



The COFAR VOICE

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Patty Howland talks about her brother, Tom, a Glavin Regional Center resident, during a legislative breakfast at Glavin in March. Tom used to repeatedly run away from a community-based group home, but has thrived at Glavin.

Glavin Center seen as caring and cost effective

After Roland Charpentier moved his brother, Richard, out of the Glavin Regional Center in Shrewsbury and into a group home on the center's grounds a few years ago, his brother contracted pneumonia four times.

Roland had seen enough. He had Richard moved back into Glavin, where the doctors and nurses are better equipped to deal with Richard's tendency to aspirate food into his lungs, a condition that cause pneumonia and other infections.

Since he's been back at Glavin, Richard, now 68, has been in excellent health and hasn't had any further bouts of pneumonia. "I'm very concerned about his being moved somewhere else," Roland said, referring to the Patrick administration's plans to close Glavin by the end of Fiscal Year 2013. "We'll do everything we can to keep him in ICF-level (Intermediate Care Facility-level) care."

Glavin is one of four ICF-level developmental centers in Massachusetts that the Patrick administration has targeted for closure. The closure plans have concerned and

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National background check inches closer

Michael Burris was convicted in California in 1999 of having sex with a minor, and reportedly faced felony charges for burglary and illegal gun and drug possession, according to WCVB TV Channel 5.

Burris served a year in prison in California, then violated a 5-year probation and fled to Massachusetts where he took a job driving people with intellectual disabilities to day programs. Burris, who also allegedly failed to register as a sex offender in Massachusetts, was finally arrested by Massachusetts State Police in 2005, after he had been driving special needs students.

One barrier to Burris's ability to drive disabled clients in this state would have been a requirement that that the van company that hired him first do a national criminal background check. That requirement still doesn't exist in Massachusetts.

But a process of routine national background checks may be inching closer as a result of recently enacted legislation to upgrade the state's criminal database. The question remains, though, whether a long-standing bill that would authorize the Department of Developmental Services to require the national checks will finally pass this year.

COFAR seeks answers on both community costs (Page 3) and vendor salaries (Page 5).

The news of Burris's arrest helped convince COFAR member Janet Marcus that her intellectually disabled sister, Nancy Brennon, needed to be moved out of a group home in Quincy and into the Wrentham Developmental Center. Burris had been a driver of a van that regularly transported Brennon from her group home to her day program, Marcus said.

When Marcus heard about Burris' arrest, she began calling state and law enforcement authorities, trying to find out whether Burris would be put in prison or sent back to California. She says she ran into a wall of silence and seeming indifference from most of those she contacted.

"The system is broken," Marcus said in a recent interview. "We have a legal system, but we don't have a justice system."

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angered family members and guardians of the developmental center residents, who believe the centers provide the best and most appropriate care available in the state for their loved ones, most of whom have severe or profound levels of intellectual disability and complicated medical issues.

COFAR has called for an independent cost study prior to the closures of the Glavin, Monson and Templeton developmental centers. The Fernald Developmental Center, the first ICF on the administration's closure list, has been emptied of most of its residents.

A state budget amendment, filed by Rep. Anne Gobi of Spencer, which would have required an independent study of the cost of closing Glavin, Monson, and Templeton, was shelved by the House leadership, and COFAR is urging support for a similar amendment in the Senate. (See story on Page 4.)

The group home on the Glavin grounds that Richard Charpentier was briefly moved to is state-operated, but is not an ICF-level facility, meaning it does not have the intensive medical, clinical, and therapeutic staffing that Glavin and the other developmental centers have.

Richard has lived in developmental centers practically all his life. He was born with severe brain damage and was placed in what is now the Wrentham Developmental Center when he was four years old. Roland said his brother lived at Wrentham for some 30 years before Roland had him transferred to the newly built Glavin Center in 1975. At that time, Roland said, the landmark Ricci v. Okin consent decree case had just been filed to improve care at Wrentham and a number of other state facilities. The care at Glavin was already far better than it was at Wrentham, which had yet to see the improvements that were to come as a result of the Ricci case.

Richard spends his days at Glavin taking walks with his friends and staff members and looking at pictures in books. He enjoys being taken on rides, going to lunch, and listening to the radio.

Joan and Brad Douty's daughter, Anna, has only been living at Glavin for about six years. But like Richard Charpentier, Anna Douty couldn't function successfully in a non-ICF, group-home setting.

At a legislative breakfast at Glavin in March, Joan Douty told state lawmakers that Anna had been self abusive in a group home in which she had been living before coming to Glavin. She would frequently bang her head, she said, sometimes causing wounds to open. She hit her head so often without anyone stopping her that she eventually detached the retinas in both eyes and is now blind, Douty said.

Douty said she also believes Anna was abused by someone else in the group home, and said she suffered a broken nose on one occasion, a broken finger on another, and numerous bruises. At one point, Brad and Joan took Anna to the University of Massachusetts Medical Center in Worcester to see whether they could get her to stop injuring herself. "They kept her for a week," Joan Douty said, of the

UMass hospital center, "and then they said there was nothing they could do for her." At Glavin, the staff tried anti-psychotic medications, which proved successful in dramatically reducing Anna's head banging, Joan said.

At Glavin, Anna has been doing "exceptionally well," Douty said. She said the staff stays close to her to make sure she doesn't hurt herself or others. She added that her daughter is able to socialize with her peers and staff at Glavin, but that "she could do none of these things safely" before coming there. "I wish she had come here when she was 12," Douty told the lawmakers. "I hope she stays here as long as she lives. This is her home."

Joan Douty has another pressing reason for keeping her daughter at Glavin. Joan and Brad live near the developmental center and are able to visit Anna regularly there. Joan has end stage renal failure and receives dialysis treatments twice a week. She could not endure the longer car trips were her daughter to be transferred to another ICF facility, such as Wrentham or Hogan.

Stephen Dumont, another Glavin resident, also used to injure himself repeatedly by banging his head while living in a community-based group home, according to his father, Wilfred. Wilfred Dumont maintained that Stephen "opened up his head at least 30 times," and that even a helmet didn't help. Since arriving at Glavin four years ago, his son's self-injurious behavior has decreased from hundreds of incidents a year down to a handful, Dumont said. "Now he's smiling for the first time and he comes home on weekends," he told the lawmakers at the legislative breakfast. "To move him to another facility won't work. You might as well put him in a cage," he added.

At Glavin, the staff found that anti-psychotic medications were effective in reducing Anna's head banging.

Patty Howland talked during the breakfast about her brother, Tom, who has been living at Glavin for the past 20 years. Tom formerly lived in a group home, from which he would repeatedly run away. "I can see this happening all over again if they close Glavin and move him out," Howland said. "This is where Tom belongs."

Howland said that when Tom used to bolt from his group home, he would frequently get into trouble by breaking windows. At Glavin, Tom attempted to run away only once, and a nurse noticed and stopped him. "Most people don't have someone like Tom in their families, so they don't understand," Howland said.

Also addressing the lawmakers at the breakfast was Al Bacotti, a former director of the Glavin Center, who contended that the facility is cost effective to operate and functions as a "safety net" for intellectually disabled persons unable to function successfully in community-based settings.

Jamie Gahan, a physical therapist who works both at Glavin and for private vendor programs, maintained that the type of care available at centers such as Glavin "doesn't exist out in the community system."

Facility advocates urge independent cost study

In the face of intense lobbying by opponents of the developmental centers in Massachusetts, COFAR has organized a May 18 visit of families to the State House to support a proposed independent study of the cost of maintaining or closing three of the centers.

The study would be required in a budget amendment expected to be filed by State Senator Michael Moore of Worcester. During the House budget debate in April, the House leadership would not allow a similar amendment, which had been proposed by Rep. Anne Gobi, a Democrat from Spencer, to be debated on the floor.

COFAR called last November for an independent study of the costs of closing or maintaining the Templeton, Glavin, and Monson developmental centers, which have been targeted by the Patrick administration for closure (see January 2011 COFAR Voice).

According to legislative sources, state Rep. Brian Dempsey, chairman of the House Ways and Means Committee, decided in a closed-door meeting in his office to exclude Gobi's amendment from inclusion in a catch-all budget amendment to boost human services funding for next year.

"It was a sorry day for democracy when proposed legislation calling for an independent cost analysis prior to undertaking a major policy initiative was scuttled without a vote," said Colleen Lutkevich, COFAR executive director. "We're hoping the story will be different in the Senate."

Lutkevich added that, "It's very difficult to counter the misinformation that has been put out there by the human services vendors about these critically important facilities." The vendors are pushing for the shutdowns of all of the state's developmental centers

In a letter sent to legislators on April 25, the day before Gobi's amendment was shelved, the Association of Developmental Disabilities Providers termed the Monson, Glavin, and Templeton centers "expensive and inefficient to operate."

COFAR and other advocates of the developmental centers, however, maintain that these facilities are actually cost efficient because of their centralized service delivery models. COFAR has posted a paper on its website ("The Case for the Developmental Centers" at www.cofar.org), which cites independent cost studies in other states that have shown little difference between the costs of operating developmental centers and community residences when similar residential populations are compared.

Last July, the Patrick administration provided a report to the Legislature's House and Senate Ways and Means Committees and the Joint Committee on Children, Families, and Persons with Disabilities, which concluded that closing the Templeton, Monson, and Glavin centers would save the state \$20 million a year as of Fiscal Year 2013. The administration's report added, with no accompanying analysis, that the Fernald Developmental Center, which

was the first on its closure list, would yield an additional \$20 million in annual savings.

COFAR maintains that the administration's cost analysis is flawed because it compares the average cost of care in the developmental centers with the average cost of care in the community system without taking into account the fact that that developmental center residents are much more intellectually disabled and have more complicated medical problems than the average community-based resident. The administration's cost analysis also failed to include potential costs of developing group homes and other facilities to accommodate residents from the developmental centers slated for closure.

COFAR has proposed that a new cost analysis in closing the Templeton, Monson, and Glavin centers be undertaken by an independent, non-governmental entity selected by either the state Inspector General or State Auditor.

COFAR seeking answers on community costs

COFAR has submitted a new request for information to the Department of Developmental Services in an attempt to determine the true cost of community-based care for persons with intellectual disabilities.

COFAR has been seeking documents on the cost of community-based care from DDS since December.

On March 25, the agency provided spreadsheets detailing costs of hundreds of individual state and vendor-operated community-based residential programs.

However, the cost figures provided by DDS were not broken down into detail sufficient to show whether staffing salaries in the community-based group homes include medical, day habilitation and other costs that are normally included in developmental center budgets. The administration claims developmental centers are more expensive on a per-resident basis to operate than community-based group homes.

COFAR sent a new request on April 11 to DDS for a complete salary breakdown for one selected state-operated and one selected vendor-operated group home program. As of the production deadline of this newsletter on May 9, DDS had not responded to the COFAR information request.

At issue are projections made by DDS that the state spent \$163.8 million for state-operated group home care and \$603.2 million for vendor-operated group home care in Fiscal Year 2009. These projections were used by the administration in an analysis submitted to the Legislature last July, which concluded that closing the Monson, Templeton, and Glavin developmental centers would save \$20 million annually.

COFAR is seeking to determine all the components of the staffing salary figures that were used in developing the community-based, group home projections.

BACKGROUND, continued from page 1

Currently, state regulations authorize DDS to require that Criminal Offender Record Information (CORI) checks be done on new hires in the DDS and its contract vendor system. CORI records, however, only list criminal arrests and convictions in Massachusetts, and do not identify criminal convictions that a job applicant might have from another state.

Last August, as part of an effort to reform the state's CORI system, Governor Patrick signed a bill into law that, among other things, authorized an upgrade of Massachusetts' criminal records database to allow it to accept information from the FBI's fingerprint database and databases in other states. However, the new law does not authorize DDS to require that national background checks be done on people hired to work with disabled clients in this state, according to Georgia Critsley, general counsel of the Massachusetts Department of Criminal Justice Information Systems. Critsley said separate legislation is still needed to require national background checks.

For more than five years, State Representative Martin Walsh of Boston has sponsored a bill to authorize those national background checks. In 2006, Walsh told *The COFAR Voice* that his bill had gotten caught up in the then ongoing CORI reform process on Beacon Hill and consequently never got out of the House Ways and Means Committee.

The bill (House Bill 523), which Walsh re-filed in January, was in the Judiciary Committee as of April 26 of this year. It would require that anyone hired by DDS or its contracted vendor programs to have unsupervised contact with DDS clients submit to a background check involving the FBI's Integrated Automated Fingerprint Identification System.

When *The COFAR Voice* checked with the Judiciary Committee on April 25, a staff aide to Rep. Eugene O'Flaherty, the House chair, said a hearing had not yet been scheduled on Walsh's bill. A committee hearing must be held on the bill before it can be voted on by the committee and ultimately by the full House and Senate.

Walsh told *The COFAR Voice* on April 25 that he knew of no member of the House or Senate who had an objection to his bill or to a national background check for new hires in the DDS system. Walsh, however, was unwilling to make a prediction as to whether his bill will pass this session.

"I don't know whether it will pass this year," he said. "It should have passed six years ago."

Assault case moves forward

State investigators have recommended that a former caretaker of an intellectually disabled West Springfield group home resident no longer be allowed to work with clients of the Department of Developmental Services.

The case involves the alleged assault last June of John Burns, whose sister and co-guardian, Sheila Paquette, personally filed charges against the alleged abuser.

Paquette is president of the Advocacy Network, a COFAR member organization.

Paquette filed the assault charges against John Saunders, who was subsequently fired by the group home, which is run by the Center for Human Development. Saunders appeared at a pre-trial hearing in Falmouth District Court on March 28. Saunders allegedly hit Burns in the face, causing two black eyes and other injuries, while he was toileting Burns during a weekend outing to a Cape Cod vacation home last June.

The state investigative report on the incident, which was obtained by COFAR from the Disabled Persons Protection Commission, concluded that there was reasonable cause to believe Saunders had used excessive force and had physically assaulted Burns. The report stated that in addition to having two black eyes, Burns had bruises on his neck, scratches on his left and right shoulders and lip.

The investigative report added that when Burns and Saunders returned to West Springfield from the weekend trip on the evening of June 28, Burns was "acting out a bit, yelling more than usual," and that Saunders was "acting 'aggravated' and 'derogatory' towards the other staff," and that he had spoken "in a derogatory manner about (Burns) in (Burns') presence, stating that (Burns) has problems, something was wrong with (Burns) mentally."

When Burns was taken to Noble Hospital the following day, he was found to have bruising under both eyes.

The report noted that Burns' roommate stated that as they were getting ready to leave the Cape residence, he observed through an open bathroom door that Saunders had put his hands on Burns' mouth and hit him while Burns was on the toilet. He also said he saw Saunders hit Burns on the back of the head.

Paquette filed assault charges against Saunders last July after she had grown frustrated that state and law enforcement authorities appeared to be doing little to investigate the alleged assault.

That frustration with the slow pace of justice in assault cases involving intellectually disabled persons appears to be widespread. *The New York Times* reported in March that the group home system in New York State "operates with scant oversight and few consequences for employees who abuse the vulnerable population."

We need your contributions

If you regularly read this newsletter or have a loved one in the Department of Developmental Services' system of care, you don't need us to remind you that we are at a critical stage. Comprehensive care, which we fought for since the 1970s, is being systematically dismantled due to money, politics, and ideology.

COFAR is the ONLY statewide advocacy organization that is systematically investigating this situation and pushing for change. We need your help in order to continue our work. Please contribute whatever you can. THANKS!

COFAR questions vendor salary reports

COFAR has asked the Patrick administration to explain apparent discrepancies in information provided to the state and federal government about the salaries of human services provider executives.

In a May 2 letter emailed and faxed to Jay Gonzalez, secretary of administration and finance, COFAR asked why executive salary information listed on forms provided to the state did not match salary data on tax forms provided to the federal IRS for the same firms.

The state Operational Services Division uses salary data reported on Uniform Financial Reports (UFRs) to limit state funding of executive pay. As of May 9, OSD had not responded to a March 21 information request from COFAR about the apparent discrepancies.

COFAR examined UFRs and IRS tax Form 990s, which were filed by three contractors to the Department of Developmental Services – the May Institute, Vinfen, and Seven Hills. In each case, the UFRs for the Fiscal Year 2009 listed lower salaries and other compensation for the same executives than did 2009 IRS tax filings for the same firms. The UFRs also listed a lower number of executives earning high levels of compensation than were listed on the Form 990s for the same firms.

COFAR is concerned about the apparent discrepancies because OSD uses the figures reported on the UFRs to track executive salaries. Under a state regulation, state funds going towards an individual contractor executive's compensation are capped at \$143,986 a year.

As of April 8, the online UFR for the May Institute stated that Walter Christian, the CEO, made \$509,798 in salary and other compensation in the year ending June 30, 2009. Based on that number, OSD would be required under the regulation to classify roughly \$366,000 of Christian's salary as a "non-reimbursable expense," meaning that money would have to come from sources other than the State of Massachusetts.

However, the IRS Form 990 for the May Institute for the same fiscal year lists Christian's total compensation as \$1.087 million. That's a difference of more than half a million dollars between Christian's compensation as listed on the state's UFR and on the IRS 990 form. If Christian actually earned \$1.087 million in compensation, it would appear the state should have classified more than \$940,000 of it as non-reimbursable, not just \$366,000 of it.

It appears the purpose of capping state funding of vendor salaries is to ensure that as much of those state funds as possible is put toward payment of direct-care wages and other essential operational costs.

COFAR's review also found that while the May Institute UFR listed only Christian and one other executive as making over the \$143,986 compensation threshold, the IRS form listed a total of 13 employees of the May Institute as making over that threshold amount. The discrepancy in

listed compensation between the two forms was \$3.4 million.

For Vinfen, the 2009 IRS form listed a total of 10 employees earning more than the threshold compensation amount, while the UFR listed only four employees earning more than that amount. The difference in reported compensation amounts between the two forms was \$1.2 million.

For Seven Hills, the 2009 IRS form listed four employees making over the threshold, while the UFR listed only two employees making over that amount. The difference was \$385,000.

Senate considers DDS cuts

With state tax collections in April having come in 43 percent higher than the previous April, the State Senate will consider whether to mitigate planned cuts to programs for the intellectually disabled in the state budget for the coming fiscal year.

Thus far, the House has largely gone along with cuts proposed in January by Governor Patrick in programs affecting persons with intellectual disabilities. Meanwhile, the House adopted the governor's plan to cut roughly \$7.7 million from the developmental centers line item in the budget, as those centers are phased down, and to transfer that money to the state-operated group home line item.

However, neither the House nor the governor appears to have used funding from the phase-down of the developmental centers to boost other key community-based line items. Among the programs the Senate will consider are:

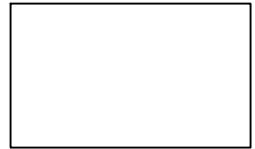
Day habilitation. The Association of Developmental Disabilities Providers has referred to day habilitation services as a critical component of the administration's "Community First" initiative to close the developmental centers and expand the community system. The MassHealth account that funds this program was cut by \$8.4 million in the current year, and the governor proposed an additional \$2.9 million cut in the FY 12 budget. The House cut the account by an additional \$515,000.

Community residential. This line item funds vendor-operated group homes, a system with a high waiting list, the size of which DDS has not disclosed. The governor proposed a 3.3 percent increase in this account over the current fiscal year, and the House didn't change the governor's number. That proposed funding is still not adequate to serve those waiting for services in nursing homes and elsewhere.

Adult family supports. The governor proposed a \$13.9 million cut in this account from the current fiscal year, and the House restored \$8.4 million of that cut. That would still leave the account down \$5.5 million from the current year, meaning that close to 2,000 families could lose these services.

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