidal side effects to the Risperdal. He was given a trial of Cogentin to counteract the extrapyramidal side effects, but became much more agitated and difficult to manage, so the Cogentin was discontinued. His Risperdal was weaned and discontinued, and he was started on Geodon. He initially was more aware of his surroundings, and played more appropriately when on Geodon, but his aggressive behavior occurring with any change of routine and when any demand was placed on him continued.

His behavior was manageable at school at the Washington Center during the 2006-2007 school year as he seemed to bond with his shadow-aide. He was admitted to the Midlands Center for respite while his mother recovered from surgery in the spring of 2007, and had no significant behavior problems while there, though he had no real demands placed on him while there. During the 2007-2008 school year, he was assigned a different shadow-aide, and his behavior at school was much more difficult to manage. In the spring of that school year he was again made homebound due to his behavior. His mother was also experiencing health problems with dangerously high blood pressure not responding to medications that her physician prescribed.

In the fall of 2008, he was admitted to the Whitten Center for emergency respite due to his mother's health problems. He was transferred from there to a Palmetto Behavioral Health facility in Florence, SC due to the severity of his behavior problems. His mother reports that he has had no improvement in behavior in the 8 months that he has been hospitalized there despite multiple medication changes. She is concerned about the quality of his care, and plans to bring him home soon.

I believe that significant improvement in his behavior will not be obtained unless he is admitted to an inpatient neurobehavioral setting designed for children and adolescents with low cognitive ability, such as the program at Cumberland Hospital in Cumberland, Virginia. South Carolina does not have such a program, and cannot provide the intensity and quality of behavioral therapy that he needs.

Please do not hesitate to call if I can be of further assistance with [redacted] care. I can be reached at (864) 331-1383.

Sincerely,

Lynne Hornsby, MD
Developmental Behavioral Pediatrician

Mims 2035

Nancy C. Law

From: "Patricia L Harrison" <plh.cola@att.net>
To: <plhcola@bellsouth.net>
Sent: Monday, December 12, 2011 11:10 AM
Attach: [redacted] 07-01-2009[1].doc
Subject: Fw: Affidavit

Please print letter

From: Mary Riley
Sent: Monday, December 12, 2011 12:28 AM
To: Patricia L Harrison
Subject: Affidavit

Hi Patricia,

Senator Thomas met with Lennie Mullis in his office concerning provider problems with DDSN and below is a letter to DDSN re a problem reported by Lennie. In the meeting in his office, Lennie spoke often of reprisal for reports of problems within DDSN.

I would have to go through stacks of files to see if I have a hard copy of a letter from Lennie stating her fear of reprisal.

Please prepare an affidavit for Senator Thomas to sign and forward to me for his signature.

Mary

From: Mary Riley
Sent: Monday, July 06, 2009 3:30 PM
To: LPMole@ddsn.sc.gov; SDelaney@ddsn.sc.gov
Cc: lennie mullis; Laura Melonas; Sarah Gilbert
Subject: Assistance needed !

Dear Lois,

Below is an e-mail from Lennie Mullis is a provider for DDSN concerning [redacted] The e-mail attached is from Children's Hospital concerning the child's condition. Do you have any suggestions on how we can help this family? Since I will be out the latter part of this week and next week, please followup with Sarah or Laura in our office or e-mail sbl@scsenate.org

I am also copying Bryan Kost with DHHs to see if he has suggestions to help this file.

Thanks.

Mary

>>> lennie mullis <lenniemullis@hotmail.com> 7/1/2009 11:03 PM >>>

12/12/2011 Mims 2036

Hello!

I hope you and your family are doing well and are looking forward to a quiet and restful fourth of July! I am enclosing a letter from Dr. Hornsby, a Developmental Pediatrician, regarding a child, [redacted] that she and I have been working with for the past several years. Dr. Hornsby has recommended a program for this child that is in Virginia and upon calling the program. (Cumblerland Hospital) they informed me that South Carolina was the only state that it (Virginia) did not have a reciporcal agreement with. The child's mother, [redacted] lives in Greenville and I have encouraged her to speak with Senator Thomas - I don't think that she was able to get in touch with him before he left for vacation. Any help, assistance and or recommendations would be very welcome!!

Thank-you,
Lennie Mullis

>>> lennie mullis <lenniemullis@hotmail.com> 2/12/2009 10:31 PM >>>

good news travels really fast. Find out more.

Windows Live™ SkyDrive™: Get 25 GB of free online storage. Get it on your BlackBerry or iPhone.

Mims 2037

12/12/2011

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	Civil Action No. 07-CP-40-3365
	)	
Edward Mims, by and through his legal guardian, Margaret Mims, Plaintiff	)	AFFIDAVIT OF M. LEIGH FLYNN
	)	
vs.	)	
	)	
Babcock Center, Inc., Judy Johnson, the South Carolina Department of Disabilities and Special Needs, Kathi Lacy and Stan Butkus, Defendants.	)	

Now comes M. Leigh Flynn who states:

1. I am an attorney licensed to practice law in South Carolina.

2. I am the former President of the South Carolina Chapter of the National Academy of Elder Law Attorneys and Chairman of the Elderlaw Subcommittee of the South Carolina Bar Association.

3. I have been appointed in hundreds of cases by various Probate Courts in South Carolina to serve as guardian ad litem for persons who have disabilities.

4. I was appointed by the Richland County Probate Court on April 23,2001 to represent Edward Mims after Dr. James Christian, an employee of the South Carolina Department of Disabilities and Special Needs, filed a petition for involuntary commitment to the care and custody of the Department. Exhibits 1, 2 and 3.

5. Edward's mother, Margaret Mims, voluntarily placed him at the Babcock Center in 1999 due to illness.

6. After Mrs. Mims' health improved, Edward spent weekends with her at home and he returned to Clusters on Sundays.

7. Mrs. Mims made allegations that Edward was being mistreated by employees at Clusters.

8. During my investigations, I met with Babcock Center employees at Clusters and with legal counsel for the Department of Disabilities and Special Needs to discuss Edward's situation and his medical needs.

9. Clusters employees intentionally withheld information from me about the conditions at Clusters in 2001 and about the many incidents in which Edward had been injured at the facility so that I would recommend that he be involuntarily committed to the facility.

10. Employees told me that Edward was anxious when he returned to Clusters after his weekend visits at home because he was being abused or neglected by Mrs. Mims and they tried to convince that Mrs. Mims was unable to care for Edward at home.

11. Babcock Center employees never told me that Edward had been beaten by a Babcock Center employee, Carl Anthony on or about August 13, 2000. Exhibit 5.

12. I made recommendation to the Probate Court to involuntarily commit Edward to the Babcock Center based on this false information which had been provided to me by employees of the Babcock Center and the Department of Disabilities and Special Needs.

13. I was not informed when a Babcock Center employee named Carl Anthony was arrested and convicted in October of 2001 for assaulting Edward at Clusters. Exhibit 6.

14. I was not informed when Edward was beaten with a belt at the Babcock Center in December of 2001. Exhibits 7 and 8.

15. I later represented another client who was beaten by Babcock Center employees at Clusters and another client who had been sexually assaulted in a Babcock Center facility.

16. I represented another Babcock Center resident who was burned when an employee threw hot liquid on him.

17. I later represented another Babcock Center resident who choked after being moved to another Babcock Center residence in 2002 despite objections of his mother.

18. Family members in some of these cases were not informed by the Babcock Center when they were injured while living in Babcock Center facilities.

19. After Edward was injured at another Babcock Center facility (Kensington) in 2005, I was provided with evidence showing that Babcock Center employees had intentionally provided false information to me in 2001 in order to prevent Edward from returning to the custody of his mother.

20. I testified at the Richland County Probate Court in 2005 that Edward should be released from the Babcock Center to the custody of his mother and recommended that she be appointed as his guardian.

21. I testified that information was withheld from me by Babcock Center employees and that false information had been provided to me about the care provided by Edward's mother in 2001.

22. I informed the Richland County Probate Court that I had represented a number of residents of the Babcock Center who had been abused or neglected by Babcock Center employees and that it was my opinion that Edward was not safe there.

23. Edward has profound mental retardation and functions mentally at the level of an infant. Exhibit 9.

24. Edward's lack of intellectual skills prevents him from communicating verbally, but he communicates simple needs through squawking sounds, gestures and body movements.

25. In a report issued by the South Carolina Department of Disabilities and Special Needs in 1999, the agency confirmed that Edward's intellectual functioning and adaptive behavior "lie in the profound range of developmental delay." Exhibit 11.

26. Edward is not capable of understanding or protecting his legal rights because he is not of sound mind.

FURTHER AFFIANT SAYETH NOT.

M. Leigh Flynn

March 6, 2009
Columbia, South Carolina

SWORN TO BEFORE ME THIS
6th Day of March, 2009.

Notary Public for South Carolina
My Commission Expires: 1-05-2014

Mims 2041

LIST OF EXHIBITS

Exhibit 1	Appointment of Guardian ad Litem dated April 23, 2001	4
Exhibit 2	Notice of Petition of Judicial Admission dated April 23, 2001	6
Exhibit 3	Petition of Judicial Admission	8
Exhibit 4	Order dated July 3, 2001	11
Exhibit 5	Arrest Warrant for Carl Anthony	14
Exhibit 6	SLED Report of conviction for assaulting Edward Mims	15
Exhibit 7	Photographs of Edward Mims after being beaten with belt	17
Exhibit 8	Injury reports	19
Exhibit 9	Psychoevaluation Evaluation Report	31
Exhibit 11	Psychological Report of the South Carolina Department of Disabilities and Special Needs	34

Mims 2042

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE PROBATE COURT

FILED
01 APR 23 PM 12:01
ANN [illegible]
PROBATE JUDGE
RICHLAND COUNTY, S.C.

James G. Christian, Ed.D.
Director, Midlands Center,
SC Dept. of Disabilities and
Special Needs
PETITIONER,

IN THE MATTER OF:

EDWARD JAMES MIMS
(An alleged mentally retarded)
person)

APPOINTMENT OF GUARDIAN AD LITEM

A Petition having been filed in this Court praying for the judicial admission of **EDWARD JAMES MIMS**, who is alleged to be mentally retarded and is appealing to the Court that a guardian ad litem should be appointed to protect the interest of the said **EDWARD JAMES MIMS** in this matter.

IT IS ORDERED that Marsha Leigh Flynn, Esquire who is capable of understanding the rights of the alleged mentally retarded person, and who has no interest in conflict with or adverse to the rights of this individual, be and he/she hereby is, appointed guardian ad litem of **EDWARD JAMES MIMS** for the purpose of appearing for and acting on behalf of the said

Mims 2043

EDWARD JAMES MIMS in all the proceedings herein.

AND IT IS SO ORDERED.

Jacqueline D. Belton
Judge of Probate Court
Assoc.

Dated this 23 day of
April, 2001

CONSENT TO APPOINTMENT

I do hereby consent to act as guardian ad litem for **EDWARD JAMES MIMS** for the purposes of the entitled action.

_____
Signature

Columbia, South Carolina

April _____, 2001

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

2001MI692

IN THE PROBATE COURT

FILED
01 APR 23 PM 12:00
AMY [illegible] CULLOUGH
PROBATE JUDGE
RICHLAND COUNTY, SC

James G. Christian, Ed.D.
Director, Midlands Center,
SC Dept. of Disabilities and
Special Needs
PETITIONER)

IN THE MATTER OF:

EDWARD JAMES MIMS
(An alleged mentally retarded
person)

NOTICE OF PETITION FOR JUDICIAL ADMISSION AND NOTICE OF RIGHT TO COUNSEL

TO: **Margaret Mims**, 3301 Rosewood Drive, Columbia, SC 29205
Diane Theriot, 2231 Atascadero Drive, Columbia, SC 29206
Edward James Mims, Babcock Center, Inc., The Clusters, 201 Duffie Drive Columbia, SC 29072
Mr. Risley Linder, Sr., Babcock Center, P.O. Box 3817, Columbia, SC 29230
Dr. James G. Christian, Midlands Center, 8301 Farrow Road, Columbia, SC 29203

YOUR ARE HEREBY NOTICED that on the 16th day of April, 2001, a Petition was duly filed in the Probate Court for Richland County, South Carolina, alleging that **EDWARD JAMES MIMS** is mentally retarded and in need of services from the South Carolina Department of Disabilities and Special Needs and requiring admission to a facility or service program for the mentally regarded, pursuant to the provisions of S.C. Code Ann. §44-20-450 (Supp. 2000) as amended.

YOU ARE FURTHER NOTIFIED, that pursuant to the provisions of S.C. Code Ann. § 44-20-450 (Supp. 2000), as amended, that the above-named person alleged to be mentally retarded has the right to be represented by an attorney at law in this case and proceedings, and that an opportunity is hereby given and afforded for you, or any one of you, to select, provide and employ an attorney at law to represent said person in this matter and proceedings for his judicial admission to a facility for the mentally retarded.

Mims 2045

P.6

YOU ARE FURTHER NOTIFIED, that in the event an attorney at law to represent said person is not selected, employed and provided by either him, or any of you, within three (3) days after the Petition is filed, exclusive of Saturdays, Sundays and legal holidays, or if this Probate Court is not notified thereof with such time, then this Court shall appoint an attorney at law to represent him.

Dated this 23 day
April, 2001

Jacqueline D. Belton
Judge of Probate Court, Asst.

COPY

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE PROBATE COURT

James G. Christian, Ed.D.)
Director, Midlands Center,)
SC Dept. of Disabilities and)
Special Needs)
PETITIONER)
)
IN THE MATTER OF:)
)
EDWARD JAMES MIMS)
(An alleged mentally retarded)
person)

PETITION OF JUDICIAL ADMISSION

FILED
01 APR 16 PM 3:43
AMY [illegible]
PROBATE JUDGE
RICHLAND COUNTY, S.C.

The undersigned respectfully shows to the Court:

1. That this Petition is filed pursuant to S.C. Code Ann. §44-20-450 (Supp. 2000) and that this Court has jurisdiction in this matter in accordance with this statute.

2. That **Edward James Mims** who is presently found at Babcock Center, Inc., The Clusters, Lexington, South Carolina, is according to the information and belief of the undersigned, mentally retarded and in need of the South Carolina Department of Disabilities and Special Needs services; and because of this condition, should be so adjudged and treated in a facility or program of the South Carolina Department of Disabilities and Special Needs. The reasons for this belief are as follows:

Mr. Mims is 29 years old and profoundly retarded. His health is fragile and carries diagnosis of cerebral palsy, seizures, hypertension, esophagitis/erosion disease. He is self-abusive, non-verbal and has pica-like behavior (eats non-food items). His mother is in poor health and is unable to care for him since she has limited means and resources.

3. That the Petitioner herein has the following relationship with the allegedly mentally retarded person: custodial/treatment.

4. That attached and incorporated in this Petition is a copy of a certificate of licensed physician or a diagnostic or forensic report from the South Carolina Department Disabilities and

Special Needs that the allegedly mentally retarded person is mentally retarded and who may be in need of treatment or care in a facility or program of the South Carolina Department of Disabilities and Special Needs.

5. That below are set out the names and address of those most interested in or closely related to the allegedly mentally retarded person besides the Petitioner:

Name: Margaret Mims Relationship: Mother

Address: 3301 Rosewood Drive, Columbia, SC 29205

Phone: (803) 252-9962

Name: Diane Theriot Relationship: Sister

Address: 2231 Atascadero Drive, Columbia, SC 29206

Phone: (803) 782-1790

WHEREFORE, the undersigned Petitioner prays that the Court inquire into the condition of said person and declare him to be mentally retarded and in need of the South Carolina Department of Disabilities and Special Needs services; and order admission for him to the South Carolina Department of Disabilities and Special Needs for care and treatment when appropriate space is available or take such action as may be legally proper.

Dated this 16th day of April, 2001 at Columbia, South Carolina

Petitioner's Signature

Midlands Center, SC Dept. of Disabilities and Special Needs
Address:
8301 Farrow Road
Columbia, SC 29203
Phone: (803) 935-7414

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

VERIFICATION

Personally appeared before me James G. Christian, Ed.D., who being duly sworn says that he is the Petitioner above named; that he has read the foregoing Petition, the allegations of which are true of his own knowledge, except those stated on information and belief, as to which deponent (Petitioner) believes them to be true.

Sworn to before me this 16th day of April, 2001

Petitioner

Notary Public for South Carolina
My Commission Expires: Sept. 18, 2010

FILED

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE PROBATE COURT
CASE NO: J00-[illegible]

ANN [illegible]LOCH
PROBATE JUDGE
RICHLAND COUNTY, S.C.

James G. Christian, Ed.D.)
Director, Midlands Region,)
SC Dept. of Disabilities and)
Special Needs)
PETITIONER)
)
IN THE MATTER OF:)
)
EDWARD JAMES MIMS)
(An alleged mentally retarded)
person)
)

ORDER

This matter comes before the Court upon Petition of James C. Christian, Ed.D., Director, Midlands Region, South Carolina Department of Disabilities and Special Needs (SCDDSN) pursuant to S.C. Code Ann. §44-20-450 and 460(B) (Supp. 2000). The Court recognizes that it has jurisdiction in this matter. It appears that all parties were duly notified of this Petition.

jlb #1

A hearing in this matter was held at Midlands Center, Columbia, South Carolina, on June 26, 2001. All parties were duly notified of this hearing and the following persons were present:

Hon. Jacqueline D. Belton	Associate Judge of Probate
Edward J. Mims	Respondent
David E. Belding, Esq.	Attorney for Respondent
James C. Christian, Ed.D.	Petitioner
James R. Hill, Jr., Esq.	Attorney for Petitioner
M. Leigh Flynn, Esq.	Guardian ad Litem
Ms. Margaret Mims	Respondent's Mother
W.D. Morris, Esq.	Attorney for Ms. Mims
Jane McCausland, MS	Psychologist, SCDDSN

Other persons and staff from Babcock Center, Inc., were also present. A diagnostic report by Jane McCausland, MS, from SCDDSN was received into evidence without objection from any party.

JRH MLF

With consent of the Court, the parties all agreed to forego actual testimony and to present brief verbal statements for the Court's consideration. It appears from statements by the parties, the diagnostic report and records in this matter that Mr. Mims' mother admitted him to SCDDSN in October, 1999. Mr. Mims suffers from profound mental retardation, has cerebral palsy and several other severe and complex medical conditions. Mr. Mims is medically fragile, takes a number of medications and requires close monitoring and assistance.

Ms. Mims had requested her son be discharged back to her care, which precipitated this Petition. Upon agreement of all the parties, it appears that Ms. Mims will be unable to care for her son in her home. She still wants him to visit in her home. However, concern was expressed that her home needs to be in a safe condition for these visitations. In this regard, Ms. Mims has agreed to allow staff from SCDDSN and/or Babcock Center to enter her home and to advise and assist Ms. Mims in making her home a safer place for her son to visit.

The Guardian ad Litem reported to the Court that she had reviewed Mr. Mims's records, visited with him at Babcock Center and visited with Ms. Mims in her home. She agreed that Mr. Mims was mentally retarded and in need of SCDDSN services. She felt that he could not be safely discharged to his mother's home. She agreed that visitations should occur as long as the home was maintained in a safe condition. She observed that there was a great amount of love in the family and that this should be fostered.

jds #2

FINDINGS OF FACT and CONCLUSIONS OF LAW

The Court wants to thank all the parties in coming together. It is apparent that all parties have Mr. Mims's best interest in mind with proposing this Consent Order. After reviewing the record in this matter, observing Mr. Mims, and hearing from the parties, I find that Mr. Mims is profoundly mentally retarded and has complex medical needs. Thus, he needs the monitorship and services offered by SCDDSN through the Babcock Center. I also find that all the parties have agreed to these findings and the report of the Guardian ad Litem, and that they wish to enter into this Consent Order.

Dub Jeffcoat mck

NOW THEREFORE, IT IS ORDERED that:

1. Because of his mental retardation and special medical needs, Edward James Mims is judicially admitted to the South Carolina Department of Disabilities and Special Needs.

2. To the extent feasible and in keeping with his treatment needs, Edward James Mims shall be allowed to have weekend visits with his mother, provided, that she maintains her home in a safe condition for her son's visitation.

3. Babcock Center and/or SCDDSN staff may visit in Ms. Margaret Mims home prior to her son's visit to advise and/or assist Ms. Mims in making her home safe for her son's visit. Ms. Mims will cooperate with such visits.

4. The parties to this matter have voluntarily agreed to this Order and placed their signatures below indicating their agreement.

AND IT IS SO ORDERED.

Signed this 3 day of July, 2001
Columbia, South Carolina

Jacqueline D. Belton
Associate Judge of Probate
Richland County

We Consent:

David E. Belding

M. Leigh Flynn

James R. Hill, Jr.

W.D. Morris

ARREST WARRANT

G-414539

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

Lexington

THE STATE

against

CARL ANTHONY

Address: 117 BIG HICKORY LANE

GASTON, SC 29053

Phone: 803-939-2823 SSN: 251-13-4656

Sex: M Race: B Height: 5-10 Weight: 150

DL State: SC DL #:

DOB: 08/03/1959 Agency ORI #: AENT

Prosecuting Agency: DEFIANT

Prosecuting Officer: DEFIANT

Offense: SIMPLE ASSAULT AND BATTERY

Offense Code:

Code/Ordinance Sec. COMMON LAW 1

This warrant is CERTIFIED FOR SERVICE in the ☐ County/ ☐ Municipality of _____. The accused is to be arrested and brought before me to be dealt with according to law.

_____ (L.S.)
Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant CARL ANTHONY on 10/9/01

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

William G. Shockley
500 Charlie Rast Rd.
803-568-3216 SC 29160

Mims 2053

3248

P.14

STATE OF SOUTH CAR)
☐ County/ ☐ Municipality of)
Lexington)

AFFIDAVIT

Personally appeared before me the affiant INV. DAVID M. ADDISON being duly sworn deposes and says that defendant CARL ANTHONY did within this county and state on 08/13/2000 violate the criminal laws of State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of _____) in the following particulars:

DESCRIPTION OF OFFENSE: SIMPLE ASSAULT AND BATTERY

I further state that there is probable cause to believe that the defendant named above did co the crime set forth and that probable cause is based on the following facts:

THAT ON OR ABOUT AUGUST 13, 2000, CARL ANTHONY DID IN LEXINGTO COUNT, COMMIT THE ACT OF ASSAULT AND BATTERY. MORE SPECIFICAL CARL ANTHONY DID KNOWINGLY AND WILLFULLY STRIKE OR HIT EDWARD MIMS ABOUT THE HEAD. AT THE TIME MR. EDWARD MIMS WAS A RESIDE AT THE BABCOCK CENTER CLUSTERS, IN LEXINGTON, SOUTH CAROLINA. THE ABOVE FACTS ARE TRUE AND BELIEVABLE BASED UPON STATEMNETS GIVEN BY THE DEFENDANT, AND WITNESSES THAT PERSONALLY OBSERVED THE DEF. STRIKE OR HIT MR. MIMS.

Sworn to and subscribed before me on 10/03/2001)
Signature of Issuing Judge (L.S.))
William G. Shockley

Signature of Affiant
Affiant's Address ATTORNEY GENERAL OFFICE 1000 ASSEMBLEY STREET COLUMBIA, SC 29211
Affiant's Telephone 803-734-3660

STATE OF SOUTH CAROLINA)
☐ County/ ☐ Municipality of)
Lexington)

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe on 08/13/2000 defendant CARL ANTHONY did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of _____) as set forth below:

DESCRIPTION OF OFFENSE: COMMON LAW 1
SIMPLE ASSAULT AND BATTERY

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her b me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to defendant at the time of its execution, or as soon thereafter as is practicable.

(L.S.))
Signature of Issuing Judge)
Judge Code: 666

Judge's Address 500 Charlie Rast Rd Swansea, SC 29160
Judge's Telephone 803-568-3216

Issuing Court: ☐ Magistrate ☐ Municipal ☐ Cir X

ORIGINAL

SLED CATCH
Carolina Access to Criminal Histories

Results

Name Carl Anthony
Date of Birth 1959 02 03
Maiden Name
Gender Male
Transaction 000647295
Date of Check October 30, 2002 at 21:07

ARREST RECORD
S.C. Law Enforcement Division
WWW

This record is based on a search using last first initial, and date of birth. Compare all identifying data given for record subject with screening subject. Fingerprint comparison is recommended as the most reliable means to identify a record subject.

INTERNET RAP SHEET REQUEST
ORI-SCLED0000 SID-SC01390255 PUR-E
ATN-WEB, CC

AUTHORIZED USE ONLY. ******** CONTACT CONTRIBUTING AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS. BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-10/30/2002 TIME-21:07:44
REQ ORI-SCLED0000 S C LAW ENF DIV
SID-SC01390255 FBI-988849TB9
NAME-ANTHONY, CARL SEX-M RACE-B
HEIGHT-510 WEIGHT-153 EYES-BRO HAIR-BLK SKIN- BORN-SC
FPC- HENRY-
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--10/29/2001 DATE OF LAST UPDATE--07/05/2002

ADDITIONAL IDENTIFIERS NAME	BIRTH DATES	MARKS	SOC SEC	MISC NUM
	02031959			

CONTRIBUTOR/SUBJECT	DOA/RCVD	CHARGE/DISPOSITION/ETC
ANTHONY, CARL	10/04/2001	
SC0320000 LEXINGTON CNTY SO		
ATN-980000226926		
WARR-G414539		
CIT-N/A-MISDEMEANOR		

ARREST CHARGE 01-SIMPLE AS
LT AND BATTERY
OFFENSE DATE-10/04/2001

CIT-N/A-MISDEMEANOR
DOC-R84 WARR-G414539

COURT CHARGE 01-SIMPLE ASS
T AND BATTERY
COURT DISP-CONVICTED;30D O
$225 FINE
COURT DATE-10/18/2001
ATN-980000226926

BASED ON SEARCH OF SCLED CJICS CCH FILE USING SID/SC01390255
THIS IS PROVIDED FOR THE EXPRESS PURPOSE FOR MAKING LICENSING OR
EMPLOYMENT DECISION.

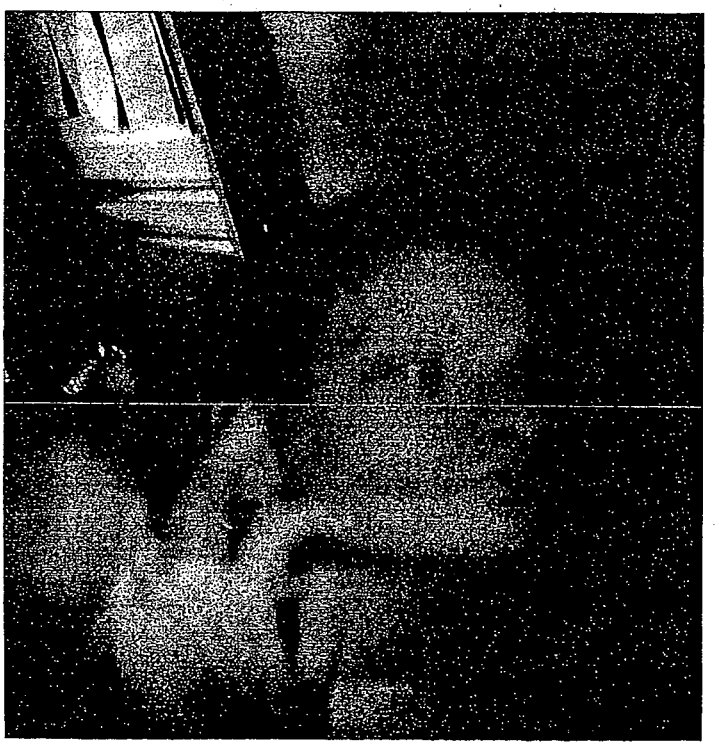
** S C CJICS END OF RECORD **

Credit Card Transaction Number 3213482578ICE890021030210650

Return | Another Check

© 2001 e-@ction Internet Commerce Enabler

Mims 2055

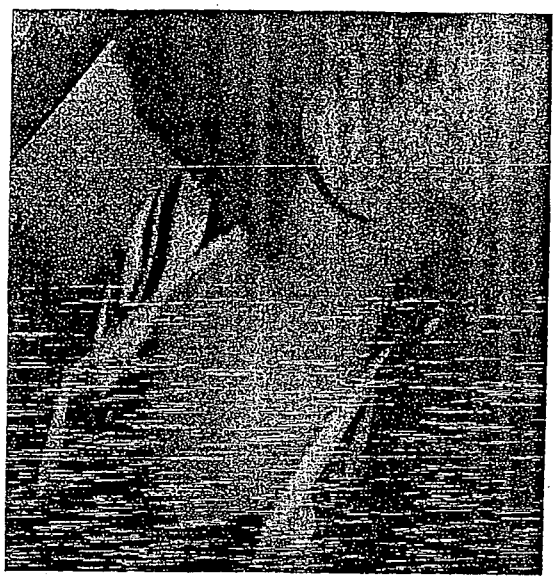


Edward Mims
12-3-01

Mims001637

p 17

Mims 2056



Edward Mims
12-3-01 Mimsoo1636

Mims 2057

BABCOCK CENTER, INC.
Record of Physician's Visits
Subsequent to Admission

NAME: Edward Mims
D. O. B.: 12-9-71
FILE # : 575
ALLERGIES: NO DRUG ALLERGIES

Date	Progress & Procedures	Physician's Orders & Signature
5/99	(Cont)	13) may wear diapers due to incontinence 14) needs 1:1 staffing at day program 15) may use w/c for long distance 16) needs admission P.E. (V.O) Dr. Platt/DCockrell lpr

P 10 5

...cessary remarks to be entered on this form by the Physician on each ...isit subsequent to the Resident's admission.

P.19

Mims000425

Mims 2058

BABCOCK CENTER CLIENT/VISITOR
ACCIDENT/INJURY REPORT

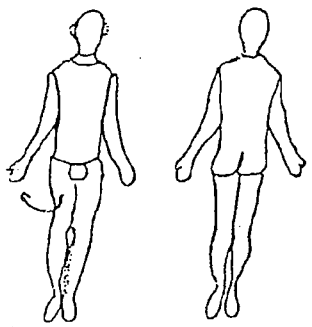
NAME: Last	First	MI	FILE	D.O.B	SEX	FACILITY
Mims	Edward				(M) F	Clusters HouseD

DATE:	TIME	LOCATION		
4/16/01	am (pm) 3:25	() Bathroom	() Dining Room	() Parking Lot
		(X) Shower	() Lounge	() Walk
		() Hall	() Bed	() Workshop
		() Trip	() Pool	() Other____

Describe incident in full. While Giving Edward a shower, I notice a Bruise on the in side of Edward Right thigh.

Nature of injury

n. red area (bruise) noted inner Rt. thigh



Treatment required

0 required

Others Involved (Staff and/or client(s): S. Knightner, J. Allen, L. Thomas

Nurse Notified: J. Derrick LPN Time: 3:30

Person Completing Report: S. Knightner Time: 3:30 p.m.

Physician Notified? Yes_____ No_____

Treatment By Physician Required? Yes_____ No_____

Was Hospitalization Necessary? Yes_____ No_____

Signature of Nurse: J. Derrick LPN

Signature of Physician If Treated: _____

Mims000885

BABCOCK CENTER CLIENT/VISITOR
ACCIDENT/INJURY REPORT

NAME: Last	First	MI	FILE	D.O.B	SEX	FACILITY
Mims	Edward				(M) F	Lexington Cluster

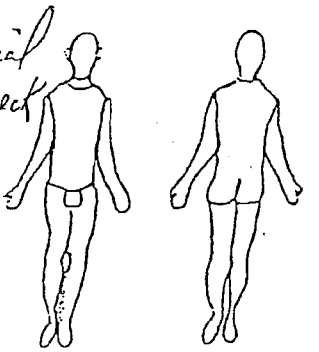
DATE: 11/6/99

TIME: (am) 12:00 pm

LOCATION
() Bathroom () Dining Room () Parking Lot
() Shower (✓) Lounge () Walk
() Hall () Bed () Workshop
() Trip () Pool () Other____

Describe incident in full. Edwards has a few bruises and scratch marks on his neck. Second shift did not make us aware of this, but it is in the log when & and how it happened.

Nature of injury
11/8/99 @ 9AM - Noted one superficial scratch mark to (L) side of neck approx. 1½" long — SK



Treatment required
11/8/99 @ 9AM - TAO applied to area — SK

Others Involved (Staff and/or client(s): Second shift. Carl Anthony saw the marks also.

Nurse Notified: Lynn Time: 7:40

Person Completing Report: Jamie Munro Time: 12:00

Physician Notified? Yes____ No ✓

Treatment By Physician Required? Yes____ No ✓

Was Hospitalization Necessary? Yes____ No ✓

Signature of Nurse: Clifford C. Cox, LPN 11/8/99 @ 9AM

Signature of Physician If Treated: ____

Mims000894 Mims 2060

BABCOCK CENTER CLIENT/VISITOR
ACCIDENT/INJURY REPORT

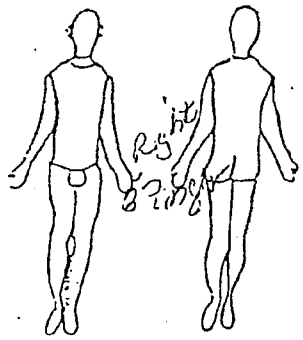
Last	First	MI	FILE	D.O.B	SEX M F	FACILITY
Mims	Edward					Chester House

DATE:	TIME	LOCATION		
3/10/00	am 3:45 pm	() Bathroom	() Dining Room	() Parking Lot
		() Shower	(~~)~~ Lounge	() Walk
		() Hall	() Bed	() Workshop
		() Trip	() Pool	() Other____

Describe incident in full. Edward was laying on the Bean Bag with his Right hand and Morgan didn't mean to Run over his fingers and his 3 finger on his Right hand were Bruise.

Nature of injury

c ~~all~~ skin tear to 4th (R) digit - A



Treatment required

Area cleansed c soap + water & left open to air — A

Others Involved (Staff and/or client(s)): _____

Nurse Notified: Cliff Counts, cpn Time: 3:45 pm

Person Completing Report: S Knighten Time: 3:45

Physician Notified? Yes____ No ✓

Treatment By Physician Required? Yes____ No ✓

Was Hospitalization Necessary? Yes____ No ✓

Signature of Nurse: Cliff Counts cpn

Signature of Physician If Treated: _____

Mimss000900 Mims 2061

P.22

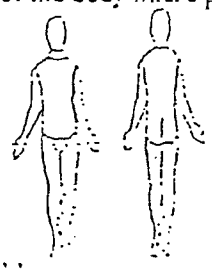
Edward Mims , DATE: 3/25/01

TIME OF AUDIT: 6:30pm

TY: _____

ERSON COMPLETEING AUDIT: Lynn Husten, Jerome Dinning, Wayne Wooten

lease mark an "X" on the area of the body where problems are noted.



iefly describe the concern/problem: Dry flaky skin patch on ® forehead -> center. Two small red, flat bumps on scalp above ® ear + another flaky skin patch. 2 pimples ® jaw line. few scattered pimples on back + old red mark on ® flank. white blistered area on ® forearm. Dark area from old scratch on ® side of penis. 3" light scratch on ® thigh Black line in nail bed of ® gt toe. Questionable whitish area just to ® of center of nape of neck.

tym Husten CMT 3/25/01

CS SIGNATURE DATE

VISED
7/99

Mims000923 Mims 2062

BABCOCK CENTER CLIENT/VISITOR
ACCIDENT/INJURY REPORT

NAME: Last	First	MI	FILE	D.O.B	SEX	FACILITY
Mims	Edward	J			(M) F	Clusters

DATE: 8-14-00

TIME: (am) pm

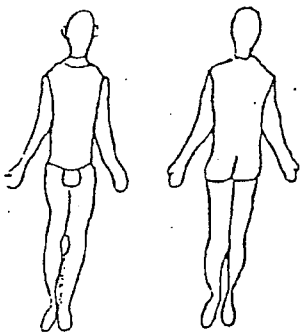
LOCATION
() Bathroom () Dining Room () Parking Lot
() Shower () Lounge () Walk
() Hall () Bed () Workshop
() Trip () Pool () Other____

Describe incident in full.

Observed scrathes and bruises in am when client got up ~~for~~ get his bath and get dressed for the day.

Nature of injury

Bruise to right eye
Scrathes under his neck
Bruise on right and left side
Scrathes on his back



Treatment required

Areas washed ~ Warm H_2O.

Others Involved (Staff and/or client(s): Nora B. West
Carl Anthony

Nurse Notified: Jackie Derrick Time: 7:00 AM

Person Completing Report: Nora B. West Time: 7:00 AM

Physician Notified? Yes____ No ✓

Treatment By Physician Required? Yes____ No ✓

Was Hospitalization Necessary? Yes____ No ✓

Signature of Nurse: Jackie Derrick LPN

Signature of Physician If Treated: ____

Mims000943
Mims 2063

P.24

BABCOCK CENTER CLIENT/VISITOR
ACCIDENT/INJURY REPORT

NAME: Last	First	MI	FILE	D.O.B	SEX	FACILITY
Mims	Edward			12/9/71	(M) F	Clusters "D"

DATE:	TIME	LOCATION		
8-14-00	am (4:15 pm)	() Bathroom	() Dining Room	() Parking Lot
		() Shower	() Lounge	() Walk
		() Hall	() Bed	() Workshop
		() Trip	() Pool	() Other DR'S OFFICE

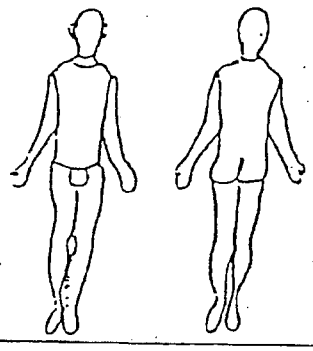
Describe incident in full.

While in DR'S office cutting Client's toenails found splinter in bottom (R) foot.

Nature of injury

(R) bottom of foot removed splinter

Treatment required



Others Involved (Staff and/or client(s): _____

Nurse Notified: Dale Cockrell, LPN Time: 5:15 PM

Person Completing Report: Dawn McGrady Time: 5:15 PM

Physician Notified? Yes _____ No ✓

Treatment By Physician Required? Yes _____ No ✓

Was Hospitalization Necessary? Yes _____ No ✓

Signature of Nurse: Dale Cockrell LP

Signature of Physician If Treated: P.25

Mims000944 Mims 2064

BABCOCK CENTER CLIENT/VISITOR
ACCIDENT/INJURY REPORT

NAME: Last	First	MI	FILE	D.O.B	SEX	FACILITY
Mims	Edward	J			(M) F	Clusters

DATE: 8-14-00

TIME: (am) pm

LOCATION

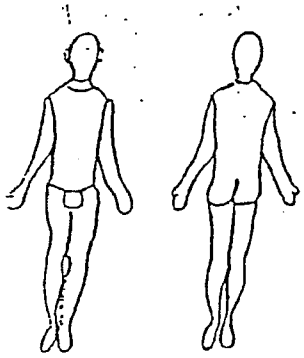
() Bathroom () Shower () Hall () Trip
() Dining Room () Lounge () Bed () Pool
() Parking Lot () Walk () Workshop () Other____

Describe incident in full.

Observed scrathes and bruises in am when client got up ~~for~~ get his bath and get dressed for the day

Nature of injury

Bruise to right eye
Scrathes under his neck
Bruise on right and left side
Scrathes on his back



Treatment required

Areas washed c. warm H_2O.

Others Involved (Staff and/or client(s): Nora B. West
Carl Anthony

Nurse Notified: Jackie Derrick Time: 7:00 AM

Person Completing Report: Nora B. West Time: 7:00 AM

Physician Notified? Yes_____ No ✓

Treatment By Physician Required? Yes_____ No ✓

Was Hospitalization Necessary? Yes_____ No ✓

Signature of Nurse: Jackie Derrick LPN

Signature of Physician If Treated: _____

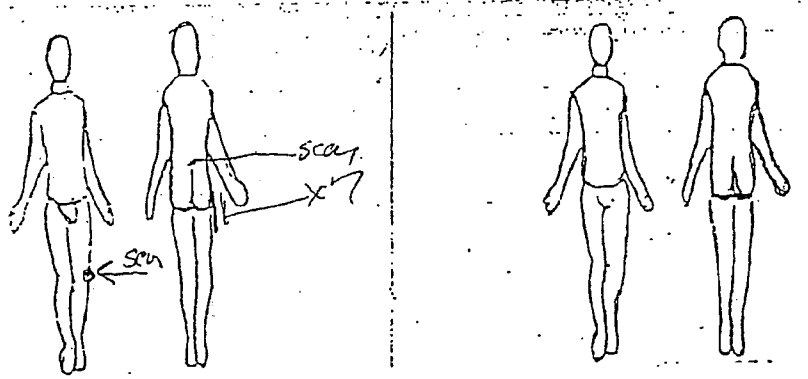
BODY AUDIT FORM

Edward Mims DATE: 8/11/00

E#: 575 TIME OF AUDIT: 4:10 p.m.

SON COMPLETING AUDIT: Dustin E. Beatty / G. Shuler

ase mark an "X" on the area of the body where problems are noted.



ei escribe the concern/problem:

3/11/00 - 4pm dime-size scar to R knee, pink, no drainage. 5cm scar noted cocky area pink drainage. 2cm redden area R. side (flank) red brownish area to lower back area. Other scars noted @ present ——— 6/7 thru 9/99

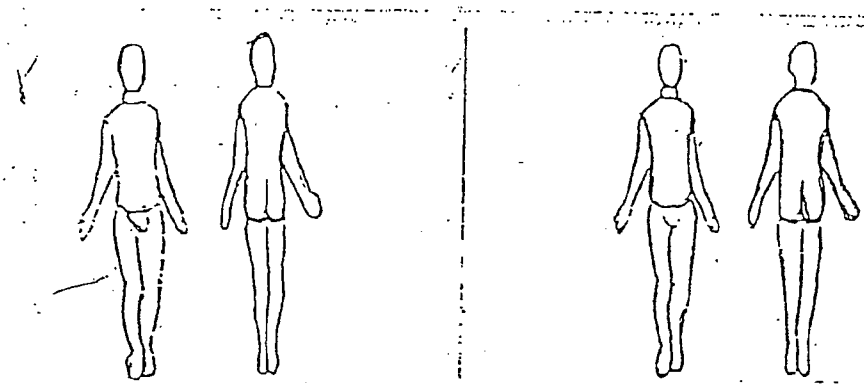
BODY AUDIT FORM

IDUAL: Edward Mims DATE: 12-13-06

FILE#: TIME OF AUDIT: 330 p.m.

PERSON COMPLETING AUDIT: S. Knightner

Please mark an "X" on the area of the body where problems are noted.



y describe the concern/problem:

Old BRUISE on BACK, Right UPPER Thigh Old Bruise
Old Bruise On Knees.

DHCS SIGNATURE DATE

Mims 2067
Mims000965

BABCOCK CENTER, INC.
ACCIDENT/INJURY RECORD

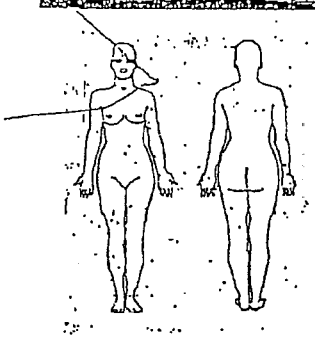
Date of Occurrence: 8-8-03 Place: Pinelake Time: 5:45 am/pm

Name: Edward Mims Reported by: P. Causa

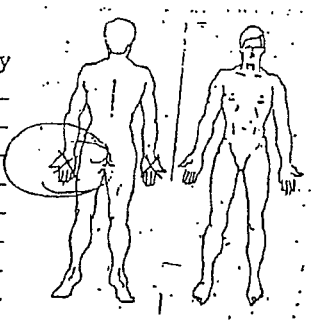
KI

Restraint required: ☐ Yes ☒ No (*if yes, must be accompanied by restraint form and BIR)

Was PRN Medication Administered Before Incident? ☐ Yes ☒ No
Name of Drug Administered & Time Administered: _____



Indicate on Figures Part of Body Affected
Describe Extent and Possible Origin of Injury
Consumer #1530 pushed Edward & Pinto Break wall which resulted in a scrap on his left hand.



Facility Nursing/On-Call Nursing: _____ Date: _____ Time: _____ am/pm

Family/Surrogate Notified: _____ Date: _____ Time: _____ am/pm

QMRP/Coordinator Notified: P. Klein Date: 8/8/03 Time: 4:00 am/pm

*If applicable
Physician Notified: _____ Date: _____ Time: _____ am/pm
Physicians Orders. Treatment or Statement: _____

Hospitalized: ☐ Yes ☐ No Name of Hospital: _____

_____ _____
Nurse's Signature Date

ADMINISTRATIVE REVIEW

☒ Explained Injury* ☐ Unexplained Injury (Refer for investigation)

*If injury is explained comments required: Edward was pushed into wall by HOT causing him to scratch his hand

_____ 8/9/03
Facility Administrator's Signature Date

Effective 9/13/01

INVESTIGATION OF INJURY

1. Safety Plan of Victim: Edward will be monitored at all time. To ensure his safety when he is around H-107

2. Photographs Taken: ☐ Yes ☑ No

3. Documentation and Evidence Obtained: Documentation on part

4. Findings: Edward was push into the brick wall by H-107 Causing him to scratch his left hand.

5. Impression: Scratches on top of left hand caused by H-107

6. Conclusion: Edward will be check out by Nurse and Monitored at all times to ensure his safety when he is around H-107

Cynthia Samuel
Person Completing Report

8/9/13
Date

Effective 9/13/01

Mims001100 Mims 2069

RICHLAND COUNTY SCHOOL DISTRICT ONE
Columbia, South Carolina

Psychoeducational Evaluation Report

CONFIDENTIAL

Full Name: Edward J. Mims

Date of Birth: 12-9-71

Referred by: Reevaluation

Parent: Ms. Margaret Mims

Address: 3301 Rosewood Dr./29205

Phone: 252-9962

Examiner: Michael Coxe

Date Evaluated: 4-16-93

Chronological Age: 21-4

Race: White

Sex: Male

School: Fairwold

Reason for Referral

Re-evaluation.

Placement at Time of Evaluation

Self Contained Class Profoundly Mentally Handicapped

Background Information

Edward is reported born one month prematurely followed by a two month hospital stay. His health has been stormy. He is reported to have kidney, heart and urinary tract problems along with orthopaedic problems.

Edward has attended classes for Profoundly Mentally handicapped (PMH) students since enrolling in Richland School District One in 1979. He graduates from Fairwold School at the end of the present school year.

Previous Test Results (4-25-90)

Bayley Scales: Age equivalent = 20 months

Test Behavior

dward vocalized sounds but no words. He avoided looking at tasks. Most manipulative tasks required a physical as well as verbal prompt. Edward frequently attempted to grab, pinch or spit, but his affect remained flat.

Evaluation Procedures

Bayley Scales of Infant Development (BSID)
Vineland Adaptive Behavior Scale (VABS)

Evaluation Results

The Bayley Scales of Infant Development Mental Scale (BSIDMS) is designed to assess sensory-perceptual acuities and discriminations, the early stages of memory, learning, and problem solving ability, the beginnings of verbal communication, and the ability to form generalizations and classifications. Norms are available for children aged 2 months to 30 months. An approximate mental age score for older children can be estimated, but this score must be interpreted cautiously.

dward's approximate mental age on the Bayley is twenty months, which uggests he is currently functioning in the Profoundly Mentally Handicapped range of intelligence.

Edward worked manipulative items through the thirty month level but did not work items requiring him to imitate actions or identify pictures or objects.

The Vineland Adaptive Behavior Scales (VABS) is a developmental instrument which assesses the individual's ability to independently look after social and personal needs and to assume responsibility. The Vineland samples abilities in the areas of personal self sufficienoy and self care, vocational and occupational activities, communication, self direction, and social participation and social skills. It may be used with individuals from birth to adulthood. The Interview Edition was administered. The informant was Mrs. Cannizzaro, Edward's teacher.

Score Summary

	Standard Score	Age Equivalent
COMMUNICATION DOMAIN	<20	0-4
DAILY LIVING SKILLS DOMAIN	<20	1-7
SOCIALIZATION DOMAIN	<20	0-3
ADAPTIVE BEHAVIOR COMPOSITE	<20	

Standard Scores between 85 and 115 are in the Average range. Scores should be interpreted carefully as some observations may be based on estimated performance.

Edward's ratings on the Vineland indicate consistent and significant weaknesses across all areas of adaptive functioning.

Mims 2071

Summary and Recommendations

Edward Mims is a twenty one year old student attending Fairwold School. This evaluation indicates that Edward is in the Profoundly Mentally Handicapped range of abilities with corresponding weaknesses in adaptive behavior skills.

It is the recommendation of this psychologist to the District's Placement Committee that Edward Mims be considered for continued eligibility in a self-contained program as a Profoundly Mentally Handicapped student. This recommendation may or may not reflect the final decision of the Placement Committee of which the psychologist is only one team member. No student is to be placed in a Special Education class on the basis of this report alone.

Michael Coxe
School Psychologist, II

SOUTH CAROLINA DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS
MIDLANDS REGIONAL OFFICE
PSYCHOLOGICAL SUMMARY
CONFIDENTIAL

NAME:	Edward Mims	**DATE OF EVALUATION**	August 2, 1999
COUNTY:	Richland	**DATE OF BIRTH:**	December 9, 1971
EXAMINER	Meredith J. Clifton, M.S.	**CHRONOLOGICAL AGE:**	27
	Psychologist III	**DATE OF REPORT:**	August 2, 1999

Mr. Mims was referred for an addendum in order to be considered for ICF/MR placement in the community. He was previously evaluated by Michael Coxe on 4/16/93, at age 21. Both Mr. Mims' levels of intellectual functioning and adaptive behavior were found to lie in the profound range of developmental delay.

ding to Ratisha Brisbon, his Service Coordinator, there have been no indications of changes in either area. ore, the results may be considered as current and valid for ICF/MR placement.

Meredith J. Clifton, M.S.
Psychologist III

/MJC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	Civil Action No. 07-CP-40-3365
	)	
Edward Mims, by and through his legal guardian, Margaret Mims, Plaintiff	)	AFFIDAVIT OF MARGARET MIMS
	)	
vs.	)	
	)	
Babcock Center, Inc., Judy Johnson, the South Carolina Department of Disabilities and Special Needs, Kathi Lacy and Stan Butkus, Defendants.	)	

Now comes Margaret Mims who states:

1. I am the mother and legal guardian of Edward Mims.

2. I placed Edward in the Babcock Center in a facility known as "Clusters" when I became ill in 1999.

3. Exhibit 1 contains a true and accurate chronology of incidents which occurred while Edward was in the custody of the South Carolina Department of Disabilities and Special Needs and was living at the Babcock Center.

4. In July and August of 2000, Edward was taken to the emergency room twice due to nausea and vomiting. Exhibit 1.

5. On or about August 13, 2000, Edward was beaten by Babcock Center employee, Carl Anthony. Exhibit 1.

6. I was not informed when Edward was beaten by Carl Anthony or when Babcock Center employees filed reports describing Edward being assaulted by Mr. Anthony. Exhibit 2.

7. The State Ombudsman investigated and substantiated that this assault occurred and that proper supervision was not being provided to Edward at the Babcock Center. Exhibit 3.

8. I complained about Edward being assaulted at the Babcock Center and I wrote to the Department of Disabilities and Special Needs asking for Edward to be released in 2001. Exhibit 4.

Mims 2075

9. When I tried to remove Edward and reported that he was being beaten, the South Carolina Department of Disabilities and Special Needs and the Babcock Center joined together to prevent Edward from being discharged from Clusters by filing a petition to have Edward involuntarily committed to their custody. Exhibit 5.

10. The Babcock Center terminated my weekend visits with Edward and the South Carolina Department of Disabilities and Special Needs filed a petition to involuntarily commit him to the custody of the Department.

11. The South Carolina Department of Disabilities and Special Needs psychologist who was sent to interview Edward reported that he was "nonverbal and assumed a fetal position." Edward did not respond to the psychologist who found that his mental age was that of a person who is less than two years old. Exhibit 6.

12. If this psychologist had reviewed Edward's records, she would have seen the emergency room visits for unexplained injuries and the employee records reporting that Edward was beaten by Carl Anthony.

13. Employees of the Department of Disabilities and Special Needs told lies about me to the Probate Judge at the 2001 hearing.

14. My lawyer agreed to the petition to commit Edward because people from the Department of Disabilities and Special Needs and the Babcock Center said that if I did not agree to their petition, they would terminate my weekend visitation with Edward. Exhibit 7.

15. After Edward was committed to the Department, he continued to come home with bruises and other injuries from Clusters.

16. I asked for them to do a body check so that I would not be blamed for these injuries.

17. Carl Anthony was arrested more than a year after he assaulted my son, only after I contacted the South Carolina Attorney General's Office and they obtained an arrest warrant on October 4, 2001 and Carl Anthony pled guilty to assaulting my son. Exhibit 2-A.

18. Edward continued to be beaten at Clusters and I wrote to the South Carolina Attorney General in November of 2001 begging for my son to be returned home to live with me. Exhibit 8 and 9.

19. The Attorney General's Office told me that they do not have any authority over the Babcock Center. Exhibit 9.

20. Lois Park Mole of the South Carolina Department of Disabilities and Special Needs wrote me a letter saying that Edward has "profound mental retardation, cerebral palsy and several other severe and complex medical conditions." Exhibit 10.

21. She said that Edward's condition was so severe that no one person could provide for his care. Exhibit 10.

22. Edward is not able to communicate using words and his mental age is like that of an infant. Exhibit 11.

23. Edward makes squawking sounds if he is sick or hurts, like when he gets an ear infection.

24. Edward was repeatedly injured while he was living at the Babcock Center. Exhibit 12.

25. Many of the times when he was injured or taken to the hospital, Babcock Center staff did not tell me.

26. On February 28, 2003, the Babcock Center complained to investigators that Edward's human rights were being violated because I requested body audits before he went home for weekend visits and upon his return. Exhibit 13.

27. In November of 2003, CMS, the federal Medicaid agency issued a finding of Immediate Jeopardy due to the Babcock Center's failure to protect clients at Clusters and the facility, was closed.. (By this time, Edward had been involuntarily moved to Kensington, which was also operated by the Babcock Center.) Exhibit 14.

28. On July 27, 2004, Edward was taken to the emergency room with ant bites all over his body after his bed was found to be infested with ants. Exhibit 1.

29. Edward's room mate choked to death at Kensington in September of 2004 and federal investigators declared Immediate Jeopardy because they found that Kensington was under staffed, staff was not properly trained and that his death was not properly investigated. Exhibit 15.

30. In November of 2004, investigators at Kensington reported violations of Life Safety Code Standards because the facility did not have fire doors, the governing body was not exercising its authority over general policy, budget and operating direction over the facility and the facility was in a state of disrepair. Exhibit 16.

31. In January of 2005, Carolina Medical Review, in an investigation contracted by the South Carolina Department of Health and Human Services, found that the Babcock Center ICF/MR residences did not comply with federal Medicaid standards. Exhibit 17.

32. In March of 2005, a follow up survey found that the governing body did not exercise its authority over general policy, budget and operating direction over the facility and that the facility was in still in a state of disrepair. Exhibit 18.

33. Because the Babcock Center continued to violate Medicaid health and safety regulations, Kensington lost its Medicaid certification on April 30, 2005. Exhibit 19.

34. On May 3, 2005, Dr. Johnson sent a letter informing parents that the South Carolina Department of Health and Environmental Control had terminated its Medicaid certification and informed parents that "We have been directed to begin planning for relocating the residents." Exhibit 20.

35. On or about May 27, 2005, Edward was found to have a 4 cm "gaping" laceration on his penis which was unexplained, but determined not to be self-inflicted and I reported this injury to the police because the Babcock Center had failed to report this sexual assault of my son. Exhibits 12 and 21.

36. I requested an emergency order from the Richland County Probate Court because the Babcock Center would not release Edward from Kensington.

37. The Probate Court appointed Dr. Tan Platt, who was the medical director of the Babcock Center, and Lennie Mullis, an approved provider of DDSN psychological services, to examine Edward. Exhibit 22.

38. Dr. Platt reported that Edward has profound mental retardation due to mental deficiency. Exhibit 23.

39. In his Examiner's Report to the Court dated February 17, 2005, Dr. Platt stated that Edward is "incompetent" and that he is unable to care for his personal hygiene, to prepare meals, to manage funds, to pay bills, to live independently or to take medications unsupervised. Exhibit 23.

40. Lennie Mullis attempted to examine Edward Mims at Kensington on June 6, 7 and 8, 2005, however, despite her court appointment, Dr. Judy Johnson and her staff refused to allow Examiner Mullis to have access to the facility to examine Edward. Exhibit 24.

41. Mary Katherine Bagnal was appointed by the Court as a Visitor. She reported on June 6, 2005 that Edward "does not have the receptive language skills to understand" the question of whether he needs help caring for himself or other questions she asked as a court appointed Visitor. Exhibit 25.

42. I obtained an order from the Richland County Probate Court authorizing me to remove Edward from Kensington on June 14, 2005. Exhibit 26.

43. After obtaining an order authorizing me to remove Edward from the Babcock Center facility, Babcock Center officials and the South Carolina Department of Disabilities and Special Needs attempted to prevent me from removing Edward from Kensington. Exhibit 27.

44. After obtaining the assistance of the Columbia City Police Department on June 10, 2005, to enforce the Court's order, I was finally able to secure Edward's release from the Babcock Center and take him home.

45. The attorney for the South Carolina Department of Disabilities and Special Needs appeared at the Probate Court and filed objections to Edward's release and to my being appointed as Edward's guardian. Exhibit 28.

46. Although the Department of Disabilities and Special Needs was not a party in the guardianship proceeding, its attorney contacted Edward's guardian ad litem in an attempt to prevent me from being appointed as his guardian. The attorney for DDSN sat at counsel table with my daughter, who was an employee of the Babcock Center and who opposed my appointment as guardian for Edward. Exhibit 29.

47. On the request of the Guardian ad Litem, the Probate Court judge removed this attorney from the court room, requiring him to wait in the hallway during the proceeding and I was appointed as Edward's guardian. Exhibit 30.

48. Edward has lived at home with me full time since 2005 and has not been seriously injured since he was released from the Babcock Center.

49. As a reprisal, Dr. Kathi Lacy and the South Carolina Department of Disabilities and Special Needs determined that Edward did not qualify for adult day nursing services in an attempt to force me to send him back to the Babcock Center.

50. The Babcock Center and DDSN have made false accusations against me and against Edward's caregiver and I have been fearful that his services will again be terminated in attempts to force me to return him to the Babcock Center.

51. Edward has profound mental retardation and is not capable of understanding these proceedings or of enforcing his legal rights. Exhibit 30.

52. Like a lot of other parents, I have been fearful of reprisals and have experienced reprisals when I have attempted to enforce the rights of my son, Edward Mims.

53. I am always afraid of what Judy Johnson and the officials at the Babcock Center will do to me and to Edward to get back at me for getting Edward out of an abusive situation and

reporting them to law enforcement and other regulatory agencies.

54. Other families and employees have experienced similar reprisals for reporting abuse and have reported these fears to me and to legislators. Exhibit 32.

55. The Governor has removed a majority of DDSN Commissioners and the director of the South Carolina Department of Disabilities and Special Needs recently resigned. Exhibit 32.

FURTHER AFFIANT SAYETH NOT.

VERIFICATION

Personally appeared before me Margaret Mims on March 6, 2009 who being duly sworn says that she is the Affiant named herein and that she has read the foregoing Affidavit, the allegations herein are true to the best of her knowledge and that she believes these statements to be true.

Margaret Mims

Margaret Mims, Guardian for Edward Mims

SWORN TO BEFORE ME THIS
6th Day of March, 2009

Notary Public for South Carolina

My Commission Expires: 1-05-2014

Mims 2080

Def. Ex 1
Mims Depo
6-23-09

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Mims 2081

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EXHIBIT 1

Edward Mims Chronology

September 20, 2005

October 5, 1999	Edward was admitted to Babcock Center when his mother was hospitalized in 1999. His weight upon admission was 109 pounds. BC 4502. (Babcock Center records received from Babcock Center are identified as "BC" by page number are contained in Exhibit 2.) According to Edward's Pre-Admission Report: "To ensure that Edward does not rampage objects in his mouth, he also wonder at night and sleeps very little **this will warrant one-one accountability for Edward.**" BC 4502 to 4511 and 424 to 425. (Note that Edward was a "permanent outlier" and SCDDSN provided the Babcock Center funding for one-on-on one supervision. Exhibit 3. In addition to E Band funding of approximately $65,000.00 per year, SCDDSN paid the Babcock Center outlier funding of $27,254.00 per year until 2004.)
lovember 6, 1999	"Edward has a few bruises and scratch marks on his neck. Second shift did not make us aware of this, but it is in the log when and how it happened." BC 894. (No other record of this injury was contained in the records provided to us by the Babcock Center.)
November 20, 1999	"I observed a bruise on his right arm." BC 2355.
November 21, 1999	Accident/Injury report: "I, Dustin E. Beatty, was informed that there is a bruise on his right arm." BC 2350. "I noticed a couple of scratch marks on the right side of his neck." BC 2354 and 2356.
Dec. 7-8, 1999	Edward was hit in the face with openhanded slap by another resident and treated at emergency room. Exhibit 4. (ER and physicians' records are contained in Exhibit 4 and arranged chronologically).
March 10, 2000	"Edward were laying on the bean bag with his right hand and Morgan didn't mean to run over his finger and his 3 finger on his right hand were bruise. Small skin tear to 4th r digit." BC 900.
April 14, 2000	Body audit reports "old marks on his knees." BC 1804.
'ay 5, 2000	"Chin under lower lip sm scratch, slight redness noted. Left shoulder sm

Mims 2083

P.6-A

	approx ½ cm abrased area, red. Old bruising noted both knees, rt. Hip 2 cm old bruised areas and right side mid back. No areas of concern." BC 2363.
May 26, 2000	Body audit reports "old mark on knee, old mark on back." BC 1803.
June 9, 2000	Body audit reports "old bruise on his back" and "old bruise on his left knee." BC 1806.
June 16, 2000	Body audit reports "old marks on both knees, old bruise on his back and mark on his right hip old" BC 1807.
June 23, 2000	Body audit reports "old bruise on his back and old marks on Edward knees" BC 1808.
July 4, 2000	"A bruce on the back of the right shoulder. Abrasion - rt. Shoulder." BC 2372.
July 9, 2000	Edward was served tomato juice, "0 ill effects noted." BC 3199. (Edward's chart notes allergy to tomato products.)
uly 11, 2000	Nurses notes indicate a "discolored area noted lower lip. Lower lip ..deep purple bruise." BC 3199. (Bruise on lip again noted on July 16, 2000.)
July 18, 2000	ER for vomiting and abdominal pain. Taken to Lexington Urgent Care in morning and Lexington Medical Center ER in evening. Exhibit 4. Although not noted in ER records or earlier Nurses Notes, July 18 Nurses Notes refer to "several old bruises noted to left outer aspect of upper arm brownish/yellowish in color, right upper back near shoulder blade right lower back and right side of hip." BC 3199 and 3211.
July 22, 2000	Taken to Richland ER for evaluation of vomiting. IV to rehydrate. Exhibit 4 and BC 3197.
July 23, 2000	ER at Lexington Medical Center for evaluation of vomiting. Exhibit 4.
July 21-28, 2000	Nurses notes indicate that Edward sticks his hand down his throat causing him to vomit. BC 3194, 3195 and 3197.
August 4, 2000	(Late entry to Nurses Notes reported on August 7.) "Staff reported red area left shoulder collar bone, she thinks it was caused by shoulder strap in van." BC 3192.

Mims 2084

August 6, 2000	Nurses notes state that staff reported two scrapes on back and abrasion on right knee. BC 3192. See also 2363.
August 8, 2000	ER at Palmetto Richland for nausea and vomiting. Exhibit 4.
August 11, 2000	Nurses notes record dime size are of pink tissue on right knee. BC 3191. "Sm scar noted in coccxy area pink..redden area r side (flank) old brownish area to lower back area." BC 956.
August 13, 2000	**Edward was beaten by Babcock Center employee, Carl Anthony.** No report was made to law enforcement or to Edward's mother. Edward's mother continued to insist that he is being beaten. The Babcock Center continued to deny allegations. Exhibit 5. Nurses notes state that "abrasions on both of client's knees healing ...as are old areas on his back." BC 3191 and 3356.
August 14, 2000	Nurses notes state that client was found to have "bruised red, right eye lid and under right eye ear, scratches under his neck, rt and left side and on his back" **Weight 81 pounds.** Edward is seen by Babcock Center Medical Director, Dr. Tan Platt. BC 3191, 3356, 943 and 945. Splinter found in bottom of foot. BC 944.
August 15, 2000	Nurses notes state "attempt to eval scratched areas on torso but client started gagging and almost vomited"..."Rt eyelid remains dark red in color...Scratches on neck, sides remain red." BC 3201.
August 20, 2000	Nurses Notes indicate "bruise around right eye and scratches on neck, right and left sides of torso and on back. All areas healing." BC 3201.
August 27, 2000	"Edward had a scrape on his right knee that looked to be old. Edward had a bruise on his back right side which looked to be old." BC 2367.
August 29, 2000	Palmetto Richland ER for nausea and vomiting. Exhibit 4.
September 4, 2000	"We went to Edward Mims mother house to get him and it took 6 times for Angie to blow the horn and then I Shirlene Knightner got out of the van and went to the door. And Edward Mother saided Edward was not going anywhere and then she let Edward walk to the van got on the van and Mrs. Mims saided she don't want him to go back to that place any then she ask Edward do he want to go back and then she unlock the seat belt and got Edward off the van and she saided she were going to keep him home..." BC 2368.

September 13, 2000	Carl Anthony (Babcock Center employee who later pled guilty to having beaten Edward on August 13, 2000) was terminated. (Note the injuries which appeared on Edward's body on September 14, 2000, was he again beaten by Anthony? No explanation was provided of this new injuries.) No notice of the beating or the termination was provided to Mrs. Mims. Exhibit 5.
September 14, 2000	"bruises and scratches noted over body..has not been scratching himself. Multiple purple elongated lesion bilateral chest wall, neck, posterior ear, right eye lids and wrist and few scratches also on chest wall." BC 3356. Log maintained by Edward's one-on-one caregiver states "Edward has scratches and bruises wrote it up in accident/injury form also nurse looked at it when she did am meds."
October 13, 2000	"Old bruise on back, right upper thigh old bruise on knees." BC 965.
October 24, 2000	Edward is on one-on-one accountability. BC 3220. Report states: **"Overall, Edward's health has been essentially stable throughout the year."** No mention was made in this report of the loss of 28 pounds, repeated hospitalizations for vomiting or the beating by a Babcock Center employee, beatings by other resident or unexplained injuries.
December 2, 2000	X ray at Lexington ER for swelling of right hand. Exhibit 4.
January 14, 2001	"Scratched by another client 1/14." BC 1654.
January 15, 2001	"Take to LMC ER for eval (r) eye." BC 2613.
January 16, 2001	"Bruise on the inside of Edward right thigh." BC 885 and 1654.
January 27, 2001	Edward's mother reported scratches on Edward's scalp. "Six linear scratches noted over r temporal area of skill, 14 on the r side of the crown, 4 on the l temporal, 1 over the r ear and 1 at inner ___ of r eye." BC 1654.
March 1, 2001	Nurses note indicate a "blood clot noted on right side nose @ eye area" BC 3189.
March 4, 2001	Nurses notes record "blood clot noted below r eye." BC 3189.
March 8, 2001	Nurses notes indicate "scratch right upper leg approx 3" long, thin". BC 3189.
March 10, 2001	Nurses note refer to scratch on right leg. BC 3189.

Mims 2086

March 19, 2001	Nurses notes indicated that staff discovered "scratch, bleeding left side of penis with bruising." Babcock Center injury report states that Edward had "Bruised (?) and open slit (scratch?) Left side penis." BC 3274.
March 20, 2001	Nurses notes state that "wound on left side penis remains bruised." BC 3190.
March 21, 2001	Nurses notes indicate "wound left side penis, area remains bruised" BC 3190.
March 22, 2001	Nurses notes state "wound left side penis bruising open areas healed." BC 3190.
March 23, 2001	Nurses notes refer to bruise on penis as "reddish brown in color." Scratch mark on thigh (reported March 10) is noted. BC 3190.
March 23, 2001	Nurses notes indicate that bruising remains on penis. BC 3190.
March 25, 2001	Edward was found to have "two small red, flat bumps on scalp above r ear and ...old red mark on r flank. White blistered area on l forearm. Dark area from old scratch on l side of penis. 3" light scratch on r thigh. Black line in nail bed of r gt toe. Questionable whitish area just to r of center of nape of neck." BC 923.
March 27, 2001	Nurses notes indicate that Edward was scratched under right eye and beside nose by another client. BC 3190 and 3333.
April 1, 2001	"Scratched under r eye by another client." BC 3190.
April 16, 2001	SCDDSN filed Petition for Judicial Admission informing the court that "Edward is fragile and carries diagnosis of cerebral palsy, seizures, hypertension, esophagitis/erosion disease. His mother is in poor health and is unable to care for him since she has limited means and resources." Edward's visits home on weekends were terminated. BC 3238. Edward had been spending most weekends at the home of his mother with no reported injuries. Edward's home visits were terminated. No mention was made to the court of the injury to Edward's penis or the beating by Carl Anthony.
April 18, 2001	"laceration to top of head ..dried blood noted to __ also l side several dark red areas noted." BC 1656
April 19, 2001	"wound to top of head ...some bruising noted." BC 1656.

Mims 2087.

May 10, 2001 Letter from SCDDSN psychologist states:

"Today I made an informal assessment by behavioral observation of Edward James Mims at the Lexington Clusters ICF/MR. I also reviewed his working chart as well as interviewed his QMRP, Mr. Kevin Wise. Mr. Mims is a 29 year old Caucasian gentleman who carries diagnoses of Profound Mental Retardation, cerebral palsy, hypertension, a seizure disorder, esophagitis/erosion disease, pica, and, additionally, he is self-abusive. **Because he has only one kidney, his water intake must be monitored to prevent toxicity. He is currently on a number of medications which require close monitoring as well...He is nonverbal and assumed a fetal position during my interview with him.** All attempts to obtain any response from him were unsuccessful"

"Because of Mr. Mims' significant medical problems, self-injurious behavior, and his very limited ability to care for himself, it would not be in the best interest of Mr. Mims for him to be left unattended. **Indeed, he is on one-on-one care at Clusters.** According to staff report, Mr. Mims has made some progress since he was admitted in 1999. That is, he is now on a toileting schedule with assistance. Mr. Mims was cleanly dressed with good hygiene when I saw him today and he appeared to be well cared for.

"It is my opinion that Mr. Mims continues to need physical care and habilitation for services such as those provided by SCDDSN. Accordingly, it is recommended that he remain in a facility where such service needs can be assured." Exhibit 5.

May 26, 2001 "Staff reported client had scratched self under r eye. Small amount of bruising noted." BC 1657.

June 26, 2001 Body audit form reports "purpleness on elbows." BC 3829 Edward's mother, **Margaret Mims, attempted to remove Edward from placement.** BC 3218. **A hearing was held on SCDDSN's Petition for involuntary commitment.** SCDDSN argued that Edward was unsafe at home and should be required to remain at the Babcock Center.

July 3, 2001 "Edward has old bruise on his upper arm." BC 3864. **Richland County Probate Court issued order judicially admitting Edward to SCDDSN.** Exhibit 6.

July 8, 2001	"Edward has redness on his neck. Still has redness around." "Edward has the same marks redness on his neck. Only redness on neck, no other marks." BC 3828.
July 12, 2001	Body audit reports mark on left upper arm and old marks on back. BC 3863.
July 15, 2001	Red marks on neck. BC 3864.
July 16, 2001	"Client was scratched by another client. R side of nasal had a small scratched 1/4 inch - sm amt of blood oozing" BC 1660.
July 17, 2001	Body audit reports red bruise on back. BC 3837.
July 19, 2001	Body audit form states "Mark on side of nose mark on his back." BC 3831
August 19, 2001	Body audit form records "yellowish color on left side of breast and right." BC 3571.
ugust 21, 2001	"yellow spots" around both breast area. Upon eval old sm bruised areas noted." BC 1661.
August 23, 2001	Moved from Clusters House D to House C. BC 1661.
September 3, 2001	Accident report states "Edward slipped while being given a shower." BC 3799 and 1661.
September 4, 2001	Accident report states that Edward fell on floor of shower and "hit his behind." BC 3796 and 1662.
September 17, 2001	Safety Plan of Victim section of "Investigation of Injury" form states that Edward has a mark on left leg where socks are ____ located." Impression is that "Injury is explained. Caused by socks and/or shoes." BC 3798. No photographs taken. Babcock Center was being funded to provide one-on-one accountability at the time.
October 3, 2001	SC Attorney General obtained arrest warrant for arrest of Babcock Center employee which stated that "Carl Anthony did knowingly and willfully strike or hit Edward Mims about the head." Anthony pled guilty. No action had been taken by Babcock Center or SCDDSN to prosecute Anthony. Mrs. Mims persisted in prosecuting case through SC Attorney General's Office. Arrest warrant was not issued for more than a year after

beating. Exhibit 5.

October 2001 — In October 2001, Babcock Center management learned of the theft of more than $10,000.00 of funds of Clusters residents by the house supervisor of Building B. Management did not report the theft to law enforcement and no action was taken to repay the victims. The house supervisor position remained vacant for six months. The facility director of Clusters was moved the week the theft was discovered and the position remained vacant for six months. HHS Limited Scope Audit of the Babcock Center.

November 2001 — SCDDSN internal auditors learned of theft of client funds at the Babcock Center. SCDDSN did not report the theft to law enforcement or the State Ombudsman.

December 3, 2001 — X ray at Lexington Medical Center of Edward's right hand which was discolored and swollen. Exhibit 4.. An "old bruise light yellow in color" was also noted. BC 3184. Nurses note indicates scratch on right side of neck. "Possible cause of scratch r side of neck due to fingernails. Clients nails trimmed at this time. Client noted to sit on hands @ times, possible cause of bruising r middle finger." BC 3188. Babcock Center Medical Director, Dr. Tan Platt notified. BC 3277 **NOTE! See photograph documenting large abrasion on Edward's face which was not mentioned in nurse's notes - caused by fingernails??** BC 1637. Statements from staff dated December 2, 3 and 4 indicate that no one saw any marks on Edward. BC 1638 to 1643. (Edward was supposed to have one-on-one supervision.)

December 16, 2001 — "He apparently was assaulted by another client today at the Babcock Center although this was not witnessed by staff but by one of the clients ...possible corneal abrasion" treated at Lexington Medical Center. BC 3308. Where was Edward's one-on-one supervision? Body audit states "No new mark & bruise on Edward. Red bumps on his top back & right eye is bruise." BC 3778.

December 19, 2001 — Red marks on back and above right eye lid. BC 3234.

December 21, 2001 — Scrape on left hand. BC 3280. "Old blood on his sheet and shirt. Sm dk red scrape noted on l hand." BC 1664 and 4584.

December 27, 2001 — **Mrs. Mims again attempted to take Edward out of the Babcock Center.** Lois Park Mole of the SCDDSN wrote to her: "I understand that Edward has profound mental retardation, cerebral palsy and several other severe and complex medical conditions. He is medically fragile, takes a

number of medications and requires close monitoring and assistance...All parties agreed that Edward's significant special needs and complex medical conditions required more staffing and supervision than any one person could possibly provide. No one person can do it all to care for Edward." Exhibit 8.

January 6, 2002 — "Have a red mark on left side of neck and small red bumps on back. Also red mark on left arm. BC 3784.

January 7, 2002 — ""3" long old red scratch noted r side of neck." BC 1664. (Again noted on January 12.)

January 24, 2002 — Edward was treated at Lexington Medical Center ER for abrasions and contusions after being beaten with a belt at the Babcock Center by 16 year old resident GA. "To Lex. Med. Ctr for evaluation due to severity of bruises." Babcock Center Medical Director, Dr. Tan Platt is notified. BC 3273. In the next few months, GA beat two other residents with a belt and raped the second victim, a 78 year old resident. Exhibit 9. 27 marks noted over body, areas are red in color, one area on r upper shoulder is purple in color.." BC 1644 and 1665.

anuary 30, 2002 — "he slipped on some water that was left on floor from where another resident was mopping." BC 1665 and 4562.

February 4, 2002 — Nursing notes state that Edward "fell" and that the injury was "healing well." BC 3185.

February 8, 2002 — Edward injured the back of his head when he "sat in the yellow chair at my table. It collapsed. He hit the floor. He was on his back." BC 4564.

February 27, 2002 — Right hand contusion treated at Lexington Urgent Care with "discoloration and bruising on his first and second fingers of his right hand...They are not sure whether he injured it or hit his hand. Exhibit 4. (Note that Edward was on one-on-one accountability at this time.) BC 3275. Nurses notes state that "results are from Edward swinging his hands and hit his hand on the door resulting in the bruise." BC 3185. Babcock Center Medical Director, Dr. Tan Platt notified. BC 3275.

March 2, 2002 — Nursing note indicate bruise "possibly from swinging his hand and hitting the door."BC 3186.

March 3, 2002 — Nurses notes indicate two long scratches on middle of right side of neck. BC 3792.

March 10, 2002	Nurses note indicate that scratches on neck remain. BC 3186.
March 20, 2002	Edward was transferred to Kensington ICF/MR.
April 17, 2002.	Stan Butkus, State Director of SCDDSN writes to Babcock Center Board of Directors when he cancelled a meeting which had been scheduled to discuss problems at Clusters:

> "I have been in contact with Dr. Christian regarding the Babcock Center's status. He reports to me that, in his opinion, **there are no imminent threats to the health and safety of the individuals served.**" Exhibit 10. (Dr. Christian filed the Petition for Edward's involuntary commitment to SCDDSN in April 2001.)

August 29, 2002	Edward scratched himself. BC 1106.
November 24, 2002	Injury to back of leg. BC 1107.
January 8, 2003	Client pushed Edward's head into the coffee table. BC 1104.
January 14, 2003	Mrs. Mims took Edward to Palmetto Richland ER reporting Edward was unable to sleep and was "holding his hands to his eyes." Exhibit 4.
February 28, 2003	Babcock Center complained that body audits requested by Mrs. Mims were a violation of client rights. Exhibit 11.
May 20, 2003	Edward was found at 6:00 a.m. to have a "long red scratch mark extending from the left side of mount tho the side of his cheek. BC 1110. Impression: "Edward scratch himself while sleeping." Conclusion: "Scratch on Edward face."
July 26, 2003.	Palmetto Baptist ER.
August 3, 2003	Client hit Edward on the left side of the head. (Same client who pushed Edward's head into coffee table in January 2003 and pushed Edward into the wall on August 8, 2003.) BC 1109.
August 8, 2003	Client pushed Edward into the wall at the Babcock Center workshop resulting in a "scrap on his left hand." (Same client who pushed Edward's head into coffee table on January 8, 2003 and hit Edward on head on August 3, 2003..) BC 1099.

December 2003	Clusters was closed after Immediate Jeopardy is cited at one building and SCDHEC decertified a second.
July 27, 2004	Edward was taken to doctor with "ant bites all over." According to Babcock Center records "they had a storm around the center and somehow ants managed to get into the building. Some ants were found in Edward's bed..." Exhibit 4. (There is no mention in Edward's Babcock Center records of this injury.)
July 30, 2004	Edward was found to have a cut on his lower back and hair was matted when he arrived home for his weekend visit. Mrs. Mims had not been informed of the injury. It was subsequently determined by the Babcock Center that Edward "slipped out of his chair and scraped his back against the air conditioner." BC 4888.
September 25, 2004	Babcock Center resident, Billy Cothran, choked to death at Kensington. Family was informed by Babcock Center staff that Billy died of a heart attack. Autopsy requested by family found chunks of cheese sandwich in trachea. Like Edward, Billy Cothran was on a mechanically altered diet. Exhibit 12.
:tober 13, 2004.	CMS cited Kensington for Immediate Jeopardy to the health and safety of clients due to inadequate staff training, understaffing, failure to conduct thorough investigations and failure to take appropriate action to ensure client protections. Exhibit 13.
October 28, 2004	Edward was taken to doctor for "complaint of redness around left eye since yesterday morning." Exhibit 4.
November 2, 2004	Doctor noted "Mild brusing (sic) noted around left eyelid." Exhibit 4.
November 8, 2004	Edward determined to need monitoring objective to "take small bites and small sips of liquids." 4733
November 23, 2004	SCDHEC cited Kensington for Violation of Life Safety Code.
January 2005	A monthly review for January documented no progress in the objective of toileting. 4796.
January 19, 2005	SCHHS notified Babcock Center and SCDDSN of review by Carolina Medical Review finding that Babcock Center ICF's did not meet federal Medicaid participation requirements. Exhibit 14.

March 8, 2005 SCDHEC cited Kensington for failure to correct deficiencies.

April 29-2005 Kensington decertified. Exhibit 15.

May 27, 2005 **Edward was discovered to have an unexplained 4 cm "gaping laceration" on his penis.** He was treated at Lexington Medical Center ER where seven stitches were required to repair the wound. Exhibit 4. The "investigation" reports conducted by Babcock Center and SCDDSN are contained in Exhibit 16. The Babcock internal investigation report states that the date of the incident is "unknown," however, a statement signed by a Babcock Center employee states:

> "When getting Edward ready to go home, I took him in his room to get his shoes. After putting his shoes on, I looked him over and found that he had on no underwear. I then removed his shoes and asked him to take off his pants as I walked to get a pair of underwear, When I returned to the room Edward had his pants down and he was sitting in the chair. I then noticed the blood on the chair drop on the floor so I went and got a co-worker." (SCDDSN assessment determined that Edward does not require assistance with dressing.)

The Babcock Center internal investigation contains the following findings:

> "At approximately 6:50 pm on May 27, 2005 staff ...was helping Edward Mims, supported person, get ready to go home on pass. He noticed that Edward was not wearing any underwear. According to the staff, Edward had begun undressing earlier for bed but was instructed by the staff to put his pants back on. Edward did not put his underwear back on. Mr. Heatley instructed Edward to take off his pants so that he could put some underwear on and he left the room to get a pair of underwear for him. Edward's underwear and socks are not stored in his room but in a plastic bin in the hall closet. Edward is able to dress himself with verbal prompting. Edward will undress himself when he is ready to go to bed. When Mr. Heatley returned to the room, Edward was sitting in a chair with his pants down around his ankles. Mr. Heatley noticed blood dripping from the chair to the floor."

The Babcock Center nurse:

> "checked under Edward's fingernails and did not notice any skin tissue or blood that would indicate that he had scratched himself.

She stated that she and the staff checked the chair that Edward was sitting on and could not find anything that could have caused the injury."

"There were no zippers or clasps on Edward's clothing that could have caused the injury. There was no blood in his pants. The staff also checked the underwear that Edward had been wearing earlier that evening and found no signs of blood. The chair in which Edward was sitting did not have any sharp edges that could have caused the tear."

SCDHEC refused to investigate the injury since the facility had been decertified.

Instead of conducting an independent investigation, the State Ombudsman allowed SCDDSN to conduct the investigation.

Dr. Graeme Johnson, Medical Consultant for SCDDSN issued a report dated June 2, 2004. He interviewed three Babcock Center employees. He did not interview Edward's mother or staff at the Lexington Medical Center. Dr. Johnson's report contains the following findings:

"There is no history of masturbation. No history of excessive bleeding. No history of past injury to genital area. The demeanor of Mr. Mims today and that reported on by staff on the evening of the incident do not make an aggression on his person a likely explanation. The injury appears to have occurred suddenly and caused immediate bleeding...It is possible minor scratching may have caused a small skin break on the penis, that lead to this laceration." (Ignoring the finding of the nurse that there was no skin tissue or blood on Edward's fingernails.)

"He appeared to be in a caring, supportative situation when the laceration occurred and appropriate care and follow-up had been provided...The evidence I have seen, the notes I have reviewed, and interviews I have conducted, lead me to a conclusion that it is unlikely that Edward Mim's laceration was due to abusive or negligent management."

The State Omnibus Protection Act requires providers to report allegations of abuse/neglect/exploitation within twenty-four hours or one working day. The Babcock Center did not report the injury to the Ombudsman until May 31, 2005, four days after the injury. Based on the investigations

conducted by the Babcock Center and SCDDSN, the State Ombudsman issued a finding that abuse/neglect was unsubstantiated.

June 6,7,8, 2005 — Babcock Center refused to allow court-appointed examiner to visit Edward. Exhibit 17.

June 9, 2005 — Probate Court issued emergency order appointing Mrs.Mims as temporary guardian and authorizing her to determine placement. Exhibit 18.

June 10, 2005 — SCDDSN attorney, Jim Hill, instructed Babcock Center not to allow Edward to leave Kensington. Police were called and provided escort for Mrs. Mims to take Edward home from Kensington.

June 12, 2005 — Jim Hill, attorney for SCDDSN, Kathi Lacy, Deputy Director SCDDSN, two Babcock Center attorneys, the Director of Babcock Center residential services and Edward's GAL met with Judge Amy McCulloch on Sunday, June 12, 2005 to discuss SCDDSN's objection to Edward being released from Kensington. No one from SCDDSN had made contact with Edward Mims or had visited the Mims residence since Edward's involuntary admission in 2001.

une 22, 2005 — Richland County Probate Court scheduled a hearing to review Edward's judicial admission to SCDDSN Exhibit 19.

July 6, 2005 — Jim Hill, attorney for SCDDSN challenged Probate Court's authority to release Edward Mims from judicial admission at a meeting in chambers with the Judge who issued the judicial admission order.

July 11, 2005 — SCDDSN "voluntarily" released Edward from judicial admission. Exhibit 20.

July 29, 2005 — Edward's single plan of care, contained in Exhibit 21, prepared by the Richland Lexington Disabilities and Special Needs Board includes the following:

> "He must be supervised at all times, as he will wander."
>
> "Edward is allergic to tomato-based foods, nuts, gum and greasy foods. Food needs to be finely chopped. Edward is usually fed by caregivers and at least must be watched and coached constantly while eating due to being a choking hazard."
>
> "He requires supervision at all times due to limited abilities

and impaired judgment, as well as for monitoring of seizures. Seizure medication is received on a daily basis and has been effective in managing this disorder."

"Edward is not aware of safety hazards or dangers in the community and is at risk for exploitation"

"Edward requires assistance with dressing to include zipping and buttoning..."

"Tolieting assistance is required and adult diapers are needed due to tolieting accidents Edward is toilet trained, however, often will not go to the restroom or ask for assistance when needed. If someone else is using the restroom, he will not knock or wait until vacant. He, instead, will soil his clothing. Edward will not seek out a facility if in an unfamiliar surrounding and will soil his clothing. Caregiver assistance is required for clean up when soiling and wetting occurs. This incontinence occurs despite scheduling and reminders to use the restroom regularly. He is currently being changed an average of 2-3 times daily at Columbia Adult Care. Reminders and monitoring are needed to ensure he wipes adequately after routine use of the toilet."

"Edward's food must be chopped finely for consumption and reminders are needed while eating to use his spoon correctly and take small bites of food. He is at risk of choking, due to having no teeth and tendency to stuff his mouth with food. He is physically fed by staff at the day program and by his mother at home the majority of the time, due to his inability to scoop small amounts of food on his spoon."

"Edward continues to attend Columbia Adult Care and progress is being made. This placement is appropriate and beneficial to Edward."

"Diapers and wipes are being received on a monthly basis."

BABCOCK CENTER CLIENT/VISITOR
ACCIDENT/INJURY REPORT

NAME: Last	First	MI	FILE	D.O.B	SEX	FACILITY
Mims	Edward	J			(M) F	Clusters

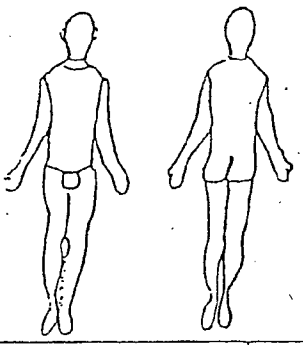
DATE:	TIME	LOCATION		
8-14-00	(am) pm	() Bathroom	() Dining Room	() Parking Lot
		() Shower	() Lounge	() Walk
		() Hall	() Bed	() Workshop
		() Trip	() Pool	() Other____

Describe incident in full.

Observed scrathes and bruises in am when client got up ~~for~~ get his bath and get dressed for the day.

ture of injury

Bruise to right eye
Scrathes under his neck
Bruise on right and left side
Scrathes on his back



Treatment required

Areas washed c warm H_2O.

Others Involved (Staff and/or client(s): Nora B. West
Carl Anthony

Nurse Notified: Jackie Derrick Time: 7:00 AM

Person Completing Report: Nora B. West Time: 7:00 AM

Physician Notified? Yes____ No✓

Treatment By Physician Required? Yes____ No✓

as Hospitalization Necessary? Yes____ No✓

Signature of Nurse: Jackie Derrick LPN

Signature of Physician If Treated: ____

Mims000943 Mims 2098

G-414539

E OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

Lexington

THE STATE

against

CARL ANTHONY

Address: 117 BIG HICKORY LANE

GASTON, SC 29053

Phone: 803-939-0023 SSN: 251-13-4656

Sex: M Race: B Height: 5-10 Weight: 150

DL State: SC DL #:

DOB: 02/03/1959 Agency ORI #: AGENT

Prosecuting Agency: AFFIANT

Prosecuting Officer: AFFIANT

Offense: SIMPLE ASSAULT AND BATTERY

Offense Code:

Code/Ordinance Sec. COMMON LAW 1

This warrant is CERTIFIED FOR SERVICE in the ☐ County/ ☐ Municipality of _____. The accused is to be arrested and brought before me to be dealt with according to law.

_____ (L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant CARL ANTHONY on 10/9/01

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

William G. Shockley
500 Charlie Rast Rd.
Swansea, SC 29160
803-568-3616

P.P.22

3293

Mims 2099

☐ County/ ☐ Municipality of)
Lexington)

AFFIDAVIT

Personally appeared before me the affiant INV. DAVID M. ADDISON being duly sworn deposes and says that defendant CARL ANTHONY did within this county and state on 08/13/2000 violate the criminal laws of State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of _____) in the following particulars:

DESCRIPTION OF OFFENSE: SIMPLE ASSAULT AND BATTERY

I further state that there is probable cause to believe that the defendant named above did co the crime set forth and that probable cause is based on the following facts:

THAT ON OR ABOUT AUGUST 13, 2000, CARL ANTHONY DID IN LEXINGTO COUNT, COMMIT THE ACT OF ASSAULT AND BATTERY. MORE SPECIFICAL CARL ANTHONY DID KNOWINGLY AND WILLFULLY STRIKE OR HIT EDWARD MIMS ABOUT THE HEAD. AT THE TIME MR. EDWARD MIMS WAS A RESIDE AT THE BABCOCK CENTER CLUSTERS, IN LEXINGTON, SOUTH CAROLINA. THE ABOVE FACTS ARE TRUE AND BELIEVABLE BASED UPON STATEMNETS GIVEN BY THE DEFENDANT, AND WITNESSES THAT PERSONALLY OBSERVED THE DEF. STRIKE OR HIT MR. MIMS.

Sworn to and subscribed before me on 10/03/2001

Signature of Issuing Judge (L.S.)

William G. Shockley

Signature of Affiant ATTORNEY GENERAL OFFICE

Affiant's Address 1000 ASSEMBLEY STREET
COLUMBIA, SC 29211

Affiant's Telephone 803-734-3680

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

Lexington

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe on 08/13/2000 defendant CARL ANTHONY did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of _____) as set forth below:

DESCRIPTION OF OFFENSE: COMMON LAW 1
SIMPLE ASSAULT AND BATTERY

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her b me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to defendant at the time of its execution, or as soon thereafter as is practicable.

Signature of Issuing Judge (L.S.)

Judge Code:

Judge's Address 500 Charlie Rast Rd.
Swansea, SC 29160

Judge's Telephone 803-568-3616

Issuing Court: ☐ Magistrate ☐ Municipal ☐ Cir

666

ORIGINAL

X

SLED State Criminal Records Check

SLED CATCH
Carolina Access to Criminal Histories

Results

Name Carl Anthony
Date of Birth 1959 02 03
Maiden Name
Gender Male
Transaction 000647295
Date of Check October 30, 2002 at 21:07

ARREST RECORD
S.C. Law Enforcement Division
WWW

This record is based on a search using last first initial, and date of birth. Compare all identifying data given for record subject with screening subject. Fingerprint comparison is recommended as the most reliable means to identify a record subject.

INTERNET RAP SHEET REQUEST
ORI-SCLED0000 SID-SC01390255 PUR-E
ATN-WEB, CC

AUTHORIZED USE ONLY. ******** CONTACT CONTRIBUTING AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS. BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-10/30/2002 TIME-21:07:44
REQ ORI-SCLED0000 S C LAW ENF DIV
SID-SC01390255 FBI-988849TB9
NAME-ANTHONY, CARL SEX-M RACE-B
HEIGHT-510 WEIGHT-153 EYES-BRO HAIR-BLK SKIN- BORN-SC
FPC- HENRY-
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--10/29/2001 DATE OF LAST UPDATE--07/05/2002

ADDITIONAL IDENTIFIERS NAME	BIRTH DATES	MARKS	SOC SEC	MISC NUM
	02031959			

CONTRIBUTOR/SUBJECT	DOA/RCVD	CHARGE/DISPOSITION/ETC
ANTHONY, CARL	10/04/2001	
SC0320000 LEXINGTON CNTY SO		
ATN-980000226926		
WARR-G414539		
CIT-N/A-MISDEMEANOR		

Mims 2100

ARREST CHARGE 01-SIMPLE AS
LT AND BATTERY
OFFENSE DATE-10/04/2001

CIT-N/A-MISDEMEANOR
DOC-R84 WARR-G414539

COURT CHARGE 01-SIMPLE ASS
T AND BATTERY
COURT DISP-CONVICTED;30D O
$225 FINE
COURT DATE-10/18/2001
ATN-980000226926

BASED ON SEARCH OF SCLED CJICS CCH FILE USING SID/SC01390255
THIS IS PROVIDED FOR THE EXPRESS PURPOSE FOR MAKING LICENSING OR
EMPLOYMENT DECISION.

** S C CJICS END OF RECORD **

Credit Card Transaction Number 3213482578ICE890021030210650

Return | Another Check

2001 e-@ction Internet Commerce Enabler

Mims 2101

State of South Carolina
Department of Health and Human Services

ark Sanford
Governor

Robert M. Kerr
Director

July 28, 2003

Ms. Judy Johnson
Executive Director
Babcock Center, Inc.
P.O. Box 3817
Columbia, SC 29230

Dear Ms. Johnson:

suant to authority granted by SC Codes Code of Laws (Supp. 1992) § 43-38-10 et. seq., the State Long Term Care Ombudsman reviewed the Internal Investigations conducted by the Babcock Center on behalf of Mr. Edward James Mims. The investigation also included documentation and resident record review. This investigation was conducted due to an allegation of abuse concerning the individual named above. All other complaints subsequent to this letter will be handled in accordance with the guidelines set forth in the Ombudsman Policies and Procedures manual or through the office of the Regional LTC Ombudsman. The alleged complaints and findings are as follows:

The complainant alleges that Mr. Edward Mims was abused in Lexington Clusters ICF/MR, and the incident was not reported to the Ombudsman. It was also alleged that another resident beat the resident in January 2002, and that incident was not reported to the Ombudsman. The resident who beat Mr. Mims was receiving $170,000 per year to receive one-on-one supervision, which was not being provided.

Findings:

- Physical abuse as defined in the Omnibus Adult Protection Act was substantiated based on a review of facility records.
- Facility records document that the physical abuse incident occurred on August 13, 2000, and was reported to the Ombudsman Program on August 14, 2000.
- The complaint was reported to law enforcement and the perpetrator pled guilty to simple assault.

Bureau of Senior Services
P. O. Box 8206 Columbia South Carolina 29202-8206
(803) 898-2850 Fax (803) 255-8202

Mims 2102

- The perpetrator received a 30 day suspended sentence, and was ordered to pay a $225.00 fine and ordered to not work in the health care field.
- The staff member was terminated from the Babcock Center on September 13, 2000.
- It was substantiated that another resident repeatedly hit the resident with a belt on January 24, 2002.
- It was substantiated that the resident's Behavioral Support Plan was not followed, as staff did not complete the visual accountability as outlined.
- It was documented that the perpetrator was moved to another facility with younger residents and follow-up recommendations were made.

Conclusion:

- It is substantiated that abuse occurred and was handled in accordance with the Omnibus Adult Protection Act (OAPA).
- It is substantiated that resident-to-resident abuse occurred. The OAPA states that physical abuse does not include altercations or acts of assault between vulnerable adults. However, the incident should have been reported to the Ombudsman because of its serious nature. Although the Ombudsman Program does not have the statutory authority to investigate resident-to-resident abuse, it would investigate to determine if adequate supervision was provided. Lack of Supervision was also substantiated based on the above findings.
- It is substantiated that adequate supervision was not provided as required in the resident's Behavior Support Plan.

The Long Term Care Ombudsman concurs with the Babcock Center's internal investigation and r mmendations. Therefore, no further investigation is needed.

If you have any questions regarding our review of this case, please contact me at your convenience.

Sincerely,

Ethel L. Corley
Long Term Care Ombudsman

CC: DHEC Certification Division
Ms. Margaret Mims
3301 Rosewood Drive
Columbia, SC 29205

Notice: This is confidential information from the records of the South Carolina Department of Health and Human Services. Our authorization to release this information to you does not imply permission to further disclose this information even within your own organization. Your own confidentiality standards, contractual relationships, and any applicable statutes and regulations d govern release of this information.

4-3-2001

I want to come back home

I want Edward James Mims to come back to my house

Sincerely,
Margaret Mims

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE PROBATE COURT

James G. Christian, Ed.D.)
Director, Midlands Center,)
SC Dept. of Disabilities and)
Special Needs)
PETITIONER)
)
)
IN THE MATTER OF:)
)
)
EDWARD JAMES MIMS)
(An alleged mentally retarded)
person)
)

PETITION OF JUDICIAL ADMISSION

FILED
01 APR 16 PM 3:43
RICHLAND COUNTY, S.C.
PROBATE JUDGE

The undersigned respectfully shows to the Court:

1. That this Petition is filed pursuant to S.C. Code Ann. §44-20-450 (Supp. 2000) and that this Court has jurisdiction of this matter in accordance with this statute.

2. That **Edward James Mims** who is presently found at Babcock Center, Inc., The Clusters, Lexington, South Carolina, is according to the information and belief of the undersigned, mentally retarded and in need of the South Carolina Department of Disabilities and Special Needs services; and because of this condition, should be so adjudged and treated in a facility or program of the South Carolina Department of Disabilities and Special Needs. The reasons for this belief are as follows:

Mr. Mims is 29 years old and profoundly retarded. His health is fragile and carries diagnosis of cerebral palsy, seizures, hypertension, esophagitis/erosion disease. He is self-abusive, non-verbal and has pica-like behavior (eats non-food items). His mother is in poor health and is unable to care for him since she has limited means and resources.

3. That the Petitioner herein has the following relationship with the allegedly mentally retarded person: custodial/treatment.

4. That attached and incorporated in this Petition is a copy of a certificate of licensed physician or a diagnostic or forensic report from the South Carolina Department Disabilities and

Special Needs that the allegedly mentally retarded person is mentally retarded and who may be in need of treatment or care in a facility or program of the South Carolina Department of Disabilities and Special Needs.

5. That below are set out the names and address of those most interested in or closely related to the allegedly mentally retarded person besides the Petitioner:

Name: Margaret Mims Relationship: Mother

Address: 3301 Rosewood Drive, Columbia, SC 29205

Phone: (803) 252-9962

Name: Diane Theriot Relationship: Sister

Address: 2231 Atascadero Drive, Columbia, SC 29206

Phone: (803) 782-1790

WHEREFORE, the undersigned Petitioner prays that the Court inquire into the condition of said person and declare him to be mentally retarded and in need of the South Carolina Department of Disabilities and Special Needs services; and order admission for him to the South Carolina Department of Disabilities and Special Needs for care and treatment when appropriate space is available or take such action as may be legally proper.

Dated this 16th day of April, 2001 at Columbia, South Carolina

Petitioner's Signature

Midlands Center, SC Dept. of Disabilities and Special Needs
Address:
8301 Farrow Road
Columbia, SC 29203
Phone: (803) 935-7414

RECEIVED
MAY 16 2001
LEGAL SERVICES

ar itkus, Ph.D.
te L
bert W. Barfield
uty State Director
ninistration
ent H. Koyle, Ph.D.
uty State Director
ices and Supports

SOUTH CAROLINA Department of Disabilities AND Special Needs

COMMISSION:
Kitty S. Mescher
Chairman
Emilie A. Towler
Vice Chairman
Bill G. Alexander
Secretary
William E. Walsh
J. Lewis Stephens
Linda C. Kidd
Lyssa Harvey

3440 Harden Street Ext (29203)
PO Box 4706, Columbia, South Carolina 29240
V/TTY: 803/898-9600, FAX: 803/898-9653
Toll Free: 888/DSN-INFO
Home Page: www.state.sc.us/ddsn/

RECEIVED
MAY 15 2001
MIDLANDS REGION
REGIONAL DIRECTOR

May 10, 2001

James Christian, Ed.D
Regional Director
Midlands Regional Center
8301 Farrow Road
Columbia, SC 29203

Dr. Christian:

Today I made an informal assessment by behavioral observation of Edward James Mims at the Lexington Clusters ICF/MR. I also reviewed his working chart as well as interviewed his QMRP, Mr. Kevin Wise. Mr. Mims is a 29-year-old Caucasian gentleman who carries diagnoses of Profound Mental Retardation, cerebral palsy, hypertension, a seizure disorder, esophagitis/erosion disease, pica, and, additionally, he is self-abusive. Because he has only one kidney, his water intake must be monitored to prevent toxicity. He is currently on a number of medications which require close monitoring as well.

Mr. Mims was formally evaluated in 1993 using the Bayley Scales of Infant Development and the California Adaptive Behavior Scale. Results of the administration of both instruments resulted in a developmental age of 20 months and an adaptive age equivalent score of 2.08 years with a vocational age equivalence of 1.08 years. My clinical opinion, based upon my interactions with Mr. Mims and also on interview data provided by his QMRP, Mr. Kevin Wise, is that Mr. Mims continues to function in the range of Profound Mental Retardation. He is nonverbal and assumed a fetal position during my interview with him. All attempts to obtain any response from him were unsuccessful.

Because of Mr. Mims' significant medical problems, self-injurious behavior, and his very limited ability to care for himself, it would not be in the best interest of Mr. Mims for him to be left unattended. Indeed, he is on one-on-one care at Clusters. According to staff report, Mr. Mims has made some progress since he was admitted in 1999. That is, he is now on a toileting schedule with [redacted]nce. Mr. Mims was cleanly dressed with good hygiene when I saw him today and he appeared to be well cared for.

s my opinion that Mr. Mims continues to need physical care and habilitation for services such as those provided by SCDDSN. Accordingly, it is recommended that he remain in a facility where such service needs can be assured.

Very truly yours,

Jane McCausland

Jane McCausland, MS
Psychologist III

Mims 2108

FILED

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE PROBATE COURT
CASE NO: 01-JUD-0[illegible]

ANN [illegible]LOCH
PROBATE JUDGE
RICHLAND COUNTY, S.C.

James G. Christian, Ed.D.)
Director, Midlands Region,)
SC Dept. of Disabilities and)
Special Needs)
PETITIONER)
)
IN THE MATTER OF:)
)
EDWARD JAMES MIMS)
(An alleged mentally retarded)
person)
)

ORDER

This matter comes before the Court upon Petition of James C. Christian, Ed.D., Director, Midlands Region, South Carolina Department of Disabilities and Special Needs (SCDDSN) pursuant to S.C. Code Ann. §44-20-450 and 460(B) (Supp. 2000). The Court recognizes that it has jurisdiction in this matter. It appears that all parties were duly notified of this Petition.

A hearing in this matter was held at Midlands Center, Columbia, South Carolina, on June 26, 2001. All parties were duly notified of this hearing and the following persons were present:

Hon. Jacqueline D. Belton	Associate Judge of Probate
Edward J. Mims	Respondent
David E. Belding, Esq.	Attorney for Respondent
James C. Christian, Ed.D.	Petitioner
James R. Hill, Jr., Esq.	Attorney for Petitioner
M. Leigh Flynn, Esq.	Guardian ad Litem
Ms. Margaret Mims	Respondent's Mother
W.D. Morris, Esq.	Attorney for Ms. Mims
Jane McCausland, MS	Psychologist, SCDDSN

Other persons and staff from Babcock Center, Inc., were also present. A diagnostic report by Jane McCausland, MS, from SCDDSN was received into evidence without objection from any party.

With consent of the Court, the parties all agreed to forego actual testimony and to present brief verbal statements for the Court's consideration. It appears from statements by the parties, the diagnostic report and records in this matter that Mr. Mims' mother admitted him to SCDDSN in October, 1999. Mr. Mims suffers from profound mental retardation, has cerebral palsy and several other severe and complex medical conditions. Mr. Mims is medically fragile, takes a number of medications and requires close monitoring and assistance.

Ms. Mims had requested her son be discharged back to her care, which precipitated this Petition. Upon agreement of all the parties, it appears that Ms. Mims will be unable to care for her son in her home. She still wants him to visit in her home. However, concern was expressed that her home needs to be in a safe condition for these visitations. In this regard, Ms. Mims has agreed to allow staff from SCDDSN and/or Babcock Center to enter her home and to advise and assist Ms. Mims in making her home a safer place for her son to visit.

The Guardian ad Litem reported to the Court that she had reviewed Mr. Mims's records, visited with him at Babcock Center and visited with Ms. Mims in her home. She agreed that Mr. Mims was mentally retarded and in need of SCDDSN services. She felt that he could not be safely discharged to his mother's home. She agreed that visitations should occur as long as the home was maintained in a safe condition. She observed that there was a great amount of love in the family and that this should be fostered.

jdg #2

FINDINGS OF FACT and CONCLUSIONS OF LAW

The Court wants to thank all the parties in coming together. It is apparent that all parties have Mr. Mims's best interest in mind with proposing this Consent Order. After reviewing the record in this matter, observing Mr. Mims, and hearing from the parties, I find that Mr. Mims is profoundly mentally retarded and has complex medical needs. Thus, he needs the monitorship and services offered by SCDDSN through the Babcock Center. I also find that all the parties have agreed to these findings and the report of the Guardian ad Litem, and that they wish to enter into this Consent Order.

Mims 2110

NOW THEREFORE, IT IS ORDERED that:

1. Because of his mental retardation and special medical needs, Edward James Mims is judicially admitted to the South Carolina Department of Disabilities and Special Needs.

2. To the extent feasible and in keeping with his treatment needs, Edward James Mims shall be allowed to have weekend visits with his mother, provided, that she maintains her home in a safe condition for her son's visitation.

3. Babcock Center and/or SCDDSN staff may visit in Ms. Margaret Mims home prior to her son's visit to advise and/or assist Ms. Mims in making her home safe for her son's visit. Ms. Mims will cooperate with such visits.

4. The parties to this matter have voluntarily agreed to this Order and placed their signatures below indicating their agreement.

AND IT IS SO ORDERED.

Signed this 3 day
of July, 2001
Columbia, South Carolina

Jacqueline D. Belton
Associate Judge of Probate
Richland County

We Consent:

David E. Belding

M. Leigh Flynn

James R. Hill, Jr.

W.D. Morris

Mims 2111

DPSW

RECEIVED

NOV 16 2001 11-13-2001

Referred to Lt. Ted

Answered

Dear Mr. Condon,

What happen to
Edward games Mine now,
Edward & My right
have been taking away
from Edward and I.
I want my Son,
back home with me.
please Mr. Condon,
let my Son come back
home.
I'm afaid What going
to happen to my son at
Baldock Center.
Edward, Can't talk
but I know my son

Mims 2112

TAB F

He know who Cares about him and who don't.

Went he comes home Edward doesn't want to go back with them to babcock Center.

Edward know that I love him and that I will take Care of him.

Edward is some one special to me.

because Edward gave me strength to keep going!

I always let Edward know that Jesus made him, some one special and that he loves him.

I'm able to take care of [redacted]ward at home went Edward was here

Mims 2113

at home,
Edward got to Doctor went
he was sick, and needed to
go.
Because I, took Edward to
Doctor in a Cab.
Also Edward and I went
to grocery store.
Yes, I send him new
Clothes and sock, Always come
home with some one else
Clothes. one sock of one kind
and one of other kind, they
are not his, just send 6
pairs of sock. Don't know
what happen to these.
O yes, I do furnish
his clothes to, that why
I don't understand why he
Can't come home with

Mims 2114

Some one else Clothes on
instead of his clothes,
I Don't understand
Why he Can't come back
home.
He didn't look like he
is when at home,
Most of time he hasn't
been shave and they don't
keep his hair Cut.
I kept his hair Cut and shave.
He looks like he a throw
away went he comes home,
they have a hard time getting
him to go back with them.
I have to make Edward go
and that hurts like a hell.
also his Clothes stay all tumble
. the place could be clean.
So please help me to get
My Son home. thank: Margaret Mims

Mims 2115

The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

December 6, 2001

Ms. Margaret Mims
3301 Rosewood Drive
Columbia, S.C. 29205

Dear Ms. Mims,

Your letter to Attorney General Condon regarding your son, Edward James Mims, who is a client at the Babcock Center, has been referred to me for response.

The Attorney General's Office does not have any authority over the Babcock Center, or the procedures used in determining who receives services from Babcock or the Department of Disabilities and Special Needs. I can understand your concern for his well-being, however, and will forward your letter to the Department for their review.

I hope this will be helpful.

Sincerely,

Lee Teed

Lee Teed
Director, Constituent Services

cc: Department of Disabilities and Special Needs

h:\corresp\Dec01\Mims

Mims 2116

ley kus, Ph.D.
Director
rt W. Barfield
y State Director
istration
H. Koyle, Ph.D.
State Director
s and Supports

COMMISSION:
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Toll Free: 888/DSN-INFO
Home Page: www.state.sc.us/ddsn/

December 27, 2001

Ms. Margaret Mims
3301 Rosewood Drive
Columbia, SC 29205

Dear Ms. Mims:

Ms. Lee Teed of the Attorney General's office has forwarded your letter of November 13, 2001 to the Department of Disabilities and Special Needs. In order to assist you, I read your letter and then reviewed information regarding your son's current situation.

I understand that Edward has profound mental retardation, cerebral palsy and several other severe and complex medical conditions. He is medically fragile, takes a number of medications and requires close monitoring and assistance. At this time Edward lives in Lexington in a community residence operated by Babcock Center. Whether he should continue to live there or not was reviewed in June of this year by you, your attorney, a Guardian ad Litem assigned to help Edward, an attorney assigned to help Edward and several professional staff from DDSN. All parties agreed that Edward's significant special needs and complex medical conditions required more staffing and supervision than any one person could possibly provide. No one person can do it all to care for Edward.

It is obvious Ms. Mims, that you love your son very much and took care of him in your home for many years. We understand that you wish it were possible for him to live at home again. All of us agree that one single person is not enough people to provide care for Edward. It is impossible because of his conditions and the fact that several different people have to be awake and around him all the time. This is hard to accept because you love Edward so much and miss his company. We understand and ppreciate a mother's love for her son.

While Edward needs to stay at Babcock, we can help with your concerns regarding the clothes he is dressed in, his haircut, how his face is shaved and his overall appearance. By copy of this letter I am asking Ms. Tonya Flake, Consumer Advocate of Babcock Center to follow up with you personally to review your concerns and work with you and the residential staff to resolve them. You should hear from her soon.

Again, Ms. Mims, we know you love Edward very much and want the best for him. We want what's best for him too, and to work with you.

Sincerely,

Lois Park Mole

Lois Park Mole
Director
Government and Community Relations

LPM/vet

cc: Ms. Tonya Flake, Babcock Center
Ms. Lee Teed, Office of the Attorney General

Mims 2118

RICHLAND COUNTY SCHOOL DISTRICT ONE
Columbia, South Carolina

Psychoeducational Evaluation Report

CONFIDENTIAL

Full Name: Edward J. Mims

Date Evaluated: 4-16-93

Date of Birth: 12-9-71

Referred by: Reevaluation

Chronological Age: 21-4

Parent: Ms. Margaret Mims

Race: White

Address: 3301 Rosewood Dr./29205

Sex: Male

Phone: 252-9962

School: Fairwold

Examiner: Michael Coxe

Reason for Referral

Re-evaluation.

Placement at Time of Evaluation

Self Contained Class Profoundly Mentally Handicapped

Background Information

Edward is reported born one month prematurely followed by a two month hospital stay. His health has been stormy. He is reported to have kidney, heart and urinary tract problems along with orthopaedic problems.

Edward has attended classes for Profoundly Mentally handicapped (PMH) students since enrolling in Richland School District One in 1979. He graduates from Fairwold School at the end of the present school year.

Previous Test Results (4-25-90)

Bayley Scales: Age equivalent = 20 months

Behavior

Edward vocalized sounds but no words. He avoided looking at tasks. Most manipulative tasks required a physical as well as verbal prompt. Edward frequently attempted to grab, pinch or spit, but his affect remained flat.

Mims 2119

Evaluation Procedures

Bayley Scales of Infant Development (BSID)
Vineland Adaptive Behavior Scale (VABS)

Evaluation Results

The Bayley Scales of Infant Development Mental Scale (BSIDMS) is designed to assess sensory-perceptual acuities and discriminations, the early stages of memory, learning, and problem solving ability, the beginnings of verbal communication, and the ability to form generalizations and classifications. Norms are available for children aged 2 months to 30 months. An approximate mental age score for older children can be estimated, but this score must be interpreted cautiously.

Edward's approximate mental age on the Bayley is twenty months, which ests he is currently functioning in the Profoundly Mentally dicapped range of intelligence.

Edward worked manipulative items through the thirty month level but did not work items requiring him to imitate actions or identify pictures or objects.

The Vineland Adaptive Behavior Scales (VABS) is a developmental instrument which assesses the individual's ability to independently look after social and personal needs and to assume responsibility. The Vineland samples abilities in the areas of personal self sufficiency and self care, vocational and occupational activities, communication, self direction, and social participation and social skills. It may be used with individuals from birth to adulthood. The Interview Edition was administered. The informant was Mrs. Cannizzaro, Edward's teacher.

Score Summary

	Standard Score	Age Equivalent
COMMUNICATION DOMAIN	<20	0-4
DAILY LIVING SKILLS DOMAIN	<20	1-7
SOCIALIZATION DOMAIN	<20	0-3
ADAPTIVE BEHAVIOR COMPOSITE	<20	

dard Scores between 85 and 115 are in the Average range. Scores should be interpreted carefully as some observations may be based on estimated performance.

Edward's ratings on the Vineland indicate consistent and significant weaknesses across all areas of adap[P.43] functioning.

Mims 2120

Summary and Recommendations

Edward Mims is a twenty one year old student attending Fairwold School. This evaluation indicates that Edward is in the Profoundly Mentally Handicapped range of abilities with corresponding weaknesses in adaptive behavior skills.

It is the recommendation of this psychologist to the District's Placement Committee that Edward Mims be considered for continued eligibility in a self-contained program as a Profoundly Mentally Handicapped student. This recommendation may or may not reflect the final decision of the Placement Committee of which the psychologist is only one team member. No student is to be placed in a Special Education class on the basis of this report alone.

Michael Coxe
School Psychologist, II

LEXINGTON
MEDICAL CENTER
2720 Sunset Boulevard
West Columbia, South Carolina 29169
803-791-2000

EMERGENCY DEPARTMENT NOTE

PATIENT: MIMS, EDWARD J
LOCATION: HEDCC6
ADM. #: H00019739762
M.R. #: [redacted]
ADMITTED: 05/27/2005
D: 05/27/2005 9:41 PM
DISCHARGED: 05/27/2005
T: 05/28/2005 7:25 AM / mrp
PHYSICIAN: MARK C JOHNSON , MD

CHIEF COMPLAINT: Laceration to penis.

HISTORY OF THE PRESENT ILLNESS: Patient is a 33-year-old male with history of severe mental retardation and resides at Babcock Center. He was noted by staff at Babcock Center tonight to have a laceration on the undersurface of his penis with some oozing of blood from the wound. They are uncertain how the wound occurred.

IMMUNIZATIONS: Reportedly up-to-date.

REVIEW OF SYSTEMS: As above.

PAST MEDICAL HISTORY: Seizure disorder, mental retardation, hypertension and GERD.

CURRENT MEDICATIONS: Review the list on nurse's notes.

ALLERGIES: None.

PHYSICAL EXAMINATION: VITAL SIGNS: Temperature 97.8, pulse 91, respirations 18, blood pressure 129/84. GENERAL: Well-appearing, nontoxic, in no acute distress. SKIN: Warm and dry. GU: Normal circumcised penis. Laceration present on the undersurface of the penis measuring 4 cm in length, gaping but did not appear to be deep involving the dermal tissues only. Small amount of oozing of blood noted.

EMERGENCY DEPARTMENT COURSE: PROCEDURE: Lidocaine cream 4% applied to wound. Wound was then prepped and draped and then additional anesthesia with buffered Xylocaine. Wound was irrigated and explored. No foreign bodies noted. Repaired using 5-0 Prolene with good wound approximation and hemostasis obtained.

DIAGNOSIS(ES): Superficial laceration to penis.

DISPOSITION: Discharged home with discharge instructions. Suture removal in 7 days. Return if worse or
p.r.n.

SIGNED ORIGINAL
ON MEDICAL RECORD

MARK C JOHNSON , MD

LEXINGTON MEDICAL CENTER
EMERGENCY DEPARTMENT

:NT: MIMS, EDWARD J
L. .TION: HEDRM20
ADM. #: H00003616893
M.R. #: [redacted]
ADMITTED: July 18, 2000
D: 2000-07-19 01:03:16.0
DISCHARGED: July 19, 2000
T: 07/19/2000 10:44 PM /bml
PHYSICIAN: STEPHEN C. STANFIELD, MD
SSN: [redacted]

HPI: The patient is a 28-year-old White male who presents to the Emergency Department after being seen at one of the Urgent Care facilities earlier today. The physician sent the patient here to have a CT scan done of his abdomen to rule out appendicitis. The patient is severely mentally retarded and noncommunicative. According to the staff who cares for him, they report the patient has been vomiting intermittently throughout the day. He has had approximately 4 episodes of emesis today. He has had no fever and no complaints of abdominal pain, though he is difficult to obtain history from.

ROS: Essentially unobtainable, except as provided by the staff.

PMH: Significant for mental retardation, seizures, cerebral palsy, hypertension, and gas[illegible]esophageal reflux di[illegible].

:URRENT MEDICATIONS: Phenobarbital, Prilosec, Propulsid, Claritin.

?E: VITAL SIGNS: TEMP 99.2, pulse 88, respirations 16, blood pressure 132/94. GENERAL: ?he patient is ı small for age White male with multiple contractures and micrognathia. HEENT: Normocephalic, atraumatic. :xtraocular muscles intact. Pupils equally round and reactive to light and accommodation. .eft tympanic ıembrane, benign. Right tympanic membrane, with pus noted behind the tympanic membrane. :his is not ıctively draining. NECK: Supple without meningeal signs. No mastoid or erythema. IEART: Regular rate ınd rhythm. LUNGS: Clear to auscultation. ABDOMEN: Soft, nontender, and nondistended. lo guarding ır rebound appreciated. Normoactive bowel sounds throughout. EXTREMITIES: No clubbing, yanosis, or dema. NEUROLOGIC: The patient is moving all extremities. Muscle strength, 5/5 strength n all extremities.

D COURSE: LABORATORY DATA: Amylase and lipase were drawn which were 70 and 88 espectively. henobarbital level was 52.9. CT scan of the abdomen was done which was negative for any vidence of ppendicitis. There is no evidence of volvulus on the CT scan. Urinalysis shows a pecific gravity of 1.028, 2+ rotein, greater than 80 ketones, 1 RBC, and 5 WBCs. TX: The patient was given a gram of oc ı nt ıously, secondary to his otitis media. He was also given a liter of normal saline ecause of the ehydration noted on the urinalysis.

MPRESSION:
- Abdominal pain.
- Mental retardation.

Mims 2124

3. Right otitis media.

[SITION: Dr. Nagel was contacted and informed of the CT scan results. He would like f[illegible]s to discharge the patient and have him follow-up tomorrow with him in the morning. The patient is discharged home in good condition with Mother.

SIGNED ORIGINAL
ON MEDICAL RECORD

STEPHEN C. STANFIELD, MD

EMERGENCY DEPARTMENT
MIMS,EDWARD J
PAGE 1 of 1

Mims 2125

RADIOLOGY DEPARMENT
LEXINGTON MEDICAL CENTER
WEST COLUMBIA, SC 29169
PHONE: (803) 791-2460

PATIENT NAME:	MIMS,EDWARD J	Medical Record Number:	M000030054
Age: 28 Sex: M	DOB: 12/09/1971	Account Number:	H00004733465
Admitted By:		Requisition Number:	00-117662
ER Dr:	ROBERT D MEARNS, MD	SSN:	[redacted]
Attending DR:		Report No:	1202-0142
Ordered By:	ROBERT D MEARNS, MD	Patient Location:	HEDCC5/
Discharge Diag:	MINOR RT. HAND CONTUSION	Date of Discharge:	12/02/00

DATE OF EXAM: 12/02/00
CLINICAL DATA: SWELLING

RIGHT HAND:

AP, lateral, and oblique views of the right hand demonstrate no fracture or dislocation. There is no radiopaque foreign body. There is no evidence of fracture.

IMPRESSION: No fracture.

VLB

BETH M SIROTY-SMITH, MD

rt Completed: 12/02/00 2341
JED COPY IN RADIOLOGY DEPARTMENT

Patient Location:
MIMS,EDWARD J

Mims 2126

P.50

LEXINGTON
MEDICAL CENTER
2720 Sunset Boulevard
West Columbia, South Carolina 29169
803-791-2000

EMERGENCY DEPARTMENT

PATIENT: MIMS,EDWARD J	LOCATION: HEDCC3
ADM. #: H00008288839	M.R. #: M000030054
ADMITTED:	D: 01/25/02 075305
DISCHARGED: 01/25/02	T:
PHYSICIAN:	SSN: [redacted]

PATIENT: MIMS, EDWARD J
LOCATION: HEDCC3
ADM. #: H00008288839
M.R. #: M000030054
ADMITTED: January 24, 2002
D: /25/2002
DI RGED: January 25, 2002
T: 01/25/2002 7:01 AM /agj
PHYSICIAN: V SCOTT CARROLL, MD
SSN: 249-21-4011

CC: Altercation at Babcock Center.

HPI: The patient is a 30-year-old who has a history of profound mental retardation, cerebral palsy and seizure disorder, presents to the Emergency Department after he had been beat with a belt by one of his co-residents at Babcock Center around 7:00 tonight. Babcock facility sent him over here to document his injuries.

CURRENT MEDICATIONS: Phenobarbital, Propulsid, Claritin, Clonidine and Prilosec.

ALLERGIES: None known.

PE: VITAL SIGNS: Temperature 98.1, pulse rate 81, respirations 16, BP 123/88. GENERAL: Dysmorphic features with very small jaw. He will respond to requests but he does not converse with me. HEENT: Normocephalic and atraumatic. Pupils equal, round, and reactive to light. LUNGS: Clear. CARDIOVASCULAR: Regular rate and rhythm. Movement of all extremities was noted. No obv s areas of de ty were noted to his extremities. Worker who was there with him states this is how he usually behaves

LEXINGTON
MEDICAL CENTER
2720 Sunset Boulevard
West Columbia, South Carolina 29169
803-791-2000

EMERGENCY DEPARTMENT

PATIENT: MIMS,EDWARD J	LOCATION: HEDCC3
ADM. #: H00008288839	M.R. #: M000030054
ADMITTED:	D: 01/25/02 075305
DISCHARGED: 01/25/02	T:
PHYSICIAN:	SSN: [illegible]

?ATIENT: MIMS, EDWARD J
.OCATION: HEDCC3
\DM. #: H00008288839
1.R. #: M000030054
\DMITTED: January 24, 2002
): 01/25/2002
)I' 'GED: January 25, 2002
': .5/2002 7:01 AM /agj
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PATIENT: MIMS,EDWARD J	LOCATION: HEDCC3
ADM. #: H00008288839	M.R. #: M000030054

and he is not conversant for the most part. He has several areas of abrasions/contusions that appear to be belt marks. These were drawn out on the chart, none of which appear to be severe. There is no significant edema underlying the area.

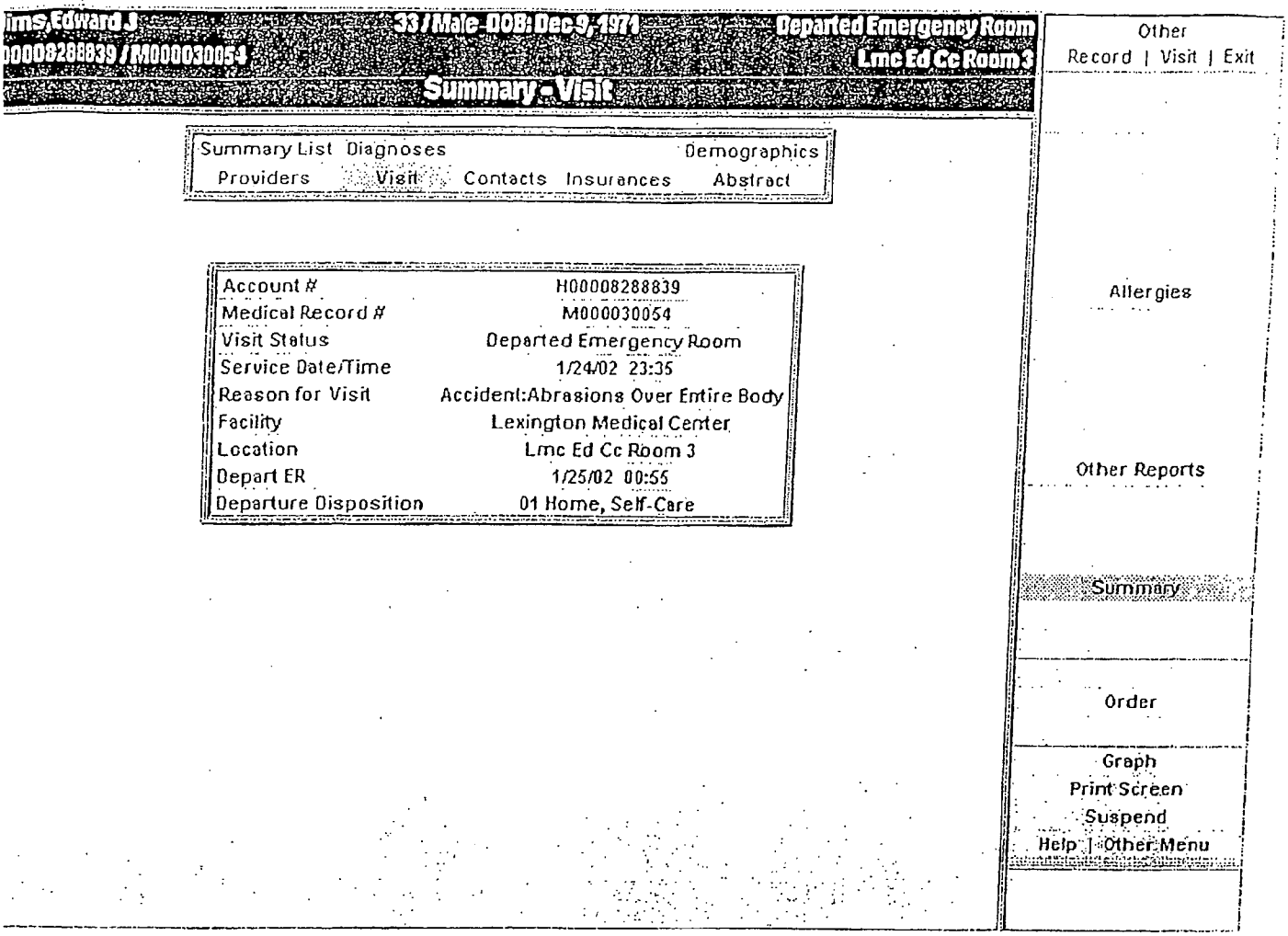
DIAGNOSIS(ES): Abrasions/contusions secondary to altercation at Babcock Center.

DISPOSITION: I am going to be discharging him back to Babcock Center tonight. I am recommending Tylenol 650 mg q.4h. p.r.n. for pain. Medical Social Services was consulted to DSS can be notified to do a visit if they deem necessary.

SIGNED ORIGINAL
ON MEDICAL RECORD

V SCOTT CARROLL, MD

cc:


ims,Edward J
33 / Male DOB: Dec 9, 1971
Departed Emergency Room
H00008288839 / M000030054
Lmc Ed Cc Room 3
Summary - Visit
Other
Record | Visit | Exit
Summary List Diagnoses
Demographics
Providers
Visit
Contacts
Insurances
Abstract
Account #
H00008288839
Medical Record #
M000030054
Visit Status
Departed Emergency Room
Service Date/Time
1/24/02 23:35
Reason for Visit
Accident:Abrasions Over Entire Body
Facility
Lexington Medical Center
Location
Lmc Ed Cc Room 3
Depart ER
1/25/02 00:55
Departure Disposition
01 Home, Self-Care
Allergies
Other Reports
Summary
Order
Graph
Print Screen
Suspend
Help | Other Menu

Mims 2130

LEXINGTON URGENT CARE LEXINGTON

811 West Main
Lexington, South Carolina 29072
803-358-6100

PATIENT MIMS, EDWARD J
M R # M000030054

D 02/27/2002
T: 2/28/02 8 14 AM /saw

PHYSICIAN: DANIEL A ROSSIGNOL, MD

S Patient is a 30-year-old gentleman who is brought in by a Babcock Center employee. He lives at the Babcock Center Apparently, he has had some discoloration and bruising in his 1st and 2nd fingers of his right hand There has also been some swelling there They are not sure if he injured it or hit his hand. Otherwise there are no complaints today. He is nonverbal, but does not seem to be having much pain PMH Profound mental retardation, seizures, cerebral palsy, esophagitis and chronic ear infections MEDICATIONS. Phenobarbital, ( ), Claritin D, clonidine and Prilosec. DRUG ALLERGIES None known

O GENERAL Pleasant male in no distress He is noncommunicative VITAL SIGNS Temperature 97 2, pulse 66, respirations 14, blood pressure 92/74 RIGHT INDEX AND MIDDLE FINGER: Shows some swelling and discoloration He is able to flex and extend these fingers. They appear to be nontender to palpation. There is some bruising there Pulses 2+ at right wrist Cap refill less than 2 seconds LABORATORY X-ray of right hand is negative

A Presumed right hand contusion.

P Ice the hand 2-3 times a day. Use Tylenol or Advil as needed for pain Return to clinic if not better in the next 4-5 days, or earlier if worse Patient's nurse voiced understanding with this plan, and he was discharged in stable condition

DANIEL A ROSSIGNOL, MD

cc:

PALMETTO RICHLAND MEMORIAL HOSPITAL
5 Richland Medical Park Drive
Columbia, SC 29203
(803)434-7000

EMERGENCY DEPARTMENT

PATIENT:	Mims, Edward	DICT:	Amy L. Davis, MD
MR #:	00-12-74-39-8	DOB:	12/09/1971
ADMITTED:	01/14/2003	PT.LOC:	

DATE OF VISITATION: 01/14/2003

CHIEF COMPLAINT: Possible high blood pressure.

HISTORY OF PRESENT ILLNESS: This is a 31-year-old white male. He is a Babcock Center resident. Nurse at the Babcock Center found his blood pressure was a little elevated. It was 130/108. The patient does have known hypertension. His blood pressure was taken today because they said he looked a little sweaty and pale. The patient did not lose consciousness, in fact, right after which he ate, and within 5 minutes the patient's symptoms returned to normal according to staff members. However, because of his elevated blood pressure, h ought him to the ED for further evaluation. This patient is noncommunicative. He does eat and in. ate without assistance, but does not talk or communicate purposefully; therefore, it is difficult to enlist any further history.

REVIEW OF SYSTEMS : Per the Staff: He has had no fever, no vomiting, diarrhea. No change in his appetite. No rash or change in bowel or bladder habits. Review of systems is otherwise negative.

FAMILY HISTORY : Significant for hypertension and bronchitis.

SOCIAL HISTORY : He lives at Babcock Center, ambulates without assistance, and does feed himself. He does not drive.

PAST MEDICAL HISTORY: Significant for mental retardation, cerebral palsy, seizures, hypertension, and gastroesophageal reflux disease.

MEDICATIONS:
Clonidine.
Claritin D.
Phenobarbital.
Reglan.
Prevacid.

ALLERGIES: He has no known drug allergies.

'HYSICAL EXAMINATION:
/ITAL SIGNS: Temp 98.9, pulse 95, respirations 16, BP 137/91.
ENERAL APPEARANCE: This is a well-developed, well-nourished, white male who is alert, nontoxic.
IEENT: Normocephalic, atraumatic. Pupils are equal and reactive. Extraocular muscles intact. He does have ow-set ears. Nares are patent. Oropharynx is clear with moist mucous membranes. TMs are clear.
ECK: Neck is supple without meningismus.
UNGS: Clear to auscultation with symmetric chest rise.
ARDIOVASCULAR: Rate in the 90s with a regular rhythm without murmur, gallop, or rub.
BDOMEN: Abdomen is soft, nontender, nondistended, normal active bowel sounds. No guarding or bound.
EUROLOGICAL: He is alert. He is moving about. He will not follow commands. He is sipping from a cup. e has good tone. This is normal according to mom, as well as staff members.

KIN: Skin is warm and dry and without rash.

REATMENT AND MEDICAL DECISION-MAKING: This does not sound like any acute abnormality, wever, we will check. It sounds that his blood pressure was slightly elevated, but has now returned to rmal. He does have hypertension, and is on Clonidine. However, we will check CBC to evaluate for any em levated white count, and chem-7 to evaluate sodium, potassium, electrolytes, as well as glucose. We ll heck a Phenobarbital level, since he is on Phenobarbital therapy.

BORATORY RESULTS: White count is 13.6, hemoglobin 15.2, platelets of 335, Phenobarbital of 28. em-7 is unremarkable.

IERGENCY DEPARTMENT COURSE: The patient was observed in the ED from 6:45 until 11:30 p.m. roughout that time he had no further symptoms. He was at baseline according to mom as well as staff mbers. We initially tried to get a urinalysis, but patient could not give sample, and at this time do not feel t we will traumatize the patient with cath. He can have this followed up at the Babcock Center. He is brile. His white count is slightly elevated, but this may be normal for the patient, or due to the Phenobarbital rapy. At this time we will discharge home.

INICAL IMPRESSION:
Hypertension.
Phenobarbital therapy.

POSITION: Discharge to the Babcock Center. Followup urinalysis there. If needed, return to emergency artment p.r.n. worsening, no p.o., return of symptoms, or any concerns. Patient was seen by Dr. James en, who agrees with plan.

James P Gillen, MD

Dictated by: Amy L. Davis, MD

AD:hs
): 01/14/2003 10:27 P T: 01/14/2003 10:38 P
ob #: 106302 T Job #: 933820 Doc #: 375341
c : Physcian EMS, MD

PALMETTO HEALTH RICHLAND
5 Richland Medical Park Drive
Columbia, SC 29203
(803)434-7000

EMERGENCY DEPARTMENT

PATIENT:	Mims, Edward	DICT:	Francis A. Clarkson, MD.
MR #:	00-12-74-39-8	DOB:	12/09/1971
ADMITTED:	11/30/2003	PT.LOC:	PD2

)ATE OF VISITATION: 11/30/2003

\TTENDING PHYSICIANS:
Joseph S Myslinski, MD
Jeter P Taylor, MD

)ATE OF BIRTH: December 9, 1971

'H COMPLAINT: Pain.

ISTORY OF PRESENT ILLNESS: This is a resident of Babcock Center with baseline profound MR, 31 ears of age, who spends the weekends with his mother.

he mother in the past has stated that this gentleman has in the past had episodes when he drinks a lot of fluids id decreases p.o. solid intake with some other mild changes. She apparently has brought this child for 'aluation on numerous occasions.

ie mother is not with the child. This particular case involves the mother telling the Babcock Center about the irrent episode. She insisted that Babcock Center bring this child for evaluation since she states that he has :en having the following changes over the weekend:

He has been drinking a lot of fluids.
He has decreased his p.o. solid intake.
He has not been sleeping well.
He has been holding his hands to his eyes.

other is under the impression that he is a mild degree of pain, otherwise unspecified. Because the patient is)foundly mentally retarded and nonverbal, it is unclear if anything is bothering him. She desires evaluation.

bc staff here indicates that the mother is quite nervous about any potential problems that might be going w .e patient.

ST MEDICAL HISTORY:

1. Mental retardation.
2. GERD.
3. Cerebral palsy.
4. Hypertension.
5. Seizure disorder.

Otherwise negative.

FAMILY HISTORY: Negative.

SOCIAL HISTORY: The patient lives at Babcock Center. Spends the weekends with his mother.

MEDICATIONS:
. Prilosec.
. Clonidine.
. Claritin.

REVIEW OF SYSTEMS: Review of systems is unable to be obtained from the patient because of nonverbal status. Per report from Babcock Center staff who are here with the patient, all systems are reviewed and negative. This includes the following: No fevers, chills, nightsweats. Respiratory: No cough. No shortness of breath. GI: No nausea, vomiting, or diarrhea. Musculoskeletal: No evidence of joint, muscle, or bone tenderness or pain. Skin: No new rash, bruising, or other lesions. All other systems are reviewed and are negative.

PHYSICAL EXAMINATION:
VITAL SIGNS: General vital signs are as follows: Temperature 97.9, pulse 103, respirations 18, blood pressure 107/90.
GENERAL APPEARANCE: In general this is a pleasant gentleman, appearing his stated age of 31 years. The patient, as I walk into the room, is swaying his head back and forth. He is nonverbal and appears to be profoundly mentally retarded.
HEAD: Head is atraumatic, normocephalic.
EYES: Conjunctivae are pink and moist. Pupils are equal and reactive to light. Extraocular movements are intact.
EARS: No otorrhea. TMs are bilaterally clear.
NOSE AND THROAT: Mucous membranes are moist. Oropharynx is clear and nonerythematous.
NECK: Neck is supple. There is no posterior C-spine tenderness. There is no evidence of any thyromegaly.
CHEST: Lungs are bilaterally clear to auscultation. There is no use of the accessory muscles.
CARDIAC: Heart is regular in rate and rhythm. There is no murmur, rub, or gallop heard.
ABDOMEN: Abdomen is soft and nontender. Bowel sounds are active. There is no hepatosplenomegaly or other masses noted.
MUSCULOSKELETAL: The patient has no bone, muscle, joint, or tendon tenderness, bilaterally, upper or lower, on full extremity examination.
NEUROLOGIC: The patient has no evidence of any focal neurologic deficits on motor or sensory exam.

MENTAL STATUS: Exam is unable to be obtained secondary to the patient's baseline poor verbal communicative ability.

Per report from Babcock Center staff, who knows this patient reasonably well, there is no change in his baseline mental status at present.
BACK: There is no stepoff, tenderness, or deformity.
LYMPHATICS: The patient has no profound lymphadenopathy noted at the anterior cervical, deep cervical, posterior cervical, inguinal, or any other lymphatic chain foci.
SKIN: There are no new rashes, bruising, or other lesions.

MEDICAL DECISION MAKING: The patient presented with reported very nonspecific changes. To evaluate for such and to rule out other potentially concerning pathologies, the following tests were ordered: CBC, BMP, and urinalysis, the results of which at the time of dictation were as follows: Chem-7 was negative for any profoundly abnormal value.

Hemoglobin 14.7, white count 11.9, platelets 267.

EMERGENCY DEPARTMENT COURSE: After arrival in the emergency department this patient was placed in an emergency department evaluation room. Patient was continually rechecked by emergency department staff, resident and attending of staff. Patient maintained stable clinical course throughout his stay here. While there was a report of the patient not being able to sleep at all, the patient was able to sleep here in the emergency department very soundly, very quietly, and very calmly.

His entire course was very uneventful and encouraging.

DIAGNOSIS / IMPRESSION: Examination for fear of complaint.

DISPOSITION: This patient is discharged. Babcock Center staff are instructed to return this gentleman to the emergency department should there be any worsening or nonimproving status. They are provided with an evaluation sheet that I filled out for them that had come with the patient from the Babcock Center.

Joseph S Myslinski, MD

Dictated by: Francis A. Clarkson, MD.

:hs
12/01/2003 3:00 A T: 12/01/2003 7:41 A
Job #: 00379401 T Job #: 838698 Doc #: 485000
: yscian EMS, MD
Joseph S Myslinski, MD

NT IDENTIFICATION NUMBER:	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	42C068	A. BUILDING _____ B. WING _____	2/28/03

PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
GTON I COMMUNITY RESIDEN	100 KENSINGTON RD. COLUMBIA, SC 29203

SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
Continued From page 25 client D to come out on the patio to have a cigarette. Client D followed the staff person and remained out on the patio until he had smoked two cigarettes. Observation in the residence on 2/25/03 at 7:05 AM revealed client D asking staff for a cigarette. Staff responded "give me a minute". Observation at 7:10 AM revealed another staff member gave client d his cigarette and prompted him to the patio area. Interview with residential staff revealed client D's cigarettes are locked away. Interview with the house supervisor revealed client D's cigarettes are monitored because he does not have enough money to constantly pr e them. Review of the current Behavior S Program which was not dated revealed client D would smoke in inappropriate places such as the facility and smoke burns were noted on his jacket. Further review revealed a smoking assessment had been completed which revealed client D was not independent in managing his own cigarettes and does not have the money to support a pack per day smoking habit. It was also noted client D could not operate a "childproof" lighter and would create a health risk by burning his clothes and improperly disposing of cigarette butts Review of the current Individual Program Plan dated 12/17/02 revealed client D has a training program to identify smoking area. review of the objective data revealed client D has met criteria on this objective with 100% independence the past four months. Interview with client d revealed he is unaware he is on a cigarette restriction Review of Informed consents revealed no current consent or Human Rights approval for restricting client D's cigarettes on the day of the survey. Review of addendum to Individual Program dated 11/26/02 revealed the program team met to discuss client E having a body audit. Further review revealed a phy n order dated 11/26/02 also requesting staff pe body audits prior to home visit and upon	W 262	The facility will ensure the committee reviews, approves, and monitors individual programs designed to manage inappropriate behavior and other programs that, in the opinion of the committee, involve risks to client protection and rights. Client D's, and all other residents' Behavior Support Plan, will be reviewed to determine if a revision is needed. Human Rights Committee will review the program and consent for medication. A meeting will be held to discuss if Client E needs a body audit with appropriate consent if necessary. Client H was seen by the psychiatrist on 3/10/03, at which time there were no changes to his current medications. In the future, the facility will ensure the Human Rights Committee reviews, approves, and monitors programs designed to manage inappropriate client behavior and other programs that involve risks to client protection and rights. Person Responsible: BIS, QMRP, Administrator Projected Completion Date: 3/24/03	

(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
42C068	A. BUILDING _____ B. WING _____	2/28/03

PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
NGTON I COMMUNITY RESIDEN	160 KENSINGTON RD. COLUMBIA, SC 29203

SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
Continued From page 26 return. Interview with the QMRP revealed the team decided to perform body audits before home visits and after a home visit due to client E's mother complaining about him having marks and bruises on him when she came to take him home. Further interview revealed the QMRP did speak to client E's mother in reference to performing the body audits and revealed client E's mother stated "as long the facility can explain any marks on client E" however no written informed consent had been obtained as of the day of the survey. Further interview revealed no explanation as to why body audits are being performed after client E returns to " facility from a home visit. k of addendum to client H's Individual Program Plan dated 9/24/02 revealed the program team met to discuss client his behavior and sleeping pattern. During this meeting the team agreed to obtain a doctors appointment for client H to be seen by his primary physician. Review of addendum dated 9/27/02 revealed the team met again to discuss client H's visit to his primary physician. The primary physician recommended client H be placed in a wheel chair and receive one on one staffing until he could be seen by the psychiatrist on 9/30/02. Further review revealed client H was seen by the psychiatrist on 9/30/02 to address aggressive behaviors and irregular sleep patterns. Further review revealed client H was asleep in the wheel chair at this visit. The psychiatrist during this visit prescribed Depakote 500 mg once daily for aggressive behavior, Ambien 10 mg at bed time for sleep for seven days and blood work. Review of the Medication Administration Record for the month of October 2002 revealed client H did not receive either medication prescribed by the psychiatrist. Review of Psychiatrist notes and orders dated 10/14/02 revealed during this visit Depakote 500 mg e daily was increased to Depakote 1000 mg o y. Interview with the nurse revealed the	W 262		

Mims 2139

The facility will ensure the committee reviews, approves, and monitors individual programs designed to manage inappropriate behavior and other programs that, in the opinion of the committee, involve risks to client protection and rights.
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Person Responsible: BIS, QMRP, Administrator
Projected Completion Date: 3/24/03

Department of Health & Human Services
Centers for Medicare & Medicaid Services
61 Forsyth Street, SW, Suite 4T20
Atlanta, Georgia 30303-8909

CMS
CENTERS for MEDICARE & MEDICAID SERVICES

November 28, 2003

Mr. Gene Marlow
Deputy Executive Director
Clusters of Lexington/Building B
201 Duffie Drive
Lexington, South Carolina 29072

Re: Final Notice of Termination (42G081)

Dear Mr. Marlow:

On November 25, 2003, representatives of the Centers for Medicare & Medicaid Services (CMS) completed a revisit to The Clusters – Building B. The primary purpose of this site visit was to reassess the facility's compliance with Medicaid certification requirements, with special attention to those areas of noncompliance which formed the basis for CMS's earlier finding of "immediate jeopardy" to the residents' health and safety.

To summarize, an "immediate jeopardy" situation was identified at The Clusters – Building B on November 6, 2003. Accordingly, our office issued a formal notice to you on November 12, 2003, advising you that involuntary termination from the Medicaid Program would become effective on November 29, 2003, unless the "immediate jeopardy" situation was removed. The facility subsequently submitted to CMS an acceptable plan of correction to address the "immediate jeopardy" situation. The revisit completed by the Federal survey team on November 25, 2003 found that the "immediate jeopardy" situation had not been abated. The threat to the residents' health and safety remained largely unchanged.

Section 1910(b)(1) of the Social Security Act requires CMS to terminate a facility's Provider Agreement when the provider does not substantially meet the Conditions of Participation. The Clusters – Building B was unable to remove the "immediate jeopardy" situation within the allowable 23-day timeframe. Our first priority is to protect the health and safety of the residents residing in certified facilities. Based on the results of the latest revisit, the Medicaid Provider Agreement with The Clusters – Building B (42G081) will terminate effective at the close of November 29, 2003. In order to facilitate a smooth transition, payments may continue to be made to the facility under the Medicaid Program for an additional thirty days for services rendered to residents admitted to The Clusters – Building B on or before November 29, 2003.

A formal Statement of Deficiencies (CMS-2567) documenting the surveyors' findings of the revisit completed November 25, 2003, is not available for inclusion as an attachment to this letter. This documentation will be provided to you as soon as it is received in our office.

Mims 2141

The deficiencies associated with the "immediate jeopardy" situation related to the facility's failure to comply with the Conditions of Participation found at 42 CFR 483.420, "Client Protections".

Lastly, please be reminded that the provider's administrative appeal rights were set forth in our previous letter to you dated November 12, 2003. If you have questions or concerns regarding this matter, please contact Richard James at (404) 562-7436, or Joyce Lang at (404) 562-4025.

Sincerely,

Sandra M. Pace
Associate Regional Administrator
Division of Survey & Certification

Cc: State Survey Agency
State Medicaid Agency

Mims 2142

Department of Health & Human Services
Centers for Medicare & Medicaid Services
Long Term Care Enforcement
Sam Nunn Federal Building
61 Forsyth St, Suite. 4T20
Atlanta, Georgia 30303-8909

CMS
CENTERS for MEDICARE & MEDICAID SERVICES

PUBLIC NOTICE FOR TERMINATION OF MEDICARE & MEDICAID PROVIDER AGREEMENT

Notice is hereby given that effective November 29, 2003, the Centers for Medicare & Medicaid Services is canceling the approval of Babcock Center's Lexington Clusters B, (Intermediate Care Facility for the Mentally Retarded), Lexington, South Carolina, to participate in the Medicaid program. The Centers for Medicare & Medicaid Services has determined that the facility has not met the requirements for participation in the Medicaid Program, and will not make payment for services to clients who are admitted after November 29, 2003. Payment for services to clients admitted prior to November 29, 2003 may be continued for a maximum of thirty (30) days. Such payment is specially limited to covered services through close of business on December 29, 2003.

Sandra M. Pace
Associate Regional Administrator
Division of Survey & Certification
The Centers for Medicare & Medicaid Services

Mims 2143

Department of Health & Human Services
Sam Nunn Atlanta Federal Center
Centers for Medicare & Medicaid Services
Division of Survey and Certification
65 Forsyth Street, S.W. Suite 4T20
Atlanta, Georgia 30303-8909

CMS
CENTERS for MEDICARE & MEDICAID SERVICES

October 13, 2004

Mr. Gene Marlow
Deputy Executive Director
Babcock Center Administration
500 Rivermont Drive
Columbia, South Carolina 29210
Fax: 803-799-1238

Re: Kensington I Group Home 42G068 – Immediate Jeopardy

Dear Mr. Marlow:

On October 6 - 11, 2004, representatives of the Centers for Medicare and Medicaid Services conducted a fundamental survey in conjunction with a complaint investigation at Kensington I, an Intermediate Care Facility for the Mentally Retarded (ICF/MR), located in Columbia, South Carolina. The survey team informed the facility director on October 7, 2004 that conditions within Kensington I Group Home posed an immediate jeopardy to the health and safety of clients. Specifically, the facility does not meet the requirements of Section 1905(d) of the Social Security Act and the Condition of Participation for ICFs/MR of Client Protections (42CFR 483.420).

This letter is to inform you that we have determined that the conditions found do, in fact, pose Immediate Jeopardy to the health and safety of clients. A summary of findings, which constitute the immediate jeopardy, are enclosed. Please note that there may be a supplemental listing of noncompliance that did not rise to the level of immediate jeopardy included in the final CMS-2567.

The facility must submit an acceptable credible allegation to this office within five (5) working days of receipt of this notice that demonstrates removal of the Immediate Jeopardy threat, or the Centers for Medicare and Medicaid Services will terminate your participation in the Medicaid program. Failure to correct the immediate jeopardy within twenty-three (23) days of the date of the survey will result in your termination. Termination will be effective November 3, 2004.

Please note that this letter does not constitute formal notice of termination of your provider agreement. Should the Centers for Medicare & Medicaid Services determine that termination is warranted, we will provide you with a separate formal notification of that determination.
If you have removed the Immediate Jeopardy or achieved compliance, please advise us immediately by faxing your allegation of compliance to:

Joyce Lang, ICFs/MR Enforcement
The Centers for Medicare & Medicaid Services
Sam Nunn Atlanta Federal Center
61 Forsyth Street, Suite 4T20
Atlanta, Georgia 30303-8909
Fax: (404) 562-7480

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To be considered acceptable, your allegation of compliance must include your planned action to correct the deficiencies and the expected completion date. It must be specific and realistic, stating exactly how the deficiency was or will be corrected. The allegation of compliance must also identify what measures will be put into place to ensure that the deficient practice does not recur and how the corrective action(s) will be monitored.

If your allegation of compliance is found to be acceptable by the Regional Office, a revisit will be conducted before the termination date. If the Centers for Medicare and Medicaid Services determines that the reasons for termination continue, the effective date of the termination will remain November 3, 2004 , and you will be so informed in writing. If corrections have been made to remove the Immediate Jeopardy and if total compliance has been achieved, the termination procedures will be halted, and you will be notified in writing. If the threat has been removed, but compliance with all the conditions of participation has not been achieved, additional time may be granted for correction.

If you wish to appeal this determination, you may request a hearing before an administrative law judge of the Department of Health and Human Services, Departmental Appeals Board. Procedures governing this process are set out in regulations at 42 CFR 498.40 et seq. A written request for a hearing must be filed no later than 60 days from the date of receipt of this letter. If you choose to do so, please submit a hearing request (accompanied by a copy of this letter), directly to:

Department of Health and Human Services
Departmental Appeals Board, MS 6132
Civil Remedies Division
Attention: Jacqueline T. Williams, Chief
330 Independence Avenue, S.W.
Cohen Building - Room G-644
Washington, D.C. 20201

A request for a hearing should identify the specific issues and findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. Counsel may represent you at your own expense. However, please be advised that a provider is not entitled to a formal hearing prior to termination, but only after adverse action actually take place.

Sincerely,

Sandra M. Pace
Associate Regional Administrator
Division of Survey and Certification

Enclosures: Immediate Jeopardy Findings

cc: CO ICF/MR
State Survey Agency (with Enclosures)
State Medicaid Agency (with Enclosures)

Kensington I
Immediate Jeopardy Summary

October 12, 2004

A fundamental survey was initiated in conjunction with a complaint investigation at Kensington I, an Intermediate Care Facility for the Mentally Retarded (ICF/MR) operated by the Babcock Center, Inc., from October 6 through October 11, 2004. The fundamental survey was extended to a full survey on October 7, 2004. The complaint, received by the Centers for Medicare & Medicaid Services, alleged the death of an individual (Client #5) on September 25, 2004, was a result of choking on food served at the facility.

During the course of the investigation and survey, the Federal Survey Team identified circumstances that placed the remaining seven residents of the home at potential risk of serious harm. On October 7th at 8:00 AM the Region IV Office was notified and agreed with the findings. The Central Office concurred. At 1:25PM on October 7th, the Home Administrator was notified that an immediate jeopardy had been declared based on the failure of the facility to ensure the protection of all clients by failing to thoroughly investigate the death a client and, further, to provide protection for all clients pending the results of the investigation. Additionally, the observations of the needs of the seven men who were living at the facility led to an immediate concern regarding their safety at mealtimes. The need for monitoring to prevent choking was evident for four of the men (Clients # 3, #4, #6 and #8). All seven of the men (Clients #1, #2, #3, #4, #6, #7 and #8) had physician's orders for individualized diets; each mechanically altered to ensure safe consumption. Evidence indicated certain staff had not consistently prepared and served diets in accordance with the physicians' orders. This evidence was considered to be a critical issue regarding the effectiveness of staff training to prepare specialized diets. The number of staff assigned to prepare and monitor mealtimes, particularly on weekend days was considered insufficient to ensure all of the men could dine safely. During weekdays, three staff were routinely scheduled during the two meals served at the residence, breakfast and dinner. On the weekend days, only two staff had been scheduled when all three meals were served at the residence. This staffing pattern was not considered adequate to ensure the safety of all of the men during mealtimes.

The Home Administrator was also informed that, based on serious concerns regarding compliance with the Conditions of Participation: Client Protections and Facility Staffing, the survey would be extended to a full survey, and include all eight Conditions of Participation.

Based on the findings of the Federal Survey Team, recommendations were made to the Region IV Office to find the facility not in compliance with W122, the Condition of Participation: Client Protections. Additionally, deficient practices were identified

Mims 2146

resulting in the recommendation to cite standards W149, W154, W155, W186, W189, W474 and W485.

Findings:

On October 6, 2004, beginning at 11:50 AM, the Babcock Center, Inc. "Internal Investigation Report of Alleged Abuse, Neglect or Exploitation," dated September 27, 2004, regarding the death of Client #5 was reviewed. The report described the chronology of events as follows:

"[Client #5,] resident of the Kensington I ICF/MR, began choking after leaving the dinner table on September 25, 2004. The staff began the Heimlich maneuver and called 911. [Client #5] collapsed to the floor and staff began chest compressions and CPR. EMS arrived and began working on [Client #5]. He was transported to Richland Memorial Hospital. [Client #5] was pronounced dead at 2:13 pm. It was reported that the cause of death was cardiac arrest. On September 27, 2004, a verbal report of autopsy finding suggested that there were chunks of food found in [Client #5's] trachea. According to the nutrition progress noted dated 8/26/03, [Client #5] is on a mechanically altered pureed diet. Based on this information, an investigation for possible neglect was initiated. This was reported to the Attorney General's Office. [Investigators] from the Attorney General's Office, began an investigation."

The "Internal Investigation Report of Alleged Abuse, Neglect or Exploitation," dated September 27, 2004, recorded the time of the incident as 2:00 PM on September 25th and the actual allegation of suspected neglect was recorded as 3:00 PM on September 27, 2004.

On September 25, 2004 (at a time not documented) the agency received written statements from each of the two employees who were present during the incident. Both of the written statements described a choking episode immediately following a meal. Both of the written statements described the use of the Heimlich maneuver and CPR and the response of the emergency medical services.

According to the Consumer Advocate, who was the internal investigator for the Babcock Center, Inc., no further investigation was conducted until September 27th, when the preliminary report of the autopsy was received. The Consumer Advocate reported information received from a Licensed Practical Nurse (LPN) who was present at the emergency room was the basis for concluding (on the day of Client #5's death, September 25th) that additional investigation was not necessary. That information was recorded in a written statement by the LPN (at a time not documented) on September 25th. The statement read, in part: "ER Physician talked with me and he felt [Client #5] had a massive MC (massive coronary). They suctioned [Client #5] and then at 2:13 p they announced he had expired." No further investigation was initiated based on the LPN's written statement.

On September 27th, the second day following the death, interviews with the two employees present during the incident were completed by investigators of the Attorney General's Office at 3:00 PM. At that time, the incident was officially reported as possible neglect by the Babcock Center Inc. and the investigation was deferred to the Attorney General's Office. One of the two employees was placed on administrative leave and the second employee returned to duty at the Kensington I residence at 4:00 PM on September 27th. The conclusion contained in the agency report was: "Due to insufficient information, this investigator cannot draw a conclusion as to whether or not neglect occurred. This investigator does not have immediate access to the hospital records or autopsy records. The Attorney General's Office is investigating this allegation and will provide results to Babcock Center. Therefore, Babcock Center will defer the conclusion of this incident to the Attorney General's Office."

The report documented the decision to place one of the two employees on administrative leave pending the outcome of the internal investigation. The report did not document the rationale for allowing the second employee to return to duty prior to the completion of the investigation. The Consumer Advocate reported no further interviews were conducted following the interviews conducted by the Attorney General's Office, prior to authorizing one employee to return to duty at 4:00 PM on September 27th. The Consumer Advocate explained that the employee who returned to duty was not considered to be responsible for any aspect of potential neglect in the death of Client #5, whereas "criminal charges" may be filed by the Attorney General's Office against the employee who was placed on administrative leave.

The two employees, who were on duty on the day of Client #5's death, September 25th, were interviewed individually by investigators of the Attorney General's Office at 2:00 PM and 3:00 PM on September 27th. The report of the interviews was reviewed beginning at 12:25 PM on October 6th. Neither interview, as recorded, could confirm whether the consistency of the food prepared and served to Client #5 on the day of his death was the pureed consistency ordered by the physician. Both of the employees worked the remainder of the shift, and left the facility at 4:00 PM on September 25th. Time records provided indicated leave status for both employees on September 26th was "Annual Leave."

On October 7 at 5:45 PM, the Senior Residential Director reported the second employee had also been removed from duty based on the determination of immediate jeopardy. She provided a copy of a "Corrective Action Report" dated October 7th. The report read: "During an incident whereby a consumer went into distress at Kensington I facility, you were one of the staff on duty. Due to the inconclusive nature of the investigation you are hereby placed on Procedural Suspension until further notice. This is effective 10/7/04."

During observations at the residence during the evening meal on October 6th (a Wednesday) at 5:40 PM, all of the seven men who lived at the home were served meals that were mechanically altered to ensure that food could be ingested safely and without risk of choking. Three direct support staff were on duty. Four of the seven men (Clients

#3, #4, #6 and #8) were closely monitored by the staff who assisted them to eat their meals at a safe pace.

Evidence received during the initial document review of the death of Client #5 revealed that only two staff members were on duty at the time of the incident, despite the need for monitoring for five of seven men present for the mid-day meal on September 25th (a Saturday).

Staffing schedules for the home provided by the Home Administrator verified that three direct support staff were routinely scheduled in the home during breakfast and dinner Monday through Friday. The weekend schedules showed two staff on duty during mealtimes on Saturdays and Sundays during the prior month. The Home Administrator reported that only two staff were on duty on the day of Client #5's death and said that coverage had been considered sufficient since one of the eight men was away from the facility for the weekend.

Based on the needs of the men during the mealtime observation, two direct support staff members were not considered to be a sufficient staffing complement to ensure safety for all of the men during mealtimes.

Staff training was considered to be a critical component of the situation of immediate jeopardy based on the statement of the employee who prepared the food served to Client #5 on September 25th. The employee who prepared the meal reported that he put a grilled cheese sandwich into the food processor and then scraped "the sticky sandwich out of the processor and mixed it with bean and bacon soup." By the employee's description, he did not process the soup/sandwich mixture together to a pureed consistency as ordered for Client #5. The employee further stated that he had prepared that same meal in the same manner on other occasions and was therefore not following the protocol for preparation of Client #5's diet. A statement of the second employee said she "saw [Client #5's] bowl and the sandwich had been placed in the soup," because, "the color of the soup was lighter due to the bread." There was no clarification of that statement as to when the second employee "saw the sandwich in the soup," and the report did not document the second employee's description of the texture of sandwich/soup mixture, e.g., pureed, thick or lumpy. Although she stated she saw the mixture in the bowl, the report did not say she was asked to describe the consistency of the mixture.

Based on the information provided regarding the circumstances of the death of Client #5, the facility failed to take appropriate actions to ensure client protections, particularly related to thoroughly investigating the critical incident and providing protections for all clients during the process of investigation. Observations, interviews and document reviews conducted on October 6 and 7, 2004, provided evidence that mechanically altered diets were not consistently prepared as ordered to meet the developmental needs of all of the men living at Kensington I. The reported actions of staff in preparing mechanically altered diets indicated that staff training had not been effective. Further, evidence was sufficient to conclude that direct support staff were not assigned in sufficient numbers to supervise mealtimes at the facility on weekend days.

Mims 2149

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	42G068	A. BUILDING 01 - KENSINGTON I COMMUNI B. WING _____	11/23/2004

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
KENSINGTON I COMMUNITY RESIDEN	100 KENSINGTON RD. COLUMBIA, SC 29203

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE
K 000	INITIAL COMMENTS Surveyor: 02307 Recertification Survey Ms Katrina Rivers, QMRP (803) 256-3360 KGR K3 Building 0101 K6 06-06-83 K7 2000 Existing K8 Small ICFMR under Board and Care K9 Acceptance of a Plan of Correction Facility Rated Prompt, E-Score 1.46 During the recertification survey conducted on this date, the facility did not comply with 42 CFR 483.70(j). This was evidenced by the following K-Tags which correspond to NFPA's 101, Life Safety Code (LSC) and codes referenced by the LSC.	K 000		
K0029	483.470(j)(1)(i) LIFE SAFETY CODE STANDARD Any hazardous area that is on the same floor as, and is in or abuts, a primary means of escape or a sleeping room is protected by one of the following means: (a) Protection is an enclosure with a fire resistance rating of not less than 1 hour, with a self-closing or automatic closing fire door in accordance with 7.2.1.8 that has a fire protection rating of not less than ¾ hour.	K0029		

RECEIVED
DEC 17 2004
BUREAU OF CERTIFICATION
HEALTH REGULATION

ABOVE DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE — TITLE — (X6) DATE

X Robin D. D— X Administrator 12/17/04

ny deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting providing it is determined that ;her safeguards provide sufficient protection to the patients. (See instructions.) Except for nursing homes, the findings stated above are disclosable 90 days ollowing the date of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 ays following the date these documents are made available to the facility. If deficiencies are cited, an approved plan of correction is requisite to continued ogram participation.

Mims 2150

T OF DEFICIENCIES, OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	42C068	A. BUILDING _____ B. WING _____	11/19/2004

IE OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
INSINGTON I COMMUNITY RESIDEN	100 KENSINGTON RD. COLUMBIA, SC 29203

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE
/ W104	483.410(a)(1) GOVERNING BODY The governing body must exercise general policy, budget, and operating direction over the facility. This STANDARD is not met as evidenced by: On the day of the survey observation, interview, and record review revealed that the facility failed to ensure that the governing body exercised sufficient operating direction over the day rogram to ensure that adequate maintenance was carried out. Findings included: Observation on 11/17/04 at 12:35 PM at the day program in the men's bathroom in the lower area revealed that there was no door on the handicap accessible stall. Further observation revealed that the towel dispenser was broken, that there was a hole in the wall beside the sink, and another break behind the door, stained ceiling tiles, and that the walls were scarred and in need of painting. Interview with the day program administrator at the time revealed that she did not know why there was no door on the stall. Interview at the time with day program staff #13 revealed that there had never been a door on the stall "since I've been here." Interview with day program staff #15 at 12:45 PM confirmed that the towel dispenser was broken. Observation on 11/18/04 at 10:45 AM at the day program in the seniors' area room 203 revealed rust stains on floor, stained ceiling tiles, and that the walls	W104	W104 The facility will ensure the governing body must exercise general policy, budget, and operating direction over the facility. 1. The governing body will ensure adequate maintenance at the Day Program. 2. Support Services will replace or repair the broken soap dispenser, repair holes in the wall and replace stained ceiling tiles. 3. Scarred walls will be repainted. 4. The governing body will be submitting a capital application for engineering and financing in the future to address leaks, proper lighting, etc. Person(s) Responsible: Director of Support Services Projected Completion Date: 2/19/2005	

RECEIVED
DEC 17 2004
BUREAU OF CERTIFICATION
SC DHEC HEALTH REGULATORY

TO:	ECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE	TITLE	(X6) DATE
	X Administrator X		12/17/04

iciency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting providing it is determined that other ds provide sufficient protection to the patients. (See instructions.) Except for nursing homes, the findings stated above are disclosable 90 days following of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 days following these documents are made available to the facility. If deficiencies are cited, an approved Plan of correction is requisite to continued program partici

Mims 2151

EPARTMENT OF HEALTH AND HUMAN SERVICES
ERS FOR MEDICARE & MEDICAID SERVICES

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	426068	A. BUILDING _____ B. WING _____	11/19/2004

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
ENSINGTON I COMMUNITY RESIDEN	100 KENSINGTON RD. COLUMBIA, SC 29203

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE
W 104	Continued From page 1 were scarred and in need of painting. Interview with the day program administrator on 11/19/04 at 11:20 AM revealed that work orders had already been submitted for these and other repairs. Review of work orders revealed the following work orders: 5/25/04—ancillary building needs painting. 5/11/04— holes in bathroom walls need to be repaired; 6/4/04--ceiling tiles need to be replaced in all areas; 9/14/04--holes in both ladies and men's bathroom need repairing; 11/4/04--paper towel dispenser is not working. The administrator also produced another document dated 9/21/04 that listed 22 work orders that had been submitted. It also stated that the day program had "ceiling leaks, walls that need repairs/painting, A/C that leaks on floor, improper lighting in workshop and senior program rooms." The workshop was not receiving adequate maintenence.	W 104		
W 130	483.420(a)(7) PROTECTION OF CLIENTS RIGHTS The facility must ensure the rights of all clients. Therefore, the facility must ensure privacy during treatment and care of personal needs. This STANDARD is not met as evidenced by: On the day of the survey observation and interview revealed that the facility failed to ensure that clients had privacy during the care of personal needs for 3 out of 4 sample clients	W 130		

Mims 2152

State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Robert M. Kerr
Director

January 19, 2005

Dr. Judy Johnson
Executive Director
Babcock Center, Inc.
P.O. Box 3817
Columbia, South Carolina 29230

RE: Review of Babcock Center, Inc., Conducted By Carolina Medical Review

Dear Dr. Johnson:

As you are aware, I asked our Quality Improvement Organization (QIO), Carolina Medical Review (CMR) to perform an immediate review of Babcock facilities to determine whether these facilities are meeting the federal requirements for participation as an ICF/MR under the Medicaid program. CMR has completed its review of the Babcock facilities and has provided me a report of its findings. I have enclosed a copy of the preliminary report for your review. Based on the findings of this limited scope review, I am concerned that the deficiencies noted may be indicative of more pervasive problems at Babcock. Specifically, I am most concerned about the lack of evidence of ongoing active treatment for clients. Additionally, the report noted that two facilities had changed from an ICF/MR to a Community Training Home II. However, there was not documentation to indicate that the clients had been assessed and found to be appropriate for a different level of care. Failure to correct these deficiencies may place continued Medicaid funding for Babcock facilities in jeopardy.

A copy of the report has been forwarded to the Department of Disabilities and Special Needs (DDSN) and the Department of Health and Environmental Control (DHEC). DDSN is the designated agency with authority over all the state's services and programs for the treatment and training of persons with mental retardation and related disabilities. DDSN also provides the state matching funds for your facilities. Therefore, it is critical that you coordinate with DDSN to immediately develop a corrective action plan to address the conditions at Babcock.

Office of the Director
P.O. Box 8206 • Columbia, South Carolina 29202-8206
(803) 898-2504 • Fax (803) 898-4515

Mims 2153

A meeting date is being set for representatives from CMR to be available to discuss these findings with you, DDSN, and DHEC. If you have any additional information that you feel will change the findings in this report, please provide that to me immediately.

If you have any questions, you may contact me at (803) 898-2504.

Sincerely,

Robert M. Kerr
Director

RMK/sb

Enclosure

Mims 2154

State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Robert M. Kerr
Director

January 19, 2005

Mr. Renard L. Murray
Associate Regional Administrator
Division of Medicaid and Children's Health
Center for Medicare and Medicaid Services
61 Forsyth Street, Suite 4T20
Atlanta, Georgia 30303-8909

RE: Review of Babcock Center, Inc., Conducted By Carolina Medical Review

Dear Mr. Murray:

As you recall, I recently contacted you about my concerns regarding the number of incidents of immediate jeopardy found at facilities operated by Babcock Center, Inc., an intermediate care facility for the mentally retarded (ICF/MR). I was particularly concerned because a number of incidents of immediate jeopardy were found by the Centers for Medicare and Medicaid Services (CMS) after the Department of Health and Environmental Control (DHEC) had certified Babcock facilities met the federal requirements to operate as an ICF/MR.

After our discussions, we agreed I would have an independent quality improvement organization perform a review of Babcock facilities. I asked Carolina Medical Review (CMR) to perform an immediate review of Babcock facilities to determine whether these facilities are meeting the federal requirements to participate as an ICF/MR under the Medicaid program.

CMR has completed its review of the Babcock facilities, and I am enclosing a copy of the initial report. Based on the findings of this limited review, I am concerned that the problems noted may be indicative of more pervasive problems at Babcock. Many of the problems relate to management and staffing issues, lack of evidence of ongoing active treatment, and lack of evidence of assessments for appropriate level of care. I have forwarded a copy of this report to Babcock and the Department of Disabilities and Special Needs (DDSN), as

Office of the Director
P.O. Box 8206 • Columbia, South Carolina 29202-8206
(803) 898-2504 • Fax (803) 898-4515

Mims 2155

DDSN is the agency designated by the state with the authority over all of the state's services and programs for the treatment and training of persons with mental retardation and related disabilities.

As a result of the finding in the report, CMR was unable to provide us assurance that Babcock was meeting the conditions of participation as required under the federal regulations. Therefore, as the agency designated by CMS to survey and certify facilities, I have asked DHEC to conduct the necessary surveys of Babcock, as a whole, to provide DHHS the assurance that these facilities are meeting the standards to participate as an ICF/MR under the Medicaid program.

Further, I am scheduling a meeting with DHEC, DDSN, Babcock, and representatives from CMR to discuss the findings in the report. I will also be contacting you and DHEC to schedule a meeting to receive guidance regarding our course of action. If there are any additional actions we should be taking please advise. Any guidance your office can provide will be greatly appreciated.

I look forward to discussing this matter with you. You may contact me at (803) 898-2504.

Sincerely,

Robert M. Kerr
Director

RMK/sb

Enclosure

Mims 2156

State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Robert M. Kerr
Director

January 19, 2005

Mr. C. Earl Hunter
Commissioner
South Carolina Department of Health and
Environmental Control
2600 Bull Street
Columbia, South Carolina 29201

RE: Review of Babcock Center, Inc., Conducted By Carolina Medical Review

Dear Mr. ~~Hunter~~ Earl:

As you know, I asked Carolina Medical Review (CMR) our Quality Improvement Organization (QIO), to perform an immediate review of Babcock Center, Inc., an intermediate care facility for the mentally retarded (ICF/MR). Asking a QIO to perform such a review was an unusual step for this agency. However, this review was performed as a result of my concerns regarding the number of incidents of immediate jeopardy found at Babcock by the Centers for Medicare and Medicaid Services (CMS). Particularly, these incidents were found after your agency had certified the facilities met the federal requirements to participate as an ICF/MR under the Medicaid program.

I have enclosed a copy of CMR's initial report for your review. Based on the findings of this limited review, I am concemed that the deficiencies noted may be indicative of more pervasive problems at Babcock. As you will see in the report, many of the findings relate to management and staffing issues, lack of evidence of ongoing active treatment, and lack of evidence of assessments for appropriate level of care.

I realize that at any given time, a facility may be found out of compliance one day, and in compliance with federal requirements the next. However, the findings in CMR's report cannot be ignored. As you will note from the report, CMR used the same standards for participation, provided in the Code of Federal Regulations (CFR), as DHEC. As a result of these findings, CMR was unable to provide us adequate assurance that Babcock was meeting the conditions of participation as required under the federal regulations.

Office of the Director
P.O. Box 8206 • Columbia, South Carolina 29202-8206
(803) 898-2504 • Fax (803) 898-4515

Mims 2157

As the agency designated by CMS to survey and certify facilities, I am requesting that your agency conduct the necessary surveys of Babcock, as a whole, to provide DHHS the assurance that these facilities are meeting the standards to participate as an ICF/MR under the Medicaid program. Please let me know of any obstacle that would prevent you from immediately performing this survey.

A meeting date is being set for representatives from CMR to be available to discuss these findings with you, the Department of Disabilities and Special Needs (DDSN), and Babcock. Additionally, I will be contacting you and CMS to schedule a meeting to advise them of our course of action and to receive appropriate guidance.

If you have any questions, please contact me at (803) 898-2504.

Sincerely,

Robert M. Kerr
Director

RMK/sb

Enclosure

Mims 2158

State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Robert M. Kerr
Director

April 29, 2005

Judy Johnson, Ph.D.
Executive Director
Babcock Center
500 Rivermont Drive
Columbia, South Carolina 29210

Dear Dr. Johnson:

On April 29, 2005, the Department of Health and Human Services (DHHS) received notification from the South Carolina Department of Health and Environmental Control (DHEC) that a second follow-up visit had been conducted at the Kensington I Community Residence on April 27, 2005. DHEC found that this facility remained out of substantial compliance with the requirements for participation in the Medicaid program and recommended termination effective April 30, 2005.

You are required to notify all residents seeking admission to your facility of the Medicaid termination. You must also immediately begin taking, or planning for, the following steps as indicated:

1) You must immediately begin a review of each affected Medicaid resident's care plan and determine if alternative care is appropriate;
2) No later than May 2, 2005, you must provide this office with your plans for resident relocations;
3) You must immediately begin canvassing all South Carolina Medicaid ICFs/MR (or appropriate alternative resources) for available placements of the Kensington I residents, and beginning May 2, 2005, you must furnish DHHS with a daily record of your efforts to include contact information, location and placement availability;
4) On the date your agreement ends, April 30, 2005, you must notify all responsible parties via telephone and letter that your Medicaid agreement has been terminated due to your facility's failure to meet the federally mandated Medicaid participation requirements;

Office of the Director
P.O. Box 8206 · Columbia, South Carolina 29202-8206
(803) 898-2504 · Fax (803) 898-4515

Mims 2159

5) You must also post public notices in visible areas throughout your facility advising that your Medicaid agreement has terminated and that assistance will be made available for resident transfers to other participating facilities;
6) No later than May 2, 2005, you must also furnish DHHS a complete and accurate listing of all residents, regardless of pay sources, to include their names, Medicare/Social Security/Medicaid numbers, pay sources, responsible parties and attending physician(s) names, addresses and telephone numbers. Any change to this patient census must be reported to DHHS on a daily basis.

The federal regulations governing the administration of the Medicaid Program afford an ICF/MR specific appeal rights with respect to termination. In order to invoke these appeal rights, your facility is required to file a written request for a hearing within sixty days of the receipt of this notice. Such a request for an appeal should be submitted to the following address:

South Carolina Department of Health and Human Services
Division of Appeals and Hearings
Post Office Box 8206
Columbia, South Carolina 29202-8206

Please contact Mr. Sam Waldrep or Ms. Nicole Mitchell-Threatt at (803) 898-2590 if you have any questions regarding this matter.

Sincerely,

Robert M. Kerr
Director

RMK/wtbk

cc: Stanley Butkus, Ph.D
Kathi Kelly, Ph.D
Karen Price
Pam Askins

Mims 2160

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	420068	A. BUILDING _____ B. WING _____	R 03/08/2005

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
KENSINGTON I COMMUNITY RESIDEN	100 KENSINGTON RD. COLUMBIA, SC 29203

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE
W 104	483.410(a)(1) GOVERNING BODY The governing body must exercise general policy, budget, and operating direction over the facility. This STANDARD is not met as evidenced by: NOT CORRECTED: INADEQUATE OR NO ACTION BY PROVIDER On the day of the survey observation, interview, and record review revealed that the facility failed to ensure that the governing body exercised sufficient operating direction over the day program to ensure that adequate maintenance was carried out. Findings included: Observation at the day program on 3/7/05 at 11:07 AM revealed that although a door had been put on the adapted toilet stall, it had not been painted. The hole in the wall in the men's bathroom had been patched and roughly spackled, but not sanded and painted. The break behind the door was still present. A paper towel dispenser had been put up. It did not work. The bathroom still needed painting. Some stained ceiling tiles needed replacing. Room 203 still had rust stains on the floor. It still needed repainting and ceiling tiles replaced. Interview with the day program administrator on 3/7/05 at 12:15 confirmed that these repairs had not been made. She also confirmed that the towel	W 104	W104 The facility will ensure the governing body exercises general policy, budget, and operating direction over the facility. a. The hole in the wall in the men's bathroom will be repaired. b. The bathroom and door on bathroom stall will be painted. c. A new operable paper towel dispenser is up in the bathroom. d. The break behind the door will be repaired. e. The stained ceiling tiles in the bathroom and classroom will replaced. f. Room 203 rust stains on the floor will be repainted. g. In the future, the facility will ensure that the governing body exercises sufficient operating direction over the Day Program to ensure that adequate maintenance is carried out. Person(s) Responsible: Day Program Manager Projected Completion Date: 4/15/05	

RECEIVED
MAR 30 2005
SC DHEC/HEALTH REGULATION

(X6) SIGNATURE OF PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE	TITLE	(X5) DATE
X [signature]	X Administrator X	3/29/05

Any deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting providing it is determined that other safeguards provide sufficient protection to the patients. (See instructions.) Except for nursing homes, the findings stated above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 days following the date these documents are made available to the facility. If deficiencies are cited, an approved plan of correction is requisite to continued program participation.

Mims 2161

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Chairman

T. Kent
Vice Chairman

Howard L. Brilliant, MD
Secretary

D H E C

PROMOTE PROTECT PROSPER

C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment.

BOARD:
Carl L. Brazell

Louisiana W. Wright

L. Michael Blackmon

Coleman F. Buckhouse, MD

April 29, 2005

FEDERAL EXPRESS

Dr. Judy Johnson, Executive Director
Babcock Center
500 Rivermont Drive
Columbia, South Carolina 29210

Re: Kensington I Community Residence

Dear Dr. Johnson:

To participate as a provider of services in the Medicaid Program an Intermediate Care Facility for the Mentally Retarded one must meet all provisions of section 1905 (g) of the Social Security Act; be in compliance with each of the Conditions of Participation established by the Secretary of Health and Human Services; and be free of hazards to the health and safety of the residents.

The South Carolina Department of Health and Environmental Control assists the Centers for Medicare and Medicaid Services by surveying intermediate care facilities and other providers of services to determine whether they continue to meet the requirements of Medicaid.

On **April 27, 2005** we conducted a second follow-up visit at your facility. Two (2) standards were found not corrected nor had acceptable progress been made in correcting these deficiencies since the time of the recertification survey, and two (2) additional standards were cited.

We are recommending, as this is non-compliance on the second revisit, termination in the Medicaid Program effective April 30, 2005.

Sincerely,

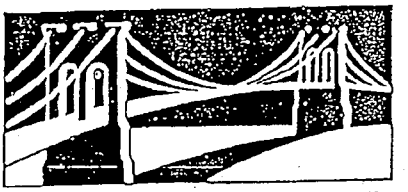
Arthur I. Starnes, Director
Division of Certification

AIS/REC/eak

cc: HHS

Enclosures

Mims 2162



BABCOCK CENTER

3 May 2005

Dear Parents/Family Members:

As a follow-up to the telephone call you received yesterday, I believe it is important for you to have this information in writing from me.

On April 29, 2005, the SC Department of Health and Human Services (DHHS) was notified by the SC Department of Health and Environmental Control (DHEC) that Babcock Center had failed to correct deficiencies found during their annual certification review of Medicaid Standards at Kensington I ICF/MR. DHEC has recommended that our Medicaid funding be terminated as of April 30, 2005. DHHS has informed us to that our Medicaid agreement has been terminated due the failure of Kensington I to meet the federally mandated Medicaid participation requirements. We have been directed to begin planning for relocating the residents.

You should know that the two Medicaid Standards determined as not being in compliance by DHEC are not life threatening. There are no health, safety or accountability issues involved. Essentially, on April 27, 2005, the DHEC surveyor found that documentation by Babcock staff was insufficient to justify the psychiatrist's increase of a medication for one person whom he has treated for at least a year. The fact that our psychiatric consultant based his decision on his interview with the consumer, not just on residential documents, leads us to the decision that we will appeal the action to terminate funding.

The appeal procedure may require several months. Please be assured that, regardless of the outcome, your family member will continue to receive residential services. We will keep you informed and consult you on alternative locations as a contingency plan should relocation become necessary.

I apologize for the concern this information must cause you. We did not expect the DHEC finding nor the DHHS decision. If you have any questions about the telephone call or this letter, please call me, Gene Marlow or Dorothy Goodwin.

Sincerely,

Judy E. Johnson, Ed.D.
Executive Director

SOUTH CAROLINA DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS

Critical Incident
Part II: Final Report

Agency: Babcock Center

County: Richland, Lexington

[X] District I:
[ ] District II:

Region: [X] Midlands [ ] Piedmont
Region: [ ] Coastal [ ] Pee Dee

Name of Primary Identifier: Edward Mims

(Name of primary person involved. If incident occurred on van or in facility or in a situation where all names are not listed, specify as such)

Date of Incident: Unknown

Time of Incident:

Location of Occurence (indicate name of DDSN facility, i.e., unit name in Regional Center, Saleeby Center, provider operated facility, i.e., Sunrise CTH II or address in community, i.e., individual's home or other address, agency van at Joe Doe adult day program, respite caregiver home):

Kensington I

Results of Investigation:

Critical Incident
Part II: Final Report

At approximately 6:50pm on May 27, 2005 staff, Trelas Heatley, was helping Edward Mims, supported person, get ready to go home on pass. He noticed that Edward was not wearing any underwear. According to the staff, Edward had begun undressing earlier for bed but was instructed by the staff to put his pants back on. Edward did not put his underwear back on. Mr. Heatley instructed Edward to take off his pants so that he could put some underwear on and he left the room to get a pair of underwear for him. Edward's underwear and socks are not stored in his room but in a plastic bin in the hall closet. Edward is able to dress himself with verbal prompting. Edward will undress himself when he is ready to go to bed. When Mr. Heatley returned to the room, Edward was sitting in a chair with his pants down around his ankles. Mr. Heatley noticed blood dripping from the chair to the floor. Mr. Heatley went to get another staff to help him. At that time, he did not know where the blood was coming from. Mr. Heatley and Ms. Wilson checked Edward and found that there was a tear on the bottom of his penis. Ms. Wilson cleaned Edward's wound while Mr. Heatley was on the telephone with the nurse, Maggie Mobley. Ms. Mobley told the staff to call Jan McLane because she was on-call that evening and take him to the emergency room if necessary. Ms. Mobley stated that the staff told her that he had left the room to get some underwear for Edward and when he returned to the room, he noticed the blood. Jan McLane, Nurse, was called and arrived at the facility to evaluate the injury. She stated that there was a horizontal tear just below the head of the penis on the underside. When she lifted the penis to evaluate the injury, the skin began to tear more. The skin on that area was very thin. Ms. McLane stated that she checked under Edward's fingernails and did not notice any skin tissue or blood that would indicate that he had scratched himself. She stated that she and the staff checked the chair that Edward was sitting in and could not find anything that could have caused the injury. She stated that the injury did not appear to be the result of abuse or neglect. There was no bruising, no swelling, nor any redness in the area. Edward was transported to Lexington Medical Center for evaluation and treatment. According to the staff who accompanied Edward to the hospital, the wound again tore more when the doctor examined him. He received seven stitches to close the wound. It was also recommended that Edward be seen by a Urologist. He has an appointment scheduled for June 3, 2005.

Ms. Mims, Edward's Mother, was notified of the injury. Ms. Mims decided to make a report to the police department. The police officer called the Kensington facility and talked with the staff stating that they needed to ensure that Edward received proper wound care for the injury and that an internal investigation was completed. The officer, name unknown, stated that he would follow-up with the facility in a few days. As of June 2, 2005 there has been no additional contact from the police department.

E-mail was received from Tracy Kelly, Hospital Social Worker, stating that the staff at Lexington Medical Center did not feel that Edward was in any type of imminent danger, but requested that an incident report be completed because the staff could not isolate the origin of the injury. Investigator was unsuccessful in contacting Dr. Mark Johnson, Emergency Room Physician, to obtain his opinion of the injury. Maggie Mobley, nurse, from Kensington also attempted to obtain information from Dr. Johnson and the LMC emergency department. She was unable to obtain information as to Dr. Johnson's impression of the injury. She was told that Dr. Johnson recommended that Edward be seen by an Urologist for follow-up. Investigator interviewed Tracy Kelly on June 1, 2005. Ms. Kelly stated that she had become involved in the situation on Friday night due to the unusual nature of the injury and the fact that Edward was non-verbal. Investigator asked if Ms. Kelly knew the doctors impression on the night of the injury. She stated that Dr. Johnson was not there but that she would leave him investigator's questions. Ms. Kelly stated that the nurse from Friday night was available. Ms. Kelly talked with the nurse while investigator was on the telephone. The nurse did not remember any specific information from the evaluation on Friday. Ms. Kelly stated that neither she nor Dr. Johnson felt that the injury was the result of abuse or neglect. She stated that if they had felt that this was the case, then they would not have allowed Edward to return with the staff and would have notified the authorities. Ms. Kelly stated that the staff who accompanied Edward that night to the hospital was very nice and pleasant. He did not appear to be making excuses for the injury and did not appear to be defensive when questioned about the origin of the injury. Ms. Kelly called Kensington I that evening and also talked with Ms. Wilson, staff. She stated that again the staff could not provide the origin of the injury but that she did not feel that they were hiding anything.

On June 2, 2005 Dr. Graeme Johnson, Medical consultant, from DDSN arrived at the Kensington I facility to evaluate Edward's injury and assist with the investigation. Dr. Johnson also reviewed Edward's medical information, staff statements, investigator notes, accident injury record, evaluated the physical environment of Edward's room, and interviewed the nurse, Maggie Mobley. Dr. Johnson will forward his written report to investigator once it is completed. Dr. Johnson stated that he could not determine the origin of the injury but did not feel that the injury was the result of abuse or neglect.

Edward is not able to provide any information as to the origin of the injury. The staff present at the facility did not witness the injury occur. It is probable that the injury occurred while Mr. Heatley was out of the room getting Edward's underwear. There were no zippers or clasps on Edward's clothing that could have caused the injury. There was no blood in his pants. The staff also

SOUTH CAROLINA DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS

Critical Incident
Part II: Final Report

checked the underwear that Edward had been wearing earlier that evening and found no signs of blood. The chair in which Edward was found sitting, did not have any sharp edges that could have caused the tear. As the wound continued to tear with minimal evaluation of the injury, indicating a freshness and fragility of the skin in that area, it is believed that the tear was an accidental injury. Without any witnesses or objects that would provide a clear understanding of the injury, the origin remains unexplained. Based on a review of the physical environment, staff statements, nurse's evaluation, Dr. Graeme Johnson's evaluation and staff at Lexington Medical Center's evaluation, there is no reason to believe that the injury was caused by abuse or neglect.

Describe Action Taken:
Edward was evaluated by the nurse and sent to the emergency room for evaluation and treatment.

Is this incident a repeat occurrence with this consumer? ☐ Yes ☒ No

What quality assurance actions were taken to prevent the occurrence of an incident like this?
1. Nursing staff will ensure proper wound care and that Edward is seen by the Urologist.
2. Babcock Center will cooperate with the independent investigations.

Reporting: If the incident was reported to another agency with oversight of the facility/program, please indicate which agency:

Check all that apply: ☒ DDSN ☒ Ombudsman ☐ Service Coordination: _____
☐ DSS ☐ DHEC ☒ Other: Parent/Guardian

Reported by Whom/Title? Gilda Williams, QMRP on-call Date: 05/27/2005

Signature of Investigator — 6/2/05 Date

Signature of Executive Director/Facility Administrator — 6/2/05 Date

This document should be forwarded to the following DDSN staff:
Darlynn Thomas, Director, Quality Assurance/Quality Improvement Division, SCDDSN
PO Box 4706, Columbia, SC 29240 Fax#: 803.898.9656 and
Sam Davis, Program Coordinator, Abuse/Neglect/Exploitation/Critical Incidents, SCDDSN
8301 Farrow Rd., Columbia, SC 29203 Fax#: 803-935.6170

* *If the critical incident being reported is a death, then complete the Report of Death form.*

Stanley J. Butkus, Ph.D.
State Director
Robert W. Barfield
Deputy State Director
Administration
Ronald C. Dozier
Associate State Director
Operations
Kathi K. Lacy, Ph.D.
Associate State Director
Policy

3440 Harden Street Ext (29203)
PO Box 4706, Columbia, South Carolina 29240
V/TTY: 803/898-9600, FAX: 803/898-9653
Toll Free: 888/DSN-INFO
Home Page: www.state.sc.us/ddsn/

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Lyssa Harvey
Vice Chairman
J. Lewis Stephens
Secretary
Isaac B. Dickson, Jr.
Ronald Forrest
W. Robert Harrell
Edythe C. Dove

CC: DOT

MEMORANDUM

TO: Dr. Judy Johnson
Executive Director,
Babcock Center

FROM: Stan Butkus, Ph.D.
State Director

DATE: June 1, 2005

RE: Request for our Independent Investigation

I have received your letter dated June 1, 2005 requesting an independent investigation of a laceration received by Edward Mims.

It is my understanding that the Ombudsman's Office will be investigating the matter. Jon Cook of the Ombudsman's Office has agreed to let our medical consultant, Dr. Graeme Johnson, participate in the investigation.

SB/jst

Stanley J. Butkus, Ph.D.
State Director
Robert W. Barfield
Deputy State Director
Administration
Ronald G. Dozier
Associate State Director
Operations
Kathi K. Locy, Ph.D.
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Ronald Forrest
W. Robert Harrell
Sophia C. Dore

MEMORANDUM

To: Mr. Ron Dozier
Associate State Director, Operations

From: Dr. Graeme Johnson
Medical Consultant for SCDDSN

Date: June 2, 2004

Subject: Review of Critical Incident Occurring May 27 at Kensington I House

Question:

Review of medical information for inclusion in investigation data and evaluation

Procedure:

- Review in response to request from Babcock Center
- Arranged June 1, 2005
- Kensington I visited 8:20 a.m. – 10:00 a.m. on June 2, 2005
- Brief examination Edward Mims
- Interviews – Angela Richards (QRMP for house)
  Maggie Mobly LPN (house nurse)
  Tonya Bradford (Consumer Advocate Babcock Center)
- Notes reviewed:
  - Medical chart Edward Mims
  - Current medication, nursing, physical exam notes
  - Statements of staff present May 27, 2005
  - Notes received from ER visit

A. Reconstruction of Events:

Edward has profound mental retardation and is non verbal and dependent for most care. He is on medication for hypertension, gastroesophogeal reflux, seizure disorder and allergies.

As usual on Friday nights Edward was being prepared for home visit about 6:20 p.m. on May 27, 2005. During check he was found to have changed clothes but had no underpants on. He was standing in his bedroom near a chair against the wall and the caregiver left room very briefly to get clothes and on return caregiver noted Edward to be sitting with his pants around his ankles and blood drops were noted on the chair. Checking found a laceration of the shaft of the penis. This was checked by the nurse and at the time it was reported that the skin tore a little more during the manipulation to examine the cut. It is reported that further extension of the skin laceration occurred when examined in the emergency room. When examined by the nurse at the house no blood or tissue was found under Mr. Mims finger nails. No bruising, ulcers, nor swelling were noted in the area. He was taken for care to Doctors Care which was closing and then he was taken to the ER at Lexington Medical Center and treated there. A 4cm laceration (horizontal, on the ventral surface of the shaft of the penis) was repaired using 7 stitches. From oral reports of doctor notes it appears no foreign bodies or anomalies were noted. Hospital staff was reported by social worker to have assessed the situation as not indicating any danger risk to Mr. Mims and he returned to Kensington I then went home for the weekend with family as usual. Mr. Mims has returned to the cottage and he, is his usual self. The wound has been treated each day with bactracin ointment without incident.

On examination today Mr. Mims does have a few scalp scratches, acne on his upper back and slightly long finger nails (about 1/2cm with smooth edges and second finger nails either side are dysmorphic but not sharp). He did not show distress when I explained I was a doctor and needed to look at his injury. No bruising, swelling nor tenderness were noted of scrotum, groin, penis. Urinary meatus and glans have normal circumcised appearance. On ventral surface of shaft of penis is a transverse laceration with sutures present. No swelling, no bruising, no exudates, and no evidence of any other skin irritation of penis noted.

B. Review Other Notes and Evidence:

My examination of chair he was sitting on showed no sharp areas, or protruding objects. No other sharp areas are noted on furniture close by – a rough area is on edge of drawers across room – unlikely to have been accessible in short staff absence. The clothing is reported to have had no tears or zips or button (sweatpants).

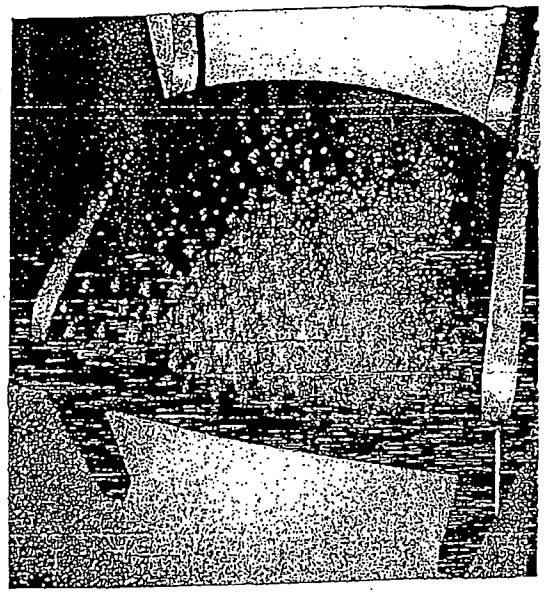
There is no history of masturbation. No history of excessive bleeding. No history of past injury to genital area. The demeanor of Mr. Mims today and that reported on by staff on the evening of the incident do not make an aggression on his person a likely explanation. The injury appears to have occurred suddenly and caused immediate bleeding. It is of note that the laceration extended easily with minimal handling. Mr. Mims forearm skin is fairly soft and fragile but groin and genital skin appears firm and have no local irritation, therefore it would not seem to be predictable that he would have trouble in the area. He does scratch himself in the scalp and cause small scratches/lacerations. It is possible minor scratching may have caused a small skin break on the penis, that lead to this laceration.

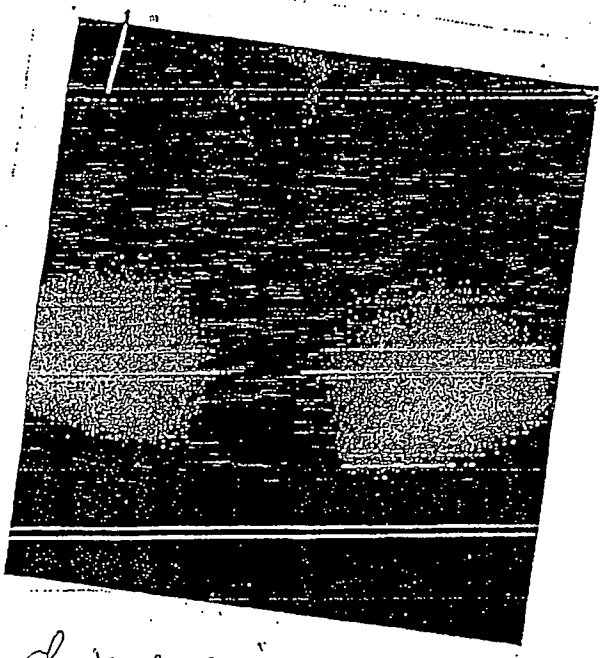
His medication regimen does not include medications that are anticipated to cause skin sensitivity nor self injurious acts. He appeared to be in a caring, supportative situation when the laceration occurred and appropriate care and follow-up has been provided.

C. Conclusion:

The evidence I have seen, the notes I have reviewed, and interviews I have conducted, lead me to a conclusion that it is unlikely that Edward Mims' laceration was due to abusive or negligent management. It is an unexpected problem that had no antecedents. His local (penile) skin appears to have been fragile at the time and the laceration may have been due to minor trauma such as fingernail scratches. Current care and findings do not however indicate a cause for this skin sensitivity. The current skin healing does not indicate likelihood of recurrence.

Cause for laceration unknown.





-Edward Mims
5/27/05

Mims 2171

5-27-05.

On Friday doing Acting with Resident, In greatroom, about 6:50, when Mr Heatley who was assiting Edward mims. in his Bedroom on left wing, who was getting ready to go home for the weekend, when Mr. Heatley returned to Greatroom stating Mrs Wilson can you Come here for a minute, And Look at Edward, I went to see what was happening. And this is what I saw, Edward was sitting in chair in his bedroom with Shirt and Sock on with Blood in the chair. I checked Edward mims for injuries, asked Mr Heatley, what happen where is that Blood coming from His response was I don't know. I continue to check Edward Mims for injuries, And noticed that the Blood was coming from his penis area I went and called C. Rivers who was talking with Maggie Mobley the nurse. Minute before, Maggie called back and talked with Mr Heatley I returned to left wing. Edward mims Bedroom, and continued to ass't him.

Mims 2172

When getting Edward ready to go home, I took him in his room to get his shoes. After putting his shoes on, I looked him over and found that he had on no underwear. I then removed his shoes and asked him to take off his pants as I walked to get a pair of underwear. When I returned to the room Edward had his pants down and he was sitting in the chair. I then noticed the blood on the chair drop on the floor so I went and got a co-worker.

Sticus Hutley
5-27-05

Mims 2173

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE MATTER OF EDWARD MIMS

CASE NUMBER 03 GC 40 00172

FILED
PROBATE COURT

03 DEC -2 PM 4:11

ANGELA M. KIRBY
PROBATE JUDGE
RICHLAND COUNTY, S.C.

ORDER APPOINTING PHYSICIAN/EXAMINER

☒ GUARDIANSHIP

☐ CONSERVATORSHIP

Upon reading the petition in the above matter, I hereby appoint Dr. TAN PLATT, MD AND LENNY MULLIS, MSW whose directed to report to this Court their findings as to the person's mental condition, utilizing the Court's established examiners guidelines, and their opinion as whether the captioned person is an incapacitated person*; and if so, whether that person needs a guardian** and/or conservator*** to be appointed by this Court for him or her.

* "Incapacitated person" means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, or other cause (except minority) to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person or property.

** A "guardian" of an incapacitated person has the same powers, rights, and duties respecting his ward that a parent has respecting his unemancipated minor child; has custody of the person of his ward; shall make provision for the care, comfort, and maintenance of his ward and arrange for training and education; and may give consents for medical or other professional care, counsel, treatment, or service.

*** A "conservator" manages, protects, and preserves the estate, assets, money or property of any incapacitated person; and expends funds as needed for the support, care, and welfare of the person or those entitled to be supported by him.

Executed this 2nd day of December, 2003.

Angela M. Kirby

Angela Kirby, Associate, Probate Judge

FORM #533P.C.(1/89)
62-5-303, 62-5-407

C.11 P.97 2371

Mims 2174

- OF SOUTH CAROLINA

PROBATE COURT

COUNTY OF RICHLAND

IN THE MATTER OF EDWARD MIMS

CASE NUMBER 03 GC 40 00172

DOCTOR'S AFFIDAVIT REGARDING CAPACITY

PERSONALLY APPEARED BEFORE ME Thomasina L. Michael
Name of Notary

who being duly sworn deposes and says:

I am (Please set forth your medical credentials): IAN J. PLATT, MD

Business address and phone: 3209 COLONIAL DR COLUMBIA, SC 29203 803-434-6116

Date and Place of this examination: 2/17/05 - PINE LAKE FACILITY OF BARBOUR & CANTEY

I have had previous opportunities to evaluate the patient? ☒ Yes ☐ No
(If yes, indicate dates and circumstances within the last year and/or reference if you have been the patient's personal physician for a period of time and the time frame.) I have been Mr Mims personal Physician for several years in my role of Medical Director of Barbour Cantey

Is the patient oriented to time and place? ☐ Yes ☒ No

What is the physical condition and age of the patient? (Detail any other significant factors that may be relevant to the Court.) 33 y.o. with profound mental retardation, seizure disorder, cerebral palsy, contracture

Set forth the results of any tests which bear on the issue of incapacity and date of test:

BASED UPON MY EVALUATION OF THIS PATIENT:

☐ I DO NOT believe this patient is an "incapacitated person".[1] I do not find any impairment by reason of metal illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, or other cause to the extent that he/she lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his/her person, property, or finances.

☒ I DO BELIEVE THIS PATIENT IS AN "INCAPACITATED PERSON" and in need of a Guardian and/or Conservator as I find him/her to be impaired by reason of (CHECK ALL THAT APPLY AND SET OUT AND DESCRIBE THE LIMITATIONS RESULTING FROM EACH.)

- ☐ Mental Illness
- ☒ Mental Deficiency
- ☐ Physical Illness or Disability
- ☐ Advanced Age
- ☐ Chronic Use of Drugs
- ☐ Chronic Intoxication
- ☐ Other

[1] "Incapacitated person" means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, or other cause to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person or property. (Section 62-5-101 of the South Carolina Code of Laws)

Is this condition permanent or temporary?

Can Patient perform activities of daily living?

What other information do you believe would assist the Court in making a determination of capacity?

FURTHER AFFIANT SAYETH NOT.

Physician's Signature: [signature] MD

Print Name: Ian J. Platt, M.D.

Examiner: _____

Credentials (M.D., Ph.D., D.O., R.N.)

Address: 3209 Colonial Dr.
Columbia, SC 29209

Telephone: 803-434-6116

SWORN to before me this 17th day of February 20 05

[signature]
Notary Public for South Carolina
My Commission Expires: 11/09/08

FAILURE TO PROVIDE DETAILED RESPONSES TO THE QUESTIONS ON THIS AFFIDAVIT MAY OBLIGATE YOU TO APPEAR AT THE PROBATE COURT HEARING.

All information MUST be typed or clearly printed.

E OF SOUTH CAROLINA

PROBATE COURT

UNTY OF RICHLAND

... THE MATTER OF EDWARD MIMS

CASE NUMBER 03 GC 40 00172

EXAMINER'S REPORT

Please answer the following questions concerning the above person. Please provide details a end of this form or an attached sheet of paper.

1. Have you treated this person before Yes ☒ No ☐
   If yes, give brief history. Medical doctor at Babcock center for several years.
2. Has this person ever been rated or found:

disabled	Yes ☒	No ☐	Unknown ☐
mentally ill or incompetent	Yes ☒	No ☐	Unknown ☐
chemically dependent	Yes ☐	No ☒	Unknown ☐

3. Can the above person:

care for self (personal hygiene)	Yes ☐	No ☒	Unknown ☐
prepare meals and/or clean house	Yes ☐	No ☒	Unknown ☐
maintain bank accounts or funds	Yes ☐	No ☒	Unknown ☐
pay bills	Yes ☐	No ☒	Unknown ☐
live independently	Yes ☐	No ☒	Unknown ☐
operate a car	Yes ☐	No ☒	Unknown ☐
take medications unsupervised	Yes ☐	No ☒	Unknown ☐

4. Would the above person benefit from:

further education	Yes ☐	No ☒	Unknown ☐
further training	Yes ☐	No ☒	Unknown ☐
therapy of some sort	Yes ☐	No ☒	Unknown ☐
medical aids or equipment	Yes ☐	No ☒	Unknown ☐
an operation or medical procedure(s)	Yes ☐	No ☒	Unknown ☐
structured living arrangements	Yes ☒	No ☐	Unknown ☐

5. Has the above person had in the last six months:

hospitalization(s)	Yes ☐	No ☒	Unknown ☐
therapy or treatment	Yes ☐	No ☐	Unknown ☐
inpatient or outpatient surgery	Yes ☐	No ☒	Unknown ☐
major medical test(s)	Yes ☒	No ☐	Unknown ☐
psychological or psychiatric testing	Yes ☐	No ☐	Unknown ☐

Awaiting evaluation 11/17/04

6. In your opinion, does this person have the mental or physical capacity to effectively manage his/her property and financial affairs Yes ☐ No ☒

   and /or make necessary daily living and health care decisions Yes ☐ No ☒

your knowledge does this person have:

a power of attorney	Yes ☐	No ☐	Unknown ☒
a health care power of attorney or	Yes ☐	No ☐	Unknown ☒
a "living will"	Yes ☐	No ☐	Unknown ☒

8. Does the above person have any of the following coverages?

health insurance	Yes ☒	No ☐	Unknown ☐
medicare	Yes ☒	No ☐	Unknown ☐
medicaid	Yes ☒	No ☐	Unknown ☐
veteran's health care	Yes ☐	No ☐	Unknown ☒

9. Does this person have a primary caretaker? Yes ☐ No ☒ Unknown ☐
If yes, please give available information on name, address, and relationship to above person.

lives in a Babcock group home.

SWORN to before me this 17th day of February, 20 05

Notary Public for South Carolina

My Commission Expires: 11/09/08

Date: 2/17/05

Examiner's Signature

TANJ. PLATT

Examiner's Name

Use this space for explanations or additional comments.

FORM #538PC (2/2004)

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