

# TRENDS IN LONG-TERM CARE

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON LONG-TERM CARE  
OF THE  
SPECIAL COMMITTEE ON AGING  
UNITED STATES SENATE  
NINETY-FOURTH CONGRESS  
SECOND SESSION

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PART 27—NEW YORK, N.Y.

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- Part 3. Hartford, Conn., January 15, 1970.
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## TRENDS IN LONG-TERM CARE

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FRIDAY, MARCH 19, 1976

U.S. SENATE,  
SUBCOMMITTEE ON LONG-TERM CARE  
OF THE SPECIAL COMMITTEE ON AGING,  
*New York, N.Y.*

The subcommittee met, pursuant to notice, at 9:30 a.m., at 14 Vesey Street, New York City, Hon. Frank E. Moss, chairman, presiding.

Present: Senators Moss and Domenici, Representatives Koch and Scheuer, Assemblyman Andrew Stein, and Assemblywoman Gerdi Lipschutz.

Also present: Val J. Halamandaris, associate counsel; David L. Holton, investigator; Caroleen Silver, legislative assistant to Senator Domenici; John Guy Miller, minority staff director; Kathryn T. Dann, assistant chief clerk; and Alison Case and Dorothy Miller, assistant clerks.

### OPENING STATEMENT BY SENATOR FRANK E. MOSS, CHAIRMAN

Senator Moss. The hearing will please come to order.

We are pleased to be here this morning to conduct a very important hearing. This is a hearing by the Subcommittee on Long-Term Care of the U.S. Senate Special Committee on Aging.

Senator Domenici is sitting here with me, and he is an active member of this subcommittee. We are pleased to have Senator Domenici with us.

Congressman Scheuer and Congressman Koch are here, both from the New York area representing their districts, and Assemblyman Andrew Stein is seated with us.

We gave notification of this hearing to all New York Congressmen and invited them to come if they wished to sit with us and to hear the testimony we expect to have today.

We are here to examine alleged abuse and profiteering in New York's adult care homes.

Our subcommittee has conducted 29 hearings concerning the problems of the infirm elderly in the past 6 years. We have produced numerous reports and numerous pieces of legislation including the 48-bill medicare-medicaid reform package that I introduced last year. Following the hearings we had right here in New York, some of these bills were enacted. We expect others to be enacted when the Senate Finance Committee takes up medicare and medicaid reform later this year.

One of the issues we have been examining is the national trend of dumping thousands of former mental patients into nursing homes

and smaller community-based facilities. Today we are releasing our report on this subject entitled: "The Role of Nursing Homes in Caring for Discharged Mental Patients and the Birth of a For-Profit Boarding Home Industry."<sup>1</sup>

#### MINIMAL SUPERVISION GIVEN TO DISCHARGEES

Our report suggests that in virtually every State of the Union mental patients are being discharged wholesale into facilities that offer board and room with minimal supervision. These facilities go by various names. In New York you call them adult care homes, domiciliary care facilities, or private proprietary homes for adults. In other States they are called foster care homes or shelter care homes.

Our report suggests that since January 1973 there has been an increasing trend to move expatients from State hospitals into these facilities. A major reason was the enactment of supplemental security income—or SSI—the Federal welfare program for the aged.

The recent report by Assemblyman Andrew Stein and the grand jury report concerning the starvation of an adult home resident prompted me to come to New York to see things for myself. I visited the psychiatric ghettos in Long Beach and Far Rockaway, N.Y. I toured the old hotels and boarding homes where the forgotten Americans live. I have seen their world of cockroaches and peeling wallpaper, of flaking paint and falling plaster.

I have seen the broken windows letting the cold air into rooms without radiators. I have seen leaking roofs and holes in ceilings. I have seen exposed electrical wiring, overloaded sockets, and fire extinguishers that have not been inspected for years. I have seen sharp staircases with low clearances, and makeshift doors made out of cardboard or burlap.

I saw hungry people with their faces up against vending machines begging for a quarter. I saw three patients cooking eggs on a hot-plate in their room while breakfast was being served in the dining room. I learned that they had bought these eggs with money they received from begging. These patients, distressed by the quality of food in this New York boarding home, had formed their own co-op. Pooling their meager resources, they had purchased a small supply of foodstuffs of which they were most proud.

I saw a patient who complained of a recent head injury who said she had asked to see a doctor several days before but nothing had been done by the boarding home operator.

I saw patients sitting in rows at 9:30 in the morning staring blankly at a television set in which the picture was continuously rolling.

I talked to patients who said that operators required them to work and paid them little. One man told us he helped out in the kitchen 8 or more hours a day for which he received \$5 a month.

I saw medication rooms that were wide open. Almost anyone who wanted to could walk in and steal large quantities of amphetamines and barbiturates—some of which have tremendous street value at the present time. I met no licensed nurses in my tour; most drugs were being given by unlicensed personnel who probably could not

<sup>1</sup> Supporting Paper No. 7 in the series, "Nursing Home Care in the United States; Failure in Public Policy."

protect patients against possible adverse reactions and side effects from taking large numbers and kinds of drugs over a protracted period. There were no physicians or psychiatrists in any of the facilities we visited.

I saw activities schedules posted, but no activities in progress. I saw therapy rooms with no one using them. These discrepancies were generally explained by telling me that the therapist was on vacation and that if I would come on any other day I would see the normal routine.

#### "MENTAL PATIENTS ARE A GOOD INVESTMENT"

It became evident to me that operators were cutting corners every way that they could in order to be able to maximize profits. Apparently, mental patients are a good investment in New York as well as in Illinois. In that State we found one operator received \$385,000 a year to care for about 100 former mental patients. He kept 13 percent of patient income—over \$50,000—as profit. Another increased his investment—equity—in an old hotel from \$10,000 to \$250,000 in 10 years. He housed 180 former mental patients receiving \$400,000 a year and managed to keep \$185,000 of this amount—46 percent of total revenues—as profit. One of the ways he accomplished this feat was to spend 54 cents per patient per day for food. He defended this profit, telling us it was below industry expectation. A third partnership received over \$1 million to care for expatients and kept 30 percent of it—over \$300,000—as profit.

Given the marginal quality of life that we have found in these kinds of facilities in New York and all over the United States, I have every reason to believe that other operators are making similar profits. Since the source of these funds is the new Federal welfare program for the aged—SSI—which will cost the taxpayers \$2 billion this year, I intend to do everything in my power to restore some accountability in this program. The taxpayers deserve to know how their money is spent. Right now it looks like the funds are going to line the pockets of the greedy who pretend to be offering care and services to the needy.

As my opening statement suggests, there are many significant problems in the use of SSI funds, and it is my hope that in today's hearing we can focus on some of the Federal issues. I hope we can find some way to improve the quality of life for these people who live in substandard boarding homes.

In this connection, I am informed that Mr. Charles J. Hynes, the New York special prosecutor for nursing homes, has some suggestions concerning large amounts of fraud and potential criminal activity in the New York domicile care program.

I am told that Mr. Hynes requested permission to follow these leads and that the Governor of the State, the Hon. Hugh Carey, agreed to pursue this, subject to the approval of the State Board of Social Welfare. I am further informed that the State Board of Social Welfare has jurisdiction over adult care homes, and that it has refused to give the special prosecutor its consent to go after the lawbreakers.

I find this action on the part of the board unconscionable. It is difficult to understand in view of the fact that many of the same people

who have nursing home interests also own adult care homes in New York.

I cannot imagine why the State Board of Social Welfare is blocking the prosecutor's effort to route out fraud and abuse.

We have here with us this morning Mr. Bernard Shapiro, the executive director of the State Board of Social Welfare, and I intend to ask him for some explanation.

#### STATE CUTS SURVEILLANCE UNIT FROM BUDGET

While I am on the subject of blocking the efforts of the special prosecutor, I must say that I was appalled beyond words to learn that the State legislature eliminated \$2.3 million that Mr. Hynes had requested to establish a permanent audit and surveillance unit in the State Department of Health.

In the first place, such units are required by Federal regulations, and they are preconditions to the State's participation in the medicaid program.

The State of New York has the responsibility to ferret out those individuals who are guilty of fraud and abuse.

It has already been pointed out that auditors in the New York State Department of Health have returned \$15 for each dollar of their salary. Auditors trained by Mr. Hynes have returned \$30 for every dollar of their salary.

In short, especially in these troubled economic times, failure to accede to Mr. Hynes' request for funds is not very farsighted. I can understand why some people charge there are political motives involved. But the question of the motive for the cuts really is beside the point.

I think we should assume that this matter is just an oversight, or the work of poorly informed, overzealous budget cutters.

To be sure, the State's elected leaders could do much to restore confidence and dispel the current mood of cynicism if they exercise their leadership role in a forthright manner and restore the requested \$2.3 million for the additional auditors and investigators that are needed.

I would now like to call on my colleague from New Mexico, Senator Domenici.

#### STATEMENT BY SENATOR PETE V. DOMENICI

Senator DOMENICI. Thank you, Mr. Chairman.

I want to compliment you and the Special Committee on Aging for scheduling these hearings today. The care and attention given the elderly in this country is an extremely important issue, and I am pleased this committee and, in particular, the Subcommittee on Long-Term Care is in the investigative forefront.

We are here today to examine the operation of the Federal supplemental security income program. As you know, in 1972 Congress wrestled with the question of whether we should federalize welfare. At that time, Congress decided instead to federalize only one part of it—the old age assistance payments. Under this program we call SSI, the Federal Government makes a flat payment of \$157 per

month to those senior citizens with incomes below the poverty line. The SSI checks come directly from Baltimore, since this program is administered by the Social Security Administration.

Some States which had higher welfare payments to the aged were required by the Congress to supplement the \$157 minimum SSI payment. New York, for example, adds \$229 of its own money for a total payment of \$386 per month.

The exorbitant profits made by boarding home operators which you described in your opening remarks, Mr. Chairman, are possible because operators can finagle other provisions left in the 1972 law.

Congress barred the payment of SSI funds to residents in institutions. The word "institution" is defined rather broadly to include nursing homes, mental hospitals, and the like—not adult-care centers or boarding homes. Congress also required that SSI funds be cut by one-third when recipients live with related individuals. Furthermore, Congress prohibited the use of SSI funds to individuals who need medical care. It was made clear that medicaid was the appropriate vehicle to take care of those people who needed nursing or medical care.

From these facts, it is clear that SSI was intended to be used only as a cash grant program for the poor elderly—those who are physically well and are ambulatory—who can decide for themselves where to live and how much of their SSI money they want to use for housing, for food, and for other expenses.

#### MISUSE OF SSI FUNDS

From what I have observed, it is clear to me that the State of New York is technically in violation of the law. In the first place, patients from State mental hospitals are discharged by the State and placed into particular boarding homes which are called domiciliary care facilities—DCF. Such facilities, I believe, would come within the definition of "an institution" for purposes of the SSI law. Second, New York has, for all intents and purposes, warped SSI from a cash grant program to a vendor payment program. The residents of these boarding homes are still the payees of Federal SSI checks here in New York, but yet the residents never see them most of the time. Residents endorse these checks over to the operator. In some cases, I understand, the endorsement is simply an "X" on the back of the check signed by the operator himself. Finally, several reports by State agencies and our own evaluation indicate that large numbers—perhaps as high as 40 percent—of DCF patients need medical attention. In short, SSI funds are being used to care for patients who need medical care, again in violation of the SSI Act.

I realize these are serious charges, particularly when those who transfer mental patients from State hospitals into DCF residences believe what they are doing is in the best interests of the patients.

As the report released today points out, there are several States besides New York that also have significant problems with discharged mental patients. I have visited facilities in Illinois and in my own State of New Mexico. I was shocked when I visited some boarding homes. I realize boarding homes are not designed or licensed to provide medical care to the elderly. But several facilities did take in



elderly residents whether they were well or not. Many boarding home residents suffer from gross neglect. The basic needs of the residents are ignored, such as: failure to provide adequate or nutritious food, failure to provide a change of clothing for helpless residents, and failure to perform such elemental services as cutting toenails—to the point they curl up under the feet making walking impossible.

In my own State, our hearings on this issue were successful in getting the State of New Mexico to increase its enforcement efforts. I am hopeful that today's hearing can produce similar results here in New York. I am also hopeful that we can come away from today's hearing with some suggestions for legislation to improve conditions in similar facilities across the United States.

Senator Moss. Thank you very much.

Congressman Koch, do you have any remarks? Congressman Koch has done a great deal of work in this field and has sat with our subcommittee before. He is a leader in the House of Representatives. Ed, I am very pleased that you are here looking at the problem and trying to help us find some solution.

**STATEMENT OF HON. EDWARD I. KOCH, A U.S. REPRESENTATIVE  
FROM THE 18TH DISTRICT OF NEW YORK**

Representative KOCH. I just want to thank you, Senator Moss and Senator Domenici, for bringing your subcommittee to the city of New York, because until the quagmire that exists here is totally eradicated, there is much that needs to be done. The special prosecutor has exercised good leadership in this area and he has done an outstanding job, but the fact is, had you not come to New York when you did many months ago, we would not be where we are today. So on behalf of the elderly people of the State of New York, I just want to thank you.

Senator Moss. Thank you very much. You played a part in our investigation a year ago, and I appreciate your participation again today.

Congressman Scheuer is also interested in this field, and he has done good work in it. I am glad you are here.

**STATEMENT OF HON. JAMES H. SCHEUER, A U.S. REPRESENTATIVE  
FROM THE 11TH DISTRICT OF NEW YORK**

Representative SCHEUER. I am very happy to be here, Senator.

I join with my colleague, Congressman Koch, in congratulating you in the work that you have done in this area, and I am very happy to join Congressman Koch in welcoming you to New York. It is a pleasure for me to be here this morning at this hearing to examine alleged abuses among New York's domiciliary care facilities.

Of course, the subject of this hearing is extremely important because I represent the 11th District, which includes the Rockaway's and which has about 48 or 49 percent of the nursing homes. We are sinking beneath the surface of the Earth with this population; out of a population of 100,000 people, we seem to have about 17,500 people living in nursing homes and health related facilities.

We have thousands upon thousands of expatients from the State mental health institutions. They are dumped upon our neighborhoods, as you indicate in your statement, with perhaps very little more, as Senator Domenici pointed out, than room and board. They lack the tender loving care and compassion they need.

My district is saturated with these people. It is not good for them, and when they are uncared for, when they are unwatched, and when they are unloved, they do wander around the streets. Their conduct to other people in the neighborhood is bizarre and sometimes offensive, even though pathetic and touching. They are a great danger to themselves, and we have had recent accidents where they left their beds in an aimless state and walked out onto the roof or walked out into our streets. One patient froze to death under the most tragic and pathetic circumstances.

It is a subject, as you have both indicated, that literally cries out for government solution. I think the fact is we have not met that challenge at the Federal, State, or local level.

#### CONGRESS SHARES RESPONSIBILITY

Most of the funding seems to come from the Federal Government. I am on the Health Subcommittee of the Interstate Commerce Committee. We had hearings that I chaired a couple of weeks ago right here in New York, and I would be the first to say that Congress has by no means done its job or met its challenge in watching where the Federal dollars go—to make sure that some of the concerns and professionalism follow those dollars. I think this is the challenge that all levels of government share, and I congratulate you for bringing us here to face our portion of the challenge too.

We have a number of problems that have been highlighted by your committee.

First and foremost: These residents who were recently released from mental hospitals generally find themselves in facilities that are unable to deal with their complex medical and social problems.

Second: Family members often stand by to watch as their loved ones are placed in facilities far from home. There is a distinct lack of any programs to help these families to maintain their loved ones in their own homes.

Third: The communities in which these patients are placed find their resources taxed to the limit. Angry citizens have written to all of us complaining of the presence of these people in their neighborhoods and of the bizarre behavior they often exhibit.

Fourth: Mental health personnel are finding it impossible to keep track of discharged patients and to insure that appropriate followup care is provided.

Fifth: State health and welfare officials appear incapable of resolving the conflict between meeting the needs of this population and the high cost of providing these services. One answer may be the direction that Senator Domenici pointed out, that perhaps we ought to make it more financially feasible for the family to take care of these people.

Sixth, adult home operators often find themselves caught in the gap between community expectations for care and the reality that the only way to make a profit is to cut care, food, and services.

I want to make it clear that I join with my colleagues here in the House and Senate in an effort to find some solutions for this important problem. Solutions will not be easy to find because the issues involved are so complex but we must make the effort. Working together, I am sure we can help improve the quality of life for the frail elderly who live in our domiciliary care facilities.

I congratulate you for holding these hearings. I think we are well on the road to finding some solutions. They will not be easy to find, because the issue is complex, but we must make the effort together. In working here today, and in working together, I am sure that with the assistance of legislators like Assemblyman Stein at the State level, we can improve the quality of life for the elderly who live in our domiciliary health care facilities.

Thank you very much.

Senator Moss. Thank you, Congressman, for that fine statement, and your continued concern and efforts to finding a solution to the problem.

I also want to recognize Assemblyman Andrew Stein, who has worked on this program at the local level. He was involved in our hearing in New York last year, and I ask him if he has any comments to make.

#### **STATEMENT OF ANDREW STEIN, NEW YORK STATE ASSEMBLYMAN**

Assemblyman STEIN. Thank you very much, Mr. Chairman.

First of all, I would like to personally thank you. Since you were here approximately a year ago—your committee, and Senator Domenici—we have achieved many results in our nursing home investigations which has improved the quality of care and saved tremendous amounts of funds. I do not think it would have been possible without both of you Senators, your committee, your fine staff, and of course my Congressman—Congressman Koch—who has done such an excellent job, and Congressman Scheuer.

I would like to say, Senator, that in New York State the fiscal crisis we have been having here, and you have been feeling in Washington—it is amazing to us; we spend \$70 million of Federal and State moneys without one single audit being performed.

We do have a fiscal crisis here, and there has not been one audit done by any State or Federal agency since \$70 million in funds have been given out.

You and I have been privately to some of these homes and we saw these terrible conditions—similar to conditions in many of the nursing homes.

There is another element too, Mr. Chairman, which I think is very important. That is a bill that passed the State senate last year that would have provided audit funds. It passed the Senate, but then it went to the Committee of Government Operations in the assembly where it was supposed to have been reported out of the committee. This bill would have given power to conduct audits. All of a sudden it was sent from the Government Operations Committee in the assembly to a health committee which had already ceased business. This meant the bill had met a very certain and quiet

death. I think it may be of interest to this committee to look into why this bill was killed, because if it had passed, we would already have had an auditing procedure for this important industry.

Mr. Chairman, I want to take this opportunity to welcome you to New York. This investigation is essential if we are to clean up the adult home industry in this State and in this Nation.

Unfortunately, we have had to meet before in this room to consider problems similar to those we examine today; earlier, it was disclosures of fraud and inadequate care within the nursing home industry that held our attention. This time we meet to consider a new industry, one that grew almost unnoticed, yet one that in New York alone already consumes 70 million of the taxpayers' dollars.

#### "HUMAN TRAGEDY OF VAST DIMENSION"

As we found before, so again we are finding a human tragedy of vast dimension. The improper medical care, inadequate diet, poor supervision, and almost total lack of Government regulation that marked nursing homes are now becoming the sad trademark of adult homes.

Mr. Chairman, as it did with nursing homes, the stink of fraud permeates this industry.

Once again, a few powerful individuals—through coercion, manipulation, and harassment—are monopolizing control of essential human services.

Once again, politicians are protecting the interests of money at the expense of people.

Once again, corruption and the pursuit of the almighty dollar have replaced the simple compassion our elderly, and now our mentally ill, have a right to expect.

As you know, here in New York we have begun to investigate this industry, and the catalog of abuses we have unearthed is as distressing as it is long:

Residents are tranquilized beyond necessity, even when they object.

Physicians and psychiatrists provide minimal care, sometimes "examining" as many as 40 patients a visit.

Inadequate diets are provided on a take-it-or-leave-it basis.

Overcrowding abounds, with up to four residents in a bedroom.

Social and recreational activities are virtually nonexistent.

Drugs are stored and dispensed by unqualified personnel, with little regard for their potential danger.

Thousands of former mental patients, who have been tossed into these homes, receive care inadequate to their special needs.

These are only examples and, clearly, not all adult homes permit such travesties. But such instances of abuse must be accepted for what they are: symptoms of the unseen rot which pervades the adult home industry, here and around the Nation.

The inescapable truth is that when hospitals report admitting adult home patients who are encrusted with filth or who give signs of severe physical neglect; when residents fear to speak to outsiders, knowing that they risk whatever meager benefits they do receive; when custodial staff demand tips for serving food or helping with baths or assisting with dressing—something is very much wrong.

Till now Government has not acted as it must to deal with these problems. Regulation is all but nonexistent.

#### INSUFFICIENT INSPECTION FORCE

In this State, for instance, only 27 field inspectors are available to scrutinize the 428 proprietary adult homes which hold more than 17,000 elderly and disabled persons. This kind of meager enforcement is all the more disturbing when we recall the similar circumstance which led to nursing home abuses.

It is time for government to end its neglect and devote the resources required to do a proper job of regulation.

Mr. Chairman, unfortunately, though the need for adult home regulation has been clear for some time, what we have seen in New York has not been government action but a continuation of politics as usual. In adult homes, as in nursing homes, political indifference—if not political influence—has blocked effective regulation.

The fate of recent regulation in the New York legislature is a case in point. The aim was modest: to establish a basic auditing system to determine how State and Federal dollars were being used.

Apparently, however, even such obvious safeguards could not get through the legislature. Although the bill cleared the senate without major difficulty, it was quietly killed in the assembly.

When one committee—government operations—showed that it was prepared to approve the legislation, the assembly leadership immediately sent the proposal off to a second committee.

But this time it was guaranteed that the bill would not be seen again. The committee chosen was no longer meeting, and the bill was dead.

Mr. Chairman, such practices have been all too common. The results are visible across the State: the scandalous treatment of elderly and disabled individuals.

As we proved last year with nursing homes, only this kind of national investigation, coupled with vigorous State investigations, can bring such practices to a halt in adult homes.

Mr. Chairman, the abuses we find in our nursing and adult homes represent the culmination of a traditional social policy to dump our elderly out of sight and thereby put them out of mind.

To walk through many of these homes is to see the human devastation this policy has wreaked. That we still permit these institutions—that we still force into them those who are able to lead active lives—does not speak well for this society.

This is why I welcome you to New York today.

Though we in this State intend to carry on our efforts to end the abuses, this national investigation will strengthen our attempts to reverse the years of neglect that have done such harm. The efforts of this committee will help us fashion a better way to treat our older citizens and our mentally ill—a way that recognizes that they are people, not piecemeal problems.

If we can fashion this new way, we will begin to provide these citizens with the kind of life they require. We will begin to provide them with the kind of life they deserve.

Senator Moss. Thank you very much, Mr. Stein.

We are now ready to begin our testimony. I am going to ask first if Mr. Charles J. Hynes, the deputy attorney general of the State of New York and the special State prosecutor, will please come to the table, and you are accompanied by?

Mr. HYNES. Robert Schwartz, my first assistant.

Senator Moss. Mr. Schwartz, we welcome you.

**STATEMENT OF CHARLES J. HYNES, DEPUTY ATTORNEY GENERAL  
AND SPECIAL STATE PROSECUTOR, STATE OF NEW YORK**

Mr. HYNES. Mr. Chairman and members of the committee, my name is Charles J. Hynes and I am deputy attorney general of the State of New York and special prosecutor for health and social services.

I would like to begin by saying how much I appreciate this opportunity to appear before the members of the committee to testify on the problems facing the elderly today.

Mr. Chairman, I would like to read you something:

Beyond the specific instances of fraud and deceit as they may be revealed and must be dealt with, we are bending every effort to produce constructive results that will prevent recurrence of cheating and misrepresentation—results that will strengthen administration of regulatory and medical care programs of city departments and, above all, results that will upgrade proprietary nursing homes in respect to operational effectiveness and quality of patient care—all in the public interest.

Mr. Chairman, these words were spoken some 16 years ago by Louis J. Kaplan, then New York City investigations commissioner and author of the now celebrated Kaplan report.

I chose them to demonstrate what I perceive to be a major problem facing me as special prosecutor for nursing homes—namely: How to prevent a recurrence of the problem once the prosecutions are completed. And by “problem,” I mean the dreary sordid history of aggression practiced against helpless old people by unscrupulous entrepreneurs in the nursing home field.

What we saw in the days of the Kaplan report was a cycle of exposure, outrage, and, I am sad to say, indifference.

Mr. Chairman, we must not permit the cycle to be repeated. Instead of exposure, outrage, and indifference, we must make it exposure, outrage, and remedy.

This is where the role of government—local, State, and Federal—can complement the role of a prosecutor. It is not sufficient simply to indict, try, and convict those who are victimizing our elderly today. We must do our utmost to make sure that this situation does not recur again. Otherwise, Mr. Chairman, our work will only be half done.

**“ENORMOUS SQUANDERING OF TAXPAYERS’ DOLLARS”**

As a result of some 14 months’ experience investigating nursing home abuses in New York State, I have seen at first hand the conditions that have led to an enormous squandering of taxpayers’ dollars through fraud and gross mismanagement.

I have proposed to Governor Carey a program designed to end this situation now, and to prevent its recurrence—while at the same

time assuring that a substantial portion of these wasted moneys will be recovered.

For your information, I will briefly outline my program.

I requested funding for 164 additional positions: 96 auditors and 68 additional support staff, including some 30 investigators and 9 lawyers. This addition to my existing staff would provide the essential personnel to carry through to completion several main thrusts of my investigation:

The audit and investigation of reimbursement claims submitted during the past 6 years by all nursing home facilities in order to recapture the funds misappropriated from the State;

The determination of the extent of medicaid fraud in other public health areas;

The development of a permanent fraud control mechanism to prevent any recurrence of medicaid abuse once my office goes out of existence.

Unless those objectives are achieved, my investigation will make but a temporary contribution to the sound management of the medicaid system and the provision of decent care for the elderly. The funds misappropriated at their expense will be beyond our reach forever as the statute of limitations runs.

It has been suggested that a workable alternative to my proposal would be for my office to use 120 of the 288 new auditors provided in the State's new budget for the State department of health. I think this suggestion needs careful analysis and clarification. The department of health is only gaining 120 new auditors. The remaining 168 positions will be filled by patient-care survey personnel. Under legislation you passed in the 1975 session, you required the department of health to make at least two inspections annually in order to review the adequacy of care in all residential health facilities. These 168 positions presumably will carry out that obligation. They are not fiscal auditors.

#### ADDITIONAL AUDITORS SOUGHT

In actuality, the legislature provided the department of health with 120 new auditor positions. These are not a resource we could effectively draw upon to do fraud audits covering 5 years of past reimbursement claims of nursing home operators.

This addition of 120 auditors will give the department of health a total of 204 auditors. Perhaps that figure sounds impressive, but not when it is measured against the department's obligations. These auditors must:

One: Audit the current year's returns of all nursing homes and health related facilities, a total of 780 institutions with 1975 medicaid expenditures of \$1.25 billion. This requirement was imposed by the legislature in their 1975 session.

Two: Review the Blue Cross and Blue Shield audits of 360 hospitals, with 1975 medicaid expenditures of over \$1 billion.

Three: Audit the construction, under articles 28A and 28B of the public health law, of nonprofit health care facilities—both hospitals and nursing homes. The current workload is 120 projects with a total construction cost of approximately \$500 million.

Four: Audit all other facilities, such as home health care agencies and clinics, under the department of health's jurisdiction—more than 400 facilities with 1975 medicaid expenditures of some \$500 million.

Five: Address the problems of some 700 medicaid mills, currently operating without any effective supervision.

This is a staggering task that will easily consume all health department audit personnel, both existing and newly budgeted.

Moreover, the proposal to use health staff in my investigations bears no relation to the way my office functions. My office conducts sophisticated fraud audits, which take my staff behind nursing home books to scrutinize vendor dealings and to identify the nature of and participants in potentially corrupt transactions. I must have my own audit staff trained and skilled in sophisticated fraud audit techniques. Equally indispensable are the legal, investigative, and support personnel who do the fieldwork and develop materials for prosecution.

My proposal is carefully structured. It grows out of the experience of my office in more than a year of investigation and prosecution, where I found the common thread among nursing home operations to be a sweeping pattern of improper claims for reimbursement.

It comports fully with the desire of Governor Carey to identify and deal swiftly with misuse of medicaid funds in other health areas, as part of his long-term goal of reforming health care management in New York State.

Finally, it was based on my own personal belief that these abuses, which undermine high standards of patient care, must never be allowed to recur; that the sequel to this office shall not be another round of scandals once the public expressions of concern have faded. Only the development of an effective and permanent fraud audit unit to supplement the day-to-day work of the department of health can guarantee this.

The size of this budget request is modest, particularly in the context of the size of a \$3.2 billion medicaid program. I envision that if this budget request is approved, my work can be completed by the spring of 1978, and the diversion of medicaid funds from patient care eliminated.

#### ESTIMATED \$70 MILLION COULD BE RETURNED

My proposal offers immediate and concrete fiscal benefits to the State, far in excess of its cost. My audit of nursing homes' past claims would identify a minimum of \$70 million in overpayments for recovery and return much of this money to local, State, and Federal governments. These millions are to be lost if my request is denied.

The identification of overstated costs in past returns will play a real role in controlling spiralling medicaid costs. Once overstated, many costs remain permanently in a nursing home's rate base, falsely inflating expense ceilings, depreciation allowances, and equity returns. Identifying and correcting cost overstatements will insure that future medicaid reimbursement is limited to the amount actually expended on patient care, and reduce the rate of growth of medicaid payments to nursing home operators.

These conclusions are not based upon speculation. Rather, they are founded upon analysis of the findings of our audits to date. My



auditors have already identified more than \$13 million in overpayments which will be available for recovery by the State. I have received actual restitution, in hand, of \$237,000; moreover, additional restitution is to be made in several other cases.

I would like to take this opportunity to give the committee some background of my investigation conducted over the past 14 months.

I was appointed January 10, 1975, by an executive order of Governor Hugh Carey after widespread allegations of nursing home abuse.

In the many years preceding my appointment, hundreds of millions of dollars in medicaid funds have been reimbursed to nursing home operators in New York State with relatively minor attention to auditing the validity of expense reimbursements. No attempt was made by the New York State Health Department auditors to look beyond the vouchers of expenses offered by nursing home operators for reimbursement; and indeed, there was no authority for them to do so.

It was in this posture of events that I established seven regional offices throughout the State and that I commenced an intensive investigation to confirm and identify fraudulent claims for medicaid reimbursement, and those responsible in the nursing home industry. A number of investigative techniques were applied, the most prominent of which was the coordinated investigation by my special auditor-investigative staff, aimed at unravelling suspect complicated financial transactions and disclosing fraud.

Our original suspicions were quickly confirmed. Every single audit has established significant overpayment of medicaid funds to nursing home operators.

Working as independent units, lawyers, special investigators, and special auditor-investigators have reviewed the books and records of nursing homes, vendors, and suppliers, analyzed nursing home reimbursement expense claims, interviewed hundreds of proposed witnesses, and presented evidence to grand juries throughout the State. The results so far are encouraging from a prosecutor's point of view.

#### TWENTY-ONE INDICTMENTS FILED

As of today, my office has presented substantial testimony and physical and documentary evidence before 24 grand juries throughout the State of New York. These presentations have led to the filing of 21 indictments. Thus far, 11 defendants have been convicted.

Since my appointment, the thrust of my investigation has been threefold:

- (1) To examine allegations of fraudulent misuse of medicaid funds;
- (2) To examine allegations of human suffering implicit in questionable standards of patient care; and
- (3) To examine allegations of intervention by public officials in the nursing home approval process.

Each of these investigative objectives has borne fruit. Since June 1975, 21 indictments have been returned throughout the State.

The investigations to date indicated more than merely isolated instances of nursing home fraud. More significantly, they appear

to confirm widespread financial skulduggery and wholesale misappropriation of taxpayer funds. The common thread is sweeping fraudulent application for reimbursement for expenditures that have nothing whatsoever to do with nursing home patient care.

The evidence suggests that the taxpayer has unwittingly subsidized personal maids, private residential landscaping expenses, personal travel expenses, personal food items at phenomenal levels, personal luggage, personal business interests, works of art, vast quantities of liquor, interior decorating expenses, personal dental and medical care, personal pharmaceuticals, heating fuel for private residences, personal charitable contributions, political contributions, profits to investors, private pension plans, extensive vacation expenses, real estate taxes, private automobile expenses, mink coats, personal investment stock, personal servants, renovations to private residences, entertainment, legal fees, theater tickets and tickets for sporting events, private stereo equipment, and extensive secret personal profit.

The investigations into allegations of patient abuse are among the most difficult to prove beyond reasonable doubt because of the frequently deteriorated physical and mental condition of the victim-witness. We have successfully commenced criminal prosecutions in a number of instances. One complaint of assault has already resulted in the conviction of a nursing home employee, and other complaints of assault and reckless endangerment are currently under active investigation.

Public inquiries conducted by Chairman Morris Abram's Moreland Act Commission, and other investigations, have brought to light apparent activities and intervention by elected and appointed public officials in aid of private nursing home entrepreneurs.

Based in part upon these disclosures, I have focused my investigation upon the questions of whether or not particular public officials have violated the law by their actions and interventions. The continuing active nature of these statewide inquiries prevents a disclosure here of the investigative techniques and subjects of these efforts.

This avenue of our investigation is aimed at reconstructing just what actions were taken by public officials, who those officials are, whether these actions were motivated by profit, and whether their actions or their accounts of their actions have risen to the level of provable crime.

#### RESTORING PUBLIC CONFIDENCE

The permanent elimination of patient abuse patterns, the appearance and fact of excesses by public officials, and wholesale fraudulent profiteering in the nursing home industry is essential if public confidence in the quality of government-funded health care delivery is to be deservedly restored.

It is my sincere hope that, through the efforts of your committee, my investigations, and investigations like mine in other States, our elderly will be able to live out their last years in human dignity.

Senator MOSS. Thank you very much for your fine statement.

Mr. HYNES. Thank you. Only yesterday I received a commitment from Governor Carey to make every effort to restore these funds

and I think it is just one further example of what Governor Carey has done in terms of supporting this investigation, and having a real interest in doing something about the conditions in the nursing home as it affects the elderly.

There is a series of bills being offered on Monday, which is an amendment to the budget, and Governor Carey has given me full assurance of his total commitment to have this budget restored.

In addition, I have received enormous support from the commissioner of the Department of Health of the State of New York, in which he has indicated that there is a pressing need to have this budget restored, and for us to get about the business of aiding the elderly.

There have been a number of legislators, Mr. chairman, who have contacted my office over the last several days, and they have indicated their total support. I am, at this point, very hopeful that on Monday there will be at least one amendment to restore that budget.

Senator Moss. Actually that money enables you to recover funding, often, that far exceeds any expenditures.

Now, in addition to punishing those who do wrong, there is the fact of recovering funds that are improperly paid out. What has been your experiences and what have you been able to do in that area?

Mr. HYNES. Mr. Chairman, we have, in terms of the criminal prosecution, received almost \$4 million in restitution in just 12 cases. There are a number of indictments for fraud currently pending.

In addition, we have turned over to the State department of health a package which would amount to something more than \$1 million of civil fraud recovery. That is one of the two purposes of our investigation—to prosecute—and we hope to get restitution as a part of that prosecution. But in addition to identifying civil frauds, we turn those cases over to the department of health for recovery.

At the time I submitted the annual report to Governor Carey in December of last year, I had indicated that in just 40 homes we identified \$12 million. As I sit here today, that figure has risen to over \$19 million, and if we are given the budget to look at the entire industry, from 1969 to 1974, I am fully confident a minimum of \$70 million will be identified and ultimately recovered by the State of New York.

#### EXPANDED JURISDICTION NEEDED

Representative SCHEUER. In addition to getting more funding to do the job, would you like to see your jurisdiction expanded to include the very domiciliary care facilities we are talking about now?

Mr. HYNES. Yes, I would. May I say, in December last year the Governor's office made inquiry, and I indicated at that time, on the basis of complaints and some preliminary investigation that we had done in the seven regional offices that we have throughout the State—the principle cities—that we are certain substantial evidence would lead us to these investigations that we feel are necessary.

We have not yet been given that jurisdiction.

Representative SCHEUER. I very much hope that Assemblyman Stein will join with our colleagues and with Representative Koch to urge this be restored. It is the preventive medicine we need.

Senator Moss. I have been informed that Assemblywoman Lipschutz is here, and if she would like to join us, fine.

Senator DOMENICI. I would like to ask a couple of questions.

You have indicated you would like to extend your jurisdiction into the domiciliary care area, and plan some very strict legal responsibilities on the operators in the same way as on the operators of nursing homes.

Without getting personal about the individuals, could you tell us some of the reasons you want to extend your jurisdiction? What do you expect to be the violations of law?

Mr. HYNES. I try to make it a policy not to be specific concerning people under investigation.

I can tell you, Senator, that as of December of last year, we had received more than 60 complaints from various areas of the State and in our seven regional offices.

Those matters are currently under investigation for the simple reason there is ample evidence of abuses in the adult home area as there has been in the nursing homes. But I am limited in the way I can answer the question because of my prosecutorial role.

Senator Moss. There is not much of a line in going from the nursing homes to the adult homes, except a little absence of medical care.

Mr. HYNES. I suspect that is correct.

Senator DOMENICI. Let me ask you if your investigation at this point supports some remedial legislation. Your very excellent remarks indicate it is not going to be enough to find fraud and misrepresentation.

#### ONGOING INVESTIGATIONS ESSENTIAL

Mr. HYNES. One of the things that must happen, Senator—at the time that the investigation ends, I fully expect it can be wrapped up within 1 more year, unless there is an ongoing procedure within the State department of health—a self-contained fraud audit unit—to have a constant vigilance that we never return to pre-1975. It makes little sense to spend the type of money that has been spent for any investigation, wrap it up at the end of 2 years, and close shop. What we indicated in our report to the Governor was that, No. 1, there must be a concentrated effort to evaluate every home in the State, to do a full audit of every home in the State, to review the medicaid reimbursement formula, and bring it into a reasonable proportion. No. 2, to turn over to the State department of health a self-contained unit of criminally trained fraud investigators—I am happy to see that Dr. Wells issued a statement yesterday conceding we have the facilities to train these people—to turn over to criminal lawyers who work with us and turn over to investigators, keep that unit ongoing so that they can operate as an investigative check of not only nursing homes, but in every area where medicaid funds are used.

Now, we have a \$3.3 billion medicaid budget in this State, half of which is paid for by the State of New York. I would that members of the legislature should not engage in penny-wise and pound-foolish conclusions.

Senator DOMENICI. Mr. Chairman, might I just make one comment. It does appear to me, in reference to medicaid, we have a couple of problems on SSI with the concept you described. But with reference to medicaid, if there is one thing that is absolutely positive—if we see no upturn in the State process and exercising a willingness to investigate, audit, and supervise, it appears to me that a minimal standard of the Federal Government ought to be proposed. Even if it is difficult to monitor, one should exist. And if that is in the law, we would have some reason to find out whether it will work.

As it is now, it is left totally up to them, and you are only describing a chronic illness across the land, with few exceptions.

Thank you, Mr. Chairman.

Senator Moss. Congressman Koch?

#### APPARENT RESISTANCE FROM STATE BOARD

Representative KOCH. First I want to say that Governor Carey's nomination of you for the appointment of special prosecutor is one of the major achievements of his administration, indicating a desire to root out the corruption that exists in the industry. I am very interested in your comment on the resistance that you have apparently received from the State board of social welfare with respect to your desire to investigate the facility end of the nursing home business.

I wonder whether you could give us some insight with respect to their opposition?

Mr. HYNES. I wish I could answer that. I was happy to hear that Mr. Shapiro is going to be here. I simply cannot answer your question at this point.

Representative KOCH. But it is your desire to engage in investigations and, under the existing law, without the board's consent, or without a change in your mandate by the legislature, you simply do not have the lawful authority to do that; is that correct?

Mr. HYNES. Congressman, someone has to take a look at these homes. What we have now are allegations, and it leaves a cloud over many of the owners of these homes.

I would be more than happy to take a look.

Representative KOCH. And at this moment you are prevented from doing so by virtue of the resistance of the State board of social welfare.

Mr. HYNES. That is correct. I have no jurisdiction at this time.

Senator Moss. I would point out that in the State of Georgia, the Governor down there ordered an audit of every nursing home, and the results were astounding—what they were able to uncover in the way of fraud, of overcharges, and various things. I suppose one of the most healthy of pictures we could have is consistent audit of these places. This is what you are seeking to have funding for, isn't it?

Mr. HYNES. Yes; sir.

Senator Moss. Assemblyman Stein?

Assemblyman STEIN. Mr. Hynes, supposedly the reasoning for cutting out your funds for additional auditors was for financial reasons. Did you make a statement or issue any report in which you said

that if you had those auditors, you could save many times that money?

#### AUDITORS SAVE TEN TIMES THEIR SALARY

In our investigations, we found that every auditor saves 10 times what he gets, based on all of the medicaid reimbursement charges. Is it your impression that it is really penny-wise and pound-foolish, that it is not a budgetary savings but, in fact, it is a loss?

What is your figure that you say you could save?

Mr. HYNES. I think the most interesting figure we have come up with is every time you turned an auditor into the field, he recovers \$2,500 worth of fraud—that is, every day.

Senator Moss. Thank you very much, Mr. Hynes. We appreciate your appearance.

Before you leave, Congressman Scheuer has a question.

Representative SCHEUER. Mr. Chairman, Mr. Hynes, I take it part of your problem is money—part of the problem of the State legislature is that there is no money up there.

I put in a bill that provides where any county, city, or State sets up a prosecuting unit to develop medicaid or medicare fraud, that the Federal Government will pay the preponderance of the costs of that prosecuting unit. The Federal Government, of course, will recover a substantial part in restitutions.

Do you think that kind of provision, if it becomes law, would make it easier for Governors—like Governor Carey—who have financial constraints on them, that this would encourage them to set up prosecuting units to discover medicaid and medicare fraud?

Mr. HYNES. Without a doubt. I commend you for that, and I would strongly support such an action.

May I add one point to your question? The \$2.3 million, which I have heard several times, is reimbursable by 75 percent, so we are not talking of \$2.3 million—we are talking of something less than \$600,000.

Representative SCHEUER. Thank you very much.

Senator Moss. Thank you. We appreciate your testimony very much.

Mr. HYNES. Thank you.

Senator Moss. Before we call our first panel, Mr. Gerald Fried has asked that he be heard. We are pleased to accommodate you, sir, and will hear from you before we call our first panel.

#### STATEMENT OF GERALD M. FRIED, EXECUTIVE DIRECTOR, STATE ASSOCIATION OF HOMES FOR ADULTS, INC., NEW YORK CITY

Mr. FRIED. Mr. Chairman, on my side is Mr. Julius J. Rosen. He is my general counsel for the State Association of Homes for Adults, Inc., Mr. Chairman.

Senator Moss. We are glad to have you.

Mr. FRIED. Mr. Chairman and gentlemen, I have been requested by the State Association of Homes for Adults, Inc., a not-for-profit corporation which represents private proprietary homes for adults—PPHA's—in the New York City metropolitan area, to submit to you a statement in behalf of its members. The purpose of this statement is fourfold:

(1) To clarify what appears to us to be a basic confusion among legislators and the public of the purpose and functions of PPHA's;

(2) To describe the physical and operational characteristics of PPHA's;

(3) Review the costs and the remuneration for these homes for the services and facilities provided; and

(4) The methods of supervision of and remuneration to the operators of PPHA's.

Senator DOMENICI. May I ask a question? In your opening paragraph, you indicate the corporation you are representing is nonprofit.

Mr. FRIED. Yes.

Senator DOMENICI. But the members that make up your corporation—they are not nonprofit?

Mr. FRIED. No, sir, they are proprietary homes for adults.

Senator DOMENICI. Are there any nonprofit homes that belong to your association?

Mr. FRIED. No, sir.

#### SOURCES OF MONEY QUESTIONED

Senator DOMENICI. Where do your clients—the members of your association—get their money from?

Mr. FRIED. They get it from the Federal Government, generally; 25 percent is paid by the State government.

Senator DOMENICI. I know where it comes from, but I am just wondering why the paragraph in your statement seems to indicate that you are not getting paid from public moneys. Actually, it seems to me almost all of it is either State or Federal money that is being paid to sustain these homes. When your residents turn the check over to you, is that not SSI money—State and Federal money?

Mr. FRIED. What I said in my statement was, as opposed to statements that were heard here previously, that that money was paid to nursing homes, directly to the facilities, but that no SSI check is made out directly to a facility that is an adult home.

My name is Gerald M. Fried and I am the executive director of the State Association.

The State Association of Homes for Adults, Inc., represents 50 homes in the New York metropolitan area with an aggregate bed capacity of more than 9,000. This is more than 50 percent of the total number of proprietary adult home beds in the entire State of New York.

The association was established to serve as a spokesman for the proprietary adult home industry, to represent members before Federal, State, and local agencies, to provide representation in union negotiations, and to inform and educate the public as to alternative programs for those elderly who require residential care facilities. To this end the association is actively, in conjunction with State authorities, attempting to improve the quality of the lives of residents in each member home. For instance, the association voluntarily contributed substantial funds directly to the New York State Board of Social Welfare to assist the board in establishing a pilot recreational program for residents of PPHA's. In addition, we also initiated efforts several years ago to develop a "need" criteria for approval of certifying new PPHA's. The result of our efforts, finally

joined in by the State board of social welfare, was the present moratorium on establishment of new PPHA's as well as a limitation of the number of beds in any future certificated PPHA. Our primary concern in contributing to the recreational program and in endeavoring to limit the number of new beds in the industry was to improve the lives and living conditions of residents at PPHA's.

Member homes are certificated, supervised, and regulated by the New York State Board of Social Welfare and fall between medical facilities and independent living; that is, for individuals who do not require either skilled or custodial nursing care but who do require some assistance in daily living.

#### TWO CATEGORIES OF ADULT HOMES

The association basically is comprised of two types of adult homes. One category serves those who, because of advancing years and/or moderate physical disabilities, need to dispense with house-keeping for themselves, and choose to be with their peers in a congenial residential atmosphere. The second category is adult homes that provide aftercare for persons who had been in State institutions and who have been medically certified as competent to reside in a nonmedical facility with minimum restrictions until they are able to resume fully the normal life of the community.

Certificated PPHA's provide assistance in daily living for people who can substantially tend to their own needs and requirements, with moderate staffing for aid in daily living, and so forth.

The purpose of adult homes to the extent economically feasible is to provide an atmosphere that will give all residents: to the aged, the ability and the will to savor life, to participate in activities that will be physically and mentally invigorating, and enjoy their later years to the fullest possible extent; and to encourage those younger ones who are physically able to return to full, independent living and community life. In this regard, member homes in the association provide, among other services, recreational and educational programs, libraries, hobby classes, and current events sessions that enable the aged to remain informed, and various other programs—some with pay—for younger residents. PPHA's receive no direct payment for the services they furnish from either the Federal, State, or local authorities. The operators receive no medicare or medicaid payments for any services they provide but rather are paid directly by each resident out of the \$386.70 per month supplementary security income payments they receive. Unless the resident is on social security, he normally retains a spending allowance out of his monthly SSI check. Thus the payment made to the facility by the resident is less than \$12.72 per day.

Gentlemen, I think that you will agree that at \$12.72 per day none of you would be able to obtain a decent or even halfway decent room in a hotel or motel in the metropolitan area, let alone food and the other services our homes provide.

The elderly poor who require residence in PPHA's are the political and journalistic footfalls of our society. Indeed, so startling is the lack of concern by the State, Federal, and city governments for these elderly poor that all too many times these individuals arrive at an adult home from a hospital or State institution with no more cloth-



ing than a hospital gown. No funds are made available to these individuals through their SSI payments for the purchase of decent clothing and if it weren't for the fact that individual proprietors dig into their own funds and solicit charitable organizations, these individuals would remain in the same poor condition as they were under State care when the State was receiving from 8 to 10 times the amount that the residents receive to pay for their residency at the adult home.

Representative SCHEUER. [Discussion off the record.]

Senator DOMENICI. You may proceed.

Mr. FRIED. The only category of residential care—which includes furnishing aides to assist in tasks of daily living, such as assistance in feeding, dressing, washing, and walking; establishing recreational and vocational rehabilitation programs; safe, clean, comfortable quarters; properly nourishing and dietarily sufficient three meals daily; two snacks daily, and a good living environment—in which the cost-of-living factor has not and does not merit consideration, is the proprietary homes for adults.

#### PHYSICAL STRUCTURE REQUIREMENTS

PPHA's are required to be physically equal in almost every respect—for instance, room area, corridor widths, dining and recreational areas, sanitary and kitchen facilities, furnishing, fire retardation and safety devices, and so forth—to the physical structures and furnishings of health-related facilities, which are medical facilities. Yet they receive from their residents' SSI payment a maximum of \$12.72 per day.

How do those who allege PPHA "ripoffs" explain medicaid payments of \$35 to \$40 per day to pay for almost identical services in a physically almost identical facility merely because it is called a health related facility and is defined as a medical rather than a residential facility based on allegedly established actual operating cost? How can PPHA's be expected to continue to operate on less than \$12.72 per day when such proprietary adult home may be located on the same block or within a few blocks, be almost identically constructed, have the same labor union, pay similar real estate taxes, furnish substantially similar services, and, at worst, have a very slightly smaller staff than the HRF?

Much criticism has been directed against alleged real estate profiteering by PPHA's because a large percentage of the moneys paid them goes toward rental and/or mortgage and financing costs.

It should be pointed out that a 50 percent real estate cost for a large, newer metropolitan PPHA equals only \$6.45 per resident per day.

It is a known fact that the HRF's average a real estate cost recognized as "reasonable" by New York State and medicaid of approximately \$8.50 per patient per day. The average medicaid rate paid to HRF's located in the metropolitan New York City area is approximately \$37.50 per patient per day. This reflects an average real estate percentage cost of HRF's of 23 percent of their total rate.

Accordingly, it is clear that critics of PPHA real estate costs are playing a numbers game. Your committee is aware that a similar physical facility in a similar area, subject to similar construction

and financing costs, must reflect such costs regardless of the gross rate paid. In short, gentlemen, the cost of construction, real estate, and financing is a real cost which is paid by the operator. This, rather than being a cause for criticism, should be a cause for serious concern, and only highlights the gross inadequacy of \$12.72 per day.

Our association is deeply concerned over the fact that the government and the public appear disinterested with the fate of residents in PPHA's. If the resources known as PPHA's are forced into bankruptcy, where will these residents go? The alternative will be chaos and the return of thousands of residents to State hospitals or to the department of social services who will then have no alternative but to pay the much larger costs of caring for these individuals at other facilities. But even more devastating will be the impact on these individuals who do not require medical care and whose last remaining years must be spent in turmoil and inappropriate surroundings, compliments of the State, city, and Federal governments' callousness with their lives and the affairs of those individuals who have, under the most adverse circumstances, endeavored to perform an extremely valuable and necessary service to the community and these individuals by operating the PPHA's.

#### TWO FACILITIES FILE FOR BANKRUPTCY

This chaos has commenced. Last summer, 1975, two of the State association's newer facilities filed petitions in bankruptcy. I have available with me for the committee's consideration a transcript<sup>1</sup> containing the bankruptcy judge's remarks which conclude that these two facilities could not survive even if fully occupied on \$12.72 per resident per day. The history of efforts to obtain a proper rate is as follows:

Prior to 1974 when SSI payments came into existence, the rate paid to residents of adult homes was a negotiated rate for New York City and established by the commissioner of the Department of Social Services of the City of New York, who at that time was Henry Rosner. Commissioner Rosner, in March of 1973, while indicating that he was well aware that the then rate of \$366 per month was grossly inadequate based on figures in his possession, stated that due to the President's wage-price stabilization freeze he had no power to give more than a 2½ percent raise which would increase the rate to these individuals to \$375 per month. He stated that as soon as the freeze was lifted he would negotiate a fair rate which would be in excess of the then-established rate of \$375 per month.

In December 1973, the proprietors met with the commissioner of Social Services of New York State, Abe Lavine, and his assistant commissioners in Albany. They were advised that due to the tremendous inflationary pressures since the Arab boycott, the previously inadequate \$375 plus \$28.50 personal allowance rate was now impossible for the homes to survive on. We requested an emergency fund as immediate aid. Commissioner Lavine sympathetically advised he would assist the proprietors to get this increase in a reason-

<sup>1</sup> Bankruptcy proceeding in the matter of Klein's Forest Manor, Inc. (75-B-1566) and Klein's Golden Manor, Inc. (75-B-1567) D.I.P. Aug. 4, 1975, U.S. Courthouse, Brooklyn, N.Y. Retained in committee files.

ably brief period. The implication clearly was that this assistance, even if emergency until all legislative problems which took longer to resolve were concluded, would be forthcoming in a matter of weeks.

Nothing happened for several months. Then we were advised that a financial survey would be made by Peat, Marwick, Mitchell to determine actual costs in order to justify immediate increases. Our member homes fully cooperated with Peat, Marwick, Mitchell in making available to that organization all relevant records and financial data requested with regard to operational expenses. Since this survey covered the costs of operation for the calendar year 1973, it was to have considered the inflationary factors of labor increases, food, fuel, energy, construction, interest, and so forth, taking into account a 1974 inflation projection. New Home costs were essential to be considered since, by 1975, over 50 percent of all beds in proprietary adult homes in the New York City metropolitan area would be in new construction and the cost of new construction and financing thereof were substantially above similar construction in existing facilities. The results of this financial survey were to be completed prior to June 1974, and a new proposed rate promulgated by July 1, 1974.

#### SURVEY RESULTS DELAYED

Even though this survey was completed in June 1974, the division of the budget for the State of New York, for some reason known only to itself, refused to reveal the results of this survey until April 11, 1975, and then only because counsel for the association demanded the release of this financial survey pursuant to the Freedom of Information Act.

Mr. HALAMANDARIS. A few minutes ago we extended you the courtesy of giving some time and to even placing you at the beginning of the witness list, because you asked in the name of fairness to give a brief opening statement, and to lay the foundation for forthcoming testimony.

We have been sitting patiently listening to your exhaustive remarks. I would appreciate it if you would stick to our agreement. Could you take a couple of minutes in summarizing your statement? We will see if the Senators have any questions to ask you, and thereafter if you feel a need to continue your statement, then we can arrange something at the end of the day.

Mr. FRIED. Fine. We can finish after the other witnesses finish today.

Senator DOMENICI. Proceed to summarize in a couple of minutes, and if you feel a need to testify further, we will try to work you in.

Mr. FRIED. May I say there are only 3½ pages left. It is a total of 4 or 5 minutes.

Senator DOMENICI. We can all read. I think you have made most of your points from what I can tell.

Mr. FRIED. The survey did not consider new construction costs, other inflationary factors such as labor increases, and so forth, nor a 1974 general inflationary projection. Subsequently, after numerous emergency letters, calls, and conferences we were advised that a supplemental audit of several new homes was being made. The survey

results reflected the gross inadequacy of the SSI rate of \$375 in effect in 1974. To date, we have been advised the Governor cannot do anything without Federal cooperation—and so nothing has been done.

The proprietary adult home owners in the New York City metropolitan area have been advised most recently by the State that it is the "Feds" who have reneged on their obligations whereas the State can do nothing about it because if it does, it will bear the entire burden of such increased costs. The Federal Government must bear a large portion of the blame for this deplorable and inhumane situation. However, the State cannot so easily disregard its own major share of its responsibility. Over the past several years, it has discharged literally multiple thousands of former mental patients from State institutions into proprietary adult homes. When these individuals resided in the State institutions, the State contributed 25 percent, the Federal Government 50 percent, and the local government 25 percent of the costs of supporting them in the State institutions.

Since the average hospital cost per patient per day is \$90, the total monthly cost per patient in these State institutions is \$2,700.

#### REFERRALS REDUCE COSTS

The referrals of such individuals, when considered and declared competent by State psychiatrists for residence at adult homes, immediately reduces the cost via the vehicle of SSI payments, as follows: Federal \$156.70 per resident per month, State \$114.50 per resident per month, and city \$114.50 per resident per month.

This creates a massive savings on each such referred individual of \$1,193.30 per resident per month Federal, \$536.50 per resident per month State, and \$536.50 per resident per month city.

In gross, the savings on these referrals to the State and city alone aggregates hundreds of millions of dollars.

Nevertheless, the governmental authorities refuse to pay a survival rate which will enable PPHA's not only to continue to provide their essential services but also to continue to save massive dollars for the Federal, State, and local governments.

Finally, the incongruity of having three separate New York State departments control proprietary adult homes becomes apparent when it is considered that the New York State Board of Social Welfare has the authority to oversee staffing, construction, and operation of these homes. It can formulate rules which increase construction requirements, which increase staffing requirements, and which generally increase substantially the costs of operation of these facilities. However, it has no authority to compensate these facilities for these excess costs imposed upon them.

The department of social services which contributes to the payment has thus far indicated that it has no control over the Federal Government and therefore cannot increase the rate even though it has clearly determined it inadequate and even though it could justify such increases. It does not want to do so because it might cost the State money, or at least more money than it believes the State should contribute. The New York State Department of Mental Hygiene

is also imposing additional requirements without additional compensation. Insofar as medical facilities are concerned, the same department which calls for added costs—or even which is notified of legitimate added costs—can and does increase the rate of these facilities to compensate the hospital, nursing home, and health related facility operators for such increased costs. The sole department handling such factors is the Department of Health. By this means, medical facilities are able to withstand the inflationary costs, provide required services, and yet receive their costs plus a profit margin.

#### INEQUITIES MUST BE CORRECTED

This statement is submitted for the purpose of indicating that this industry affects every single individual in this State. Most individuals, upon arriving at an age where they require this type of assistance—and this pertains to 98 percent of the population, regardless of current age—will require adequate care and residence, preferably at an adult home. The denigration being achieved by paying a rate which is inconceivably low at this point in time and which has been maintained at this low level for a full 3 years, despite all other areas of the economy requiring substantial increases to merely stay even, is well on the road to depriving the Federal, State, and local governments of an invaluable resource. It is factually and historically true that the Government is incapable of providing equivalent services directly at even triple the rate currently being paid by SSI to PPHA residents. Further, it would take years and billions of dollars to duplicate on a public or voluntary basis the existing proprietary facilities. Therefore, every effort should be made by the State and Federal Governments to correct the flagrant inequities outlined herein and to preserve the integrity of the existing facilities.

Senator DOMENICI. I have a few questions of you, but I will yield first to the Congressman.

Representative KOCH. Thank you.

I remember that almost a year ago we heard testimony similar to yours. Those hearings were held as a result of the desire of public officeholders to examine an industry which had not previously come under public scrutiny. I suspect that as a result of those hearings a number of people now hold a different point of view with respect to the nursing home industry. There are several people, as you know, who have since been indicted and perhaps even some will go to jail.

Now, you tell us we ought not be interested in the domiciliary end of the industry, in the sense of having hearings and determining whether people are receiving adequate care. You have pointed out that these homes are getting only \$12.72 a day for each individual, and you ask where a person could receive the kind of care provided in these proprietary homes—provided to people who are the direct recipients of Government payments which they sign over to the home. And you say that is not Federal money.

Having made that premise, I am perplexed by the special prosecutor's statement that he has come up against considerable resistance in his efforts to investigate the nursing home industry, including the proprietary homes. You say there is no resistance to looking into this matter.

Mr. FRIED. May I interject?

Representative KOCH. In one minute, and then you may.

You say there are already three State agencies in some way or other controlling the investments of these homes. Is that not what you told us?

Mr. FRIED. Yes.

Representative KOCH. Apparently they are not doing the job, according to the special prosecutor, so why do you think your industry should be exempt from scrutiny?

#### INVESTIGATION WELCOMED

Mr. FRIED. Congressman Koch, first of all, I would like to explain. I do not believe, in any part of my statement, that I am trying to exempt the adult home from being investigated. On the contrary, I would welcome an investigation. I welcome this opportunity. I want to thank Senator Moss and Mr. Halamandaris for giving me the opportunity to express my views.

We have been trying for 3 years to get somebody to pay attention, to explain that we are not nursing homes—that there is a difference between \$12.72 and \$60 a day.

Representative KOCH. Maybe we are not so far apart then.

Mr. FRIED. In reference to Mr. Hynes—we have no objection to Mr. Hynes coming in.

Representative KOCH. That is the key, because at this moment, although I am not aware that any of your member homes is in violation of existing laws, there ought to be an investigation, because allegations have been made that the kind of care given is inadequate. You just told us that you welcome such an investigation. Is that correct?

Mr. FRIED. That is a fact.

Representative KOCH. And are you not coming before this committee with basically a plea for an increase in your rates? Is not that what you are telling us?

Mr. FRIED. First of all, it is to educate the public—to differentiate between nursing homes and adult homes.

Representative KOCH. I understand, but all I am saying is that you feel that your rates are not adequate; you do not want to be compared in terms of care with the nursing home; and you would like to receive more money than you do at present. For what purpose? Explain that.

Mr. FRIED. I am requesting an increase in rates for the proprietors of the adult homes, but for the sole purpose of trying to comply with all the rules and regulations for the residents in the facilities.

Representative KOCH. I understand, but this is not a rate agency body.

Mr. FRIED. This is a factfinding commission.

Representative KOCH. Exactly.

Mr. FRIED. I want to give you the facts, and to let the public know what they are, so that everyone will judge on that basis.

Representative KOCH. And the facts as to whether the nursing homes or domiciliary facilities are providing the level of care that they are required to give will not be established over this table. It will be established by an independent audit to be made by the special prosecutor. And you have no objection to that?

## COOPERATION WITH STATE AUDIT

Mr. FRIED. On the contrary. I explained to you before, when the State budget department audited, we volunteered the information.

We have sent the commissioner of social services a telegram, volunteering financial statements. We never got any result.

Representative KOCH. Let me conclude my questioning by saying this: I hope such an audit takes place, and I hope after the audit has taken place by the special prosecutor that we do not find what we found in the case of Dr. Bergman.

Mr. FRIED. That is why I came here—to avoid that kind of allegation; that is why I requested the opportunity to speak.

Senator DOMENICI. Congressman Scheuer?

Representative SCHEUER. I am impressed by your answer to Congressman Koch. I hope that you would feel that with some extra funds you could also perform the additional functions, something in terms of looking after these patients.

Do you have provisions for emergencies—the kind that have been widely covered in this paper? For example, bed checks, perhaps several bed checks, one at 11 and then one at 1:30 a.m., to see that people are not missing from their beds. What about adequate staff for recreation, entertainment, and various kinds of therapy programs?

It is perfectly obvious that you cannot afford that on \$12.72 a day, but I would hope that with more funding, you could provide the kind of services, facilities, and protective support necessary for these patients. They are urgently needed.

Mr. FRIED. I believe in your file you should have a letter from your office to mine, and a reply from mine to yours, whereby you requested a few months ago that you were doing a report on adult homes, and you requested information.

I believe in my letter, I volunteered all of that information to you—and my help and my office's help at any time.

As far as your statement is concerned, yes, we request, and we would like to have an investigation of the industry to give us a chance to get publicity, but perhaps good publicity, and an opportunity for residents to get the extra care that we feel they need and deserve.

Representative SCHEUER. I agree with you, and I hope that when you get extra Federal funding it will include guidelines for such facilities. This should include fire and safety measures, adequate inspection of services and programs, as well as professional standards for the administrator and other personnel.

Mr. FRIED. May I explain—

Representative SCHEUER. We should have really thoughtful and meaningful control, not only over the quality of the food and board and the real estate and sustenance, but over the quality of care, quality of TLC—tender loving care—the missing element.

Mr. FRIED. I do not want to go into it too lengthily, but I just have in front of me—I am glad the executive director of the State board of social welfare is here, but this is his testimony at a joint public hearing before the Committee on Mental Health in Albany, in which Mr. Shapiro states—and I am sure he will reaffirm—that there is extensive supervision, that there are extensive laws, that all

of these homes must be fireproof, even though the homes must have sprinkler systems, and there is a constant inspection day and night.

#### FUND SHORTAGE THWARTS ADEQUATE SUPERVISION

However, I would agree. It is impossible to completely supervise these homes, because there is a lack of funds, and the homes themselves cannot comply with what they would like and what the State and local agencies would like because of a lack of funding.

Mr. ROSEN. The thing that appalls us, the proprietary operators, at least in our association—you must recognize that these homes are the mainly large homes located within New York City, in Nassau County, and the metropolitan environs; the result of that is that they face the largest real estate taxes, the highest cost of operation, the highest union costs in the State, and they have the problem of inflation.

As a result, if any facilities are to be provided before the shell—that is, the facilities available for these people—there must be certain costs to be met.

What we are concerned with—both Senators, in their statements, implied that various physical facilities, as well as the services, were not being provided satisfactorily in these homes.

It is inconceivable that these homes can support these large, necessary, and very complex constructions, these facilities, particularly in the New York metropolitan area, on \$12.72 a day.

There is no room for ripoff. The reason staffing is not fully complied with in many homes is that they cannot be foreclosed, they have to meet their rental or their financing costs, which in many cases comes to \$7 to \$8 a day per patient.

If you get \$12.72 a day, and in order to have that facility survive and not have it close down, you must pay these costs, which are considered completely reasonable. You must keep in mind that these are not medical care facilities and they will not have the care of a nursing home. But for 4 years, most urgently, the last 2 years, these homes have been going before the New York State Senators—that is, the Federal Senators—their Congressmen, the assemblymen, the State senate, and the facts are important here, these are facts. What is of concern to me is that we got no reaction, except we got these very denigrating remarks, and that is because there is not a clear distinction in the mind of your committee between domiciliary care facilities and medical facilities. It is crazy to think that there can be a ripoff on \$12.72 a day, comparable—as the comments that Congressman Koch made—to someone getting \$40 to \$50 a day. There is an awfully lot of difference, and there is room for ripoff.

Again, one of the reasons it appears to me that Mr. Hynes is unable to get the permission of the board of social welfare—and I cannot speak for them, I did not know that until today—it would appear to me the board of social welfare has no control whatsoever over funding or financing or payments of the rates of these people.

#### CRIMINAL ACTIVITY DENIED

Medicare and medicaid are not involved; therefore, it would appear if there is any crime—that is why we so urgently invite an investigation, more than just welcome it. Mr. Hynes cannot find a criminal



activity here that you could find with nursing homes because all we have here is an approved agreement, one that has been approved by the board of social welfare, which is an agreement between the residents and the homeowner.

Obviously, who are they ripping off at \$12.70 a day? What crimes can they possibly have committed?

Mr. Hynes indicated there is some connection between nursing home operators. To our knowledge, at least in our members' homes, that is absolutely untrue.

Senator DOMENICI. All right. We have a very lengthy agenda to go through yet.

Senator MOSS. We have given you the courtesy of putting you on at the beginning of the agenda, when you came forward and asked us to do it.

We have heard you fully, and we appreciate your statement. We will consider it very carefully. But we do have a pressure of time. We are running about an hour late at this point from where we had planned to be.

Mr. FRIED. Thank you, Senator.

Assemblyman STEIN. Mr. Chairman, just very briefly.

As you know, I have been to many of these adult homes, and I think there is a lack of definition in what we are talking about. It seems to me they are not really adult or boarding homes. The majority of the people there are really people from mental institutions. I went to one last night where the owner told me that 95 percent of the people were former mental patients—some with 40 percent, some with 50 percent mental disabilities.

It seems to me, and I have talked to many of these patients—it is a bad idea to mix these former mental patients with ordinary elderly people who are just going there for residence. We are running behind now, and some of what you say is true.

I think other things you said are not true. There is a lot of bad care going on in these homes, and in many cases the funds are insufficient. I think Mr. Hynes would do well to investigate, and I think you would find a lot of criminal activity.

Let me ask you this question: What do you think about mixing the number of mental patients with people who need a place to live?

Mr. FRIED. First of all, let me explain, that I know—I have been apprised of the homes you have visited. You have visited just a few of the homes so far.

Assemblyman STEIN. I visited six.

Mr. FRIED. You did not visit any of the real nice homes. You picked out one or two individual homes that are comprised of former mental patients of the State hospitals. Your question specifically was: Is it a good idea to mix?

I believe that the New York State Department of Mental Hygiene, in an agreement with the State board of social welfare, limits the residence of former mental patients to 40 percent of the facility for the expressed purpose, and keep this in mind, that the adult home is not the final point that the nursing home is.

#### HOMES USED AS "STEPPING STONE"

It is a stepping stone for the individual from the hospital to be reintegrated into the community, and this will give them an oppor-

tunity—these former mental patients, who have been certified by any competent psychiatrist to leave these hospitals—to go into these homes, mix with the population, and use these homes as a stepping stone to return to the community.

We have many of the homes that absolutely have none, and I would invite you and the committee to possibly visit some of these.

Assemblyman STEIN. I have been to eight. My staff has been to two dozen of them. All of those places we have been to have had an overwhelming number of mental patients.

Mr. FRIED. As I explained to Congressman Koch, we would welcome an inquiry.

Assemblywoman LIPSCHUTZ. If I could state—I am wondering why people would want to go into the adult home business if they are not making a profit.

How many of the adult homes in the Rockaways are members of your association—the State association?

Mr. FRIED. Well, I would say 95 percent of the adult homes in the Rockaways are.

Assemblywoman LIPSCHUTZ. All right.

Was that unfortunate incident that we had of a resident freezing to death—was that from a home that was a member of your association?

Mr. FRIED. No, and I would like to explain. That is a medical facility—a health related facility that had nothing to do with an adult home.

Senator MOSS. Well, we do have a long agenda, and we must go on.

We thank you very much. Your documents have been received—the public assistance programs analysis<sup>1</sup> and the transcript in the matter of Kleins' Forest Manor, Inc., and Klein's Golden Manor, Inc.<sup>2</sup>

We will now turn to the panel made up of Mr. Charles Platzner, Far Rockaway, N.Y.; Mrs. Sarah Klein, Palace Home for Adults, Long Beach, N.Y.; Mrs. Joffe, Cornish Arms, and Mr. Ted Connolly, Sutton Place.

All of the members of the first panel please come on up.

Let us start with Mr. Platzner.

Mr. Platzner, I am told you are a retired plumber, is that correct?

#### STATEMENT OF CHARLES PLATZNER, FAR ROCKAWAY, N.Y.

Mr. PLATZNER. Yes, sir.

Senator MOSS. Where do you live now?

Mr. PLATZNER. I am now living with my son.

Senator MOSS. You formerly lived in the Paradise Home?

Mr. PLATZNER. Yes.

Senator MOSS. When did you move into the Paradise Home?

Mr. PLATZNER. May 14, 1975.

Senator MOSS. Will you tell us how old you are, Mr. Platzner?

Mr. PLATZNER. Seventy-six.

<sup>1</sup> "Public Assistance Programs Analysis: Medicaid, SSI, and Home Relief for the Aged, Blind, and Disabled," by Mark E. Hamister, president, Upstate SSI Action Coalition of Adult Homes, Inc., Rochester, N.Y., dated Jan. 20, 1978. Retained in committee files.

<sup>2</sup> Retained in committee files. See footnote, p. 3557.

Senator Moss. You were telling us when you moved into the Paradise Home, now will you tell us why you moved into the Paradise?

Mr. PLATZNER. My wife died on the 17th of November 1974. My children did not want me to continue down there, so I came up north, and I got very lonely.

My daughter went to work. She left home for work at 8:15 in the morning, and I was going crazy.

Senator Moss. You were alone all day long?

Mr. PLATZNER. Yes. I cooked my own breakfast and lunch, and I finally joined one of these senior clubs, which gave me about 2 or 2½ hours a week, and it got pretty lonely.

I moved in with my son, and he was out of work. He is still out of work. He is a New York plumber, and he gets a job here and there. I asked him, at Long Beach, I said: "Let us take a look at one of these things."

I told him that I cannot go on like this any more—that I had to be with people, if you call them people. I finally wound up at the Paradise.

Senator Moss. And that is when you moved into the Paradise—you decided to move in there at that time?

#### PRESSURE USED BY THE ADMINISTRATOR

Mr. PLATZNER. Yes. When I talked to him, he tried to pressure me to move in the next day. I told him my daughter is away for a few weeks, and I could not move in right away. He says if you move in right away, I get my money more quickly, and I said I would move in on the 14th. It looked pretty good. The food was not bad. I am of the Jewish faith, and it was not too bad.

Senator Moss. It looked like it suited you very well from your appearance.

Mr. PLATZNER. I lost weight.

Senator Moss. You are back with your son now?

Mr. PLATZNER. Yes. There are five or six points that I would like to mention.

There were several problems. There were five or six people at a table in that home, and the flatware, I had to take the flatware and put it in a glass of water, and take a couple of paper napkins to wipe it off. The plates were dirty, and the food stuck to the plates.

Well, anyhow, the elevator would break down seven or eight or nine times a week.

I walked by the men's room one morning and I saw a young person—not young—I mean a short man about this tall, may his soul rest in peace; he is dead now. He was using the waste basket for putting his urine.

I just happened to walk by, and I said to him: "It is going right over the top of your head if I see you do that again." I walked over to the desk and I told them that I saw this man using the waste-basket, and I told them if I see him do it again, I will turn it upside down and put it over his head. I got a laugh from them.

Senator Moss. Did the elevator break down frequently?

Mr. PLATZNER. Very frequently. Some people had to walk up five or six floors.

Senator Moss. How many floors are there in the Paradise?

Mr. PLATZNER. I think six. I was in 603.

Senator Moss. Six floors?

Mr. PLATZNER. Yes.

Now, immediately opposite my room there is a fire exit door. We could not open it, but if you got it open by kicking the door with your foot—you might open it that way. The lock was shot. I fixed the lock a few times. I reported it, and if that door is in that same condition—Lord forbid, if a fire ever broke out, nobody could ever open that door.

You can just close it, and that is it. And the firehose there ought to be replaced.

Now, it was at this time I made up my mind that I was going home. I think in the course of about 9 weeks seven or eight went out horizontal. One lady took an overdose; she was in her bed dead, covered. A policeman was sitting outside her door for 3 nights and 2 days.

Senator Moss. Well, was there a doctor that came to the Paradise? Did you have a doctor that visited with you frequently?

Mr. PLATZNER. Periodically, at the end of every month, I was checked.

#### QUALITY OF MEDICAL CARE QUESTIONED

I doubt very much that the kid was licensed. Back in the lobby, two young girls came there before the doctor did and would take the names, what was wrong, and—the main thing—then we had to sign the medicare slip.

Senator Moss. The medicare form?

Mr. PLATZNER. The form for the money.

Well, the doctor would finally sit down, take out his stethoscope, and that was the end of the examination.

Senator Moss. Did he examine you one at a time, or several at a time?

Mr. PLATZNER. Several at a time.

Well, I made up my mind that I was going to do a little bit of checking around. One month they had about 25 or 30 people there. I sat in the lobby, and it took them 10 or 15 minutes. What kind of an examination can a doctor give in that amount of time?

I was told the next morning to come in for the results. I got a cardiogram and I got a chest X-ray. The nurse said to sit down outside of this room. I said, "What is next?" She said, "Blood test." I said, "I am sorry; I am not taking any blood test here."

She asked why, and I said I was not going out of there with an arm full of holes.

You take this blood test, and sometimes they hit the right spot. If they do not, you get a blue mark on your arm for a week. I said I would not take the test here, and I would go somewhere else.

Now, there are some people that should not have been there.

Senator Moss. Are there a lot of sick people in there?

Mr. PLATZNER. Yes.

Senator Moss. Very sick?

Mr. PLATZNER. There were three sisters. One of them was sick at the time I was there; one of them was blind; and then the third sister was pretty spry—she was mobile. She just pulled along the

other; she fed her. Then they went back up, and that is all these two girls had ever done. That is all I ever saw them do.

Senator Moss. Did you have trouble with the heating at all over there?

Mr. PLATZNER. Yes. At the time I was there, I did not need any heat. I went out on the 17th of September. We did have some cold nights, but the heat was not bad.

Well, I declared myself. I said I was going out. I said I could not stand it there any more. I told my son that the food is rotten. When they serve you sour cream, you need a straw to drink it.

I said to the waiter, "Joe, why don't you get me some good sour cream?" He said, "Yes; I like you."

I said, "Will you do me the favor? Whenever you serve my sour cream, just make sure it is good."

Senator Moss. You wanted sour cream which you could pick up with a spoon and not use a straw?

Mr. PLATZNER. That is correct. He said, "I know," and he patted me on the shoulder. He said, "OK, Charlie, you will get good sour cream."

Assemblyman STEIN. Mr. Platzner, did the manager of the home ever suggest that you sign over the SSI check to him, even if you went on vacation?

Mr. PLATZNER. Not in the Paradise.

Assemblyman STEIN. No, in the Jackson Home.

#### "SSI CHECK GOES TO MANAGEMENT"

Mr. PLATZNER. I could mention that one party I know of goes there every summer. I did see him—when he disappeared, he went away to see his son, and someone told me the story that when he goes away for a period of time, he keeps his social security check, and the SSI check goes to the management. I had this approach made to me, that if I could jump to the Jackson Home—I had been contemplating for about a month to go to Florida in January. I told one of the new owners, supposedly—I said to this guy, "Nat, I met a nice lady, and I am contemplating going to Florida for the month of January."

So he said, "Are you coming back?" and I said, "I don't know, Nat."

I said I might stay a month; I might stay 2 months. I said, "I am going to want my SSI check, and when I come back, I think I will move in with my son. I cannot stand these places anymore."

He said, "Don't do anything with the social security check. You go to Florida, and you let me know where you will be. I will mail you both checks, you keep your social security check, and mail me back the gold check; just endorse it."

I may sound stupid, but I said, "What are you going to do? Are you going to keep the check?"

He said, "At least, you will come back to a room, and I will hold the room for you. I will keep the gold check, and you keep your social security check."

I said, "Wait a minute. I do not live that way." So I gave him a deal, I said, "Suppose we split the gold check—you keep half, give me half?"

Senator Moss. That is the SSI check?

Mr. PLATZNER. Yes. He said, "Look, I am keeping the room for you."

I said, "Nat, don't keep the room for me; rent the room. When I get back, maybe I will come in here. If you do not have a room, I will go elsewhere."

Well, anyhow, I said, "When the check comes, I am going home, because I have got to take this check to the city hall building on Friday afternoon," and that was December 5, which I did. I went off SSI, and I reapplied for medicaid.

Now, I think it was the 2d, the 3d, or the 4th of December—this could be verified—at 10:30 or 10:15 that night. It was 24 degrees and you could not close the window.

You hit it, and it would jam a quarter of an inch high. That is it. I went to bed that evening but I could not fall asleep because of the cold.

I came downstairs for the night man. I said, "Can you send some heat up here? I am frozen up here."

He said, "I cannot get heat up until tomorrow morning." Well, my roommate, they gave him a warm room on that cold night. I told them that I can stand it better than he can, but when it gets down to 24 or 26 degrees, it is cold.

#### LAMP USED TO KEEP WARM

I took the lamp off the night table; I took the shade off—it had a 100-watt bulb in it—and I stuck it by my head. I got dressed, and I went down to the lobby. I figured if I sat in a soft chair, maybe I could fall asleep, but I could not.

Well, the same thing happened the next night. I went back up into the room about 2:30 and I packed my clothes—packed everything up. Then after breakfast, I called my son, and I said, "Will you come down for me?"

I got my things down. Now, I might add, I beat it out of there, because I was in there enough to owe them something. But my son was a little late; I had most of my things downstairs, and I had my little refrigerator.

When I came up for the refrigerator, this guy was already in my room. He took my refrigerator out, and my son came in. He demanded \$114 from us.

I said to my son, "Have you got that?" and he said, "I don't have it with me."

Senator Moss. So you wound up at the Jackson, and then you went back with your son?

Mr. PLATZNER. Yes.

Senator Moss. Well, we do have some other members of the panel, and then we have a couple more panels, so I think we better move on and hear the other members of this panel.

We will now hear from Mrs. Sarah Klein of the Palace Home for Adults, Long Beach, N.Y.

You are Mrs. Sarah Klein?

STATEMENT OF SARAH KLEIN, PALACE HOME FOR ADULTS,  
LONG BEACH, N.Y.

Mrs. KLEIN. Yes.

Senator Moss. Where do you live?

Mrs. KLEIN. At the Palace Home.

Senator Moss. How long have you been there?

Mrs. KLEIN. Since July 12, 1973.

Senator Moss. And can you tell us what is wrong with the Palace Home, if anything?

Mrs. KLEIN. Everything is wrong. I cannot see one thing that is right.

First, I went there on a 2-week vacation from where I lived, and it had become a nightmare. It was a jungle where I lived. I got sick. I went for 2 weeks' vacation, and I figured, why go back to the same thing, and I stayed at the Palace. Then I started with this nightmare; when I got my mail, they opened it.

They look over everything, they sort everything, and they call you in. He opens up the mail, and he turns around and says "Sign it."

Senator Moss. This is the manager?

Mrs. KLEIN. Yes.

Senator Moss. And he opened the mail, took the check out, and asked you to sign it?

Mrs. KLEIN. Yes, and that is not all. I have quite a bit to tell you.

Now, I got \$300 per month. I was short \$46, with my union pension and my social security.

TIPS NECESSARY TO OBTAIN FOOD

My son went to Mineola to apply for the difference. I was allowed \$20 spending money. I did have it, but I had to pay the tips—if I did not pay the tips, they would not give me anything to eat.

I went to Mr. Appel and said that I had a problem. I said the waiter would not give me anything to eat, because he raised the tipping from \$2 to \$2.50, and I cannot afford it.

He said to give him a little extra money. I said, "You want me to run the hotel and pay him?"

I have not got the money. I am still being treated as a stepchild because, at the present time, I do not pay my tips because I cannot get along on \$20 per month.

Another thing: They made the mistake and sent \$451 retroactively. It was retroactive for July.

In January, they kept on asking me for the \$75 a month extra, because they had made a mistake. They sent it to me retroactively, and I said to him, "Why do you want me to give you the \$75? Where is it to come from? Do you want me to rob a bank?" He insisted that every month, "When are you going to give me the \$75?"

I said, "You write to them; that is your problem. You are asking for an increase, and every time we get an increase, you take it out of us."

I said "You not only take it all, but you take money that you are not supposed to take."

Now, there is something wrong with my union pension, which was \$71.50. Then the computer machine made a mistake, and he did not get the money, so he asked me for the gold check—the SSI check.

They sent me \$29, and he then took \$9 out of it, and I could not get along with the \$20 either.

To finish up, there was a lovely lady there, and she was the only one to help me. I have been all around, asking where I stand, what happens here, but whenever I went anywhere, they told me that I have no trust in anybody in Long Beach. Another time I was sent a check for \$611. I never asked for one penny, and then they asked me to endorse a check and send it back.

I did, but I had a photostatic copy made of it.

Anyway, I wrote a letter, and after consideration, they wanted me to keep this \$611. But the social security office had it over there.

Senator DOMENICI. Who asked you?

Mrs. KLEIN. The social security office in Freeport. In fact, I gave a gentleman—Mr. Feldman of Andrew Stein's staff—all of the mail. I am ashamed to say what he—Mr. Appel—called me. This was before I gave my mail to Mr. Feldman, in reference to the money.

He was afraid of me. He thought I knew too much, and that I was talking to too many people.

Those people don't like me because I can read the letters, sew on the buttons for the people that live there, and they look to me for help. He does not like that. One day he grabbed my wrist and called me a—I am afraid to say it—but it was "son-of-a-bitch," and he grabbed hold of my wrists and said I can go to the Crown or to the Jackson. So I am afraid of him.

#### ALLEGED THEFTS OF CHECKS

He is very handy with his hands, and many a person there do not get their checks for the \$20. He keeps them. They confide in me and tell me.

Senator Moss. What you are saying is that he keeps the spending money?

Mrs. KLEIN. Yes.

Senator Moss. I see.

Mrs. KLEIN. The check I get is mine, and it is not to be spent on tips. I stopped giving tips, and I am being treated like a stepchild. Four times the waiter refused to give me my food just because I did not give him tips, and I got so angry. I said I will eat what I have upstairs, and the waiter said, "You see this boiling water? The next time you say that, I will throw it at you." I told the waiter the other day, "You forgot again to give me something to eat," and he said, "I am not afraid of you."

I said, "I am not afraid of you." He said, "Hit me."

I said, "I cannot hit first. You hit me, and I will hit you back."

Well, I am afraid of this man, and I am afraid of Mr. Appel. If he finds out that I am here, I will have an accidental death.

Senator Moss. We thank you very much, Mrs. Klein. We'll try to make sure that doesn't happen.

We will now hear from Mrs. Joffe.

Mrs. Joffe, do you have a problem?



**STATEMENT OF REBECCA JOFFE, CORNISH ARMS,  
NEW YORK CITY**

Mrs. JOFFE. I am not on SSI. There are other people on SSI, and they pay extra money besides what the SSI allows the home.

I do not believe they—the owners—are making money. They claim they are not, and I believe they are not. But there are a lot of things that could be corrected with the money they are receiving.

I live at the Cornish Arms, a home for adults. Most of the residents here are aged, with a sprinkling of younger residents who are mentally ill, blind, or otherwise disabled. There are alcoholics here too. None get rehabilitation services.

The mentally ill deteriorate mentally and physically. I have noticed in the past year they have lost a good deal of weight, and they talk to themselves more than ever.

Occasionally, when one gets out of hand, the switchboard operator will give the person a tranquilizer.

No one bothers talking with them. They live in their own world. No one, including the aged, get any assistance in bathing or dressing. As long as one can walk with the help of a walker or cane, the resident is admitted. The blind depend on other residents.

There are many deaths here. Evidently the residents do not realize their illness is very serious, because they do not get a physical examination here when they are ill. Some will ask to go to the hospital—sometimes too late. Others say nothing; they just call the switchboard operator to have their meals sent up.

The management often does not know that the resident is ill. When one is missed in the dining room—at the dining room table—a friendly tablemate might call to find out why.

**ELEVATORS IN DISREPAIR**

There are two elevators, but they break down often. When in use, they are overcrowded, with no one in charge.

Over 200 have to come down to the dining room for their meals. When those elevators are out of order, the freight elevator is used, which is not insured. Some residents use the stairway. Most residents do not navigate very easily.

The windows do not open or close easily because they are stuck and are very dirty. They have not been cleaned since the hotel became a home for adults. The rooms are carpeted and have drapes, which makes a first good impression. There is quite a staff, but none for assisting those that need assistance for bathing and dressing. As a consequence, they have body odors. Their clothes are not clean.

Senator Moss. Who wrote that letter?

Mrs. JOFFE. I wrote that letter to the Moreland Commission, but since last week, all of a sudden, there is a lot of activity.

They have thrown out the dirty furniture on the 12th floor where they want us to sit with these people who are fighting all the time, drinking, and smoking. Some of us do not go up there. What we do is stay in the dining room a while after our meals. We sit until the cook chases us out and turns off the lights. He uses very vile language, because we do not want to go up to the 12th floor.

Senator DOMENICI. What is the name of your home?

Mrs. JOFFE. The Cornish Arms, and this is at 315 West 23d St.

Senator DOMENICI. In Manhattan?

Mrs. JOFFE. Yes, New York.

Since I wrote this letter, they—the management—have started doing things that they could have done a long time ago. I got the code on smoking from the health department. They handed it right back to me after I showed it to them—that no smoking is permitted in the elevator and in the dining room. Most of the people who smoke blow the smoke in the others' faces, and when we asked them not to smoke, for spite they blow the smoke right into our faces.

This week they changed the seating arrangement. They put the smokers in one dining room and nonsmokers in another.

Last week they threw out the dirty, burned furniture.

Senator Moss. They are making some progress?

Mrs. JOFFE. Yes; somebody called me up and said that there were going to be changes, because I wrote to the Moreland Commission.

I know there will be reprisals against me when they find out that I testified at this hearing.

Senator Moss. This is what we will try to make sure does not happen.

Mrs. JOFFE. And when they fight with each other—

Assemblyman STEIN. What do you mean by "they"?

Mrs. JOFFE. Just some very mean, bad-tempered residents who are alcoholics, not the mental patients.

There are a lot of alcoholics, and only last week they put a mental patient in the hospital. One alcoholic was transferred a few months ago.

I am afraid to go into the elevator. I got a karate chop across my wrist one time for holding the button for those that wanted to come in. There are those that want to go down in a hurry, and they do not want to let anybody in, so you have to be careful.

I walk downstairs now, which are poorly lighted and very dirty, but I want to escape being hit.

Senator Moss. I would like now to hear from Mr. Ted Connolly of Sutton Place.

#### STATEMENT OF TED CONNOLLY, NEW YORK, N.Y.

Mr. CONNOLLY. Thank you.

Senator Moss. And you are Ted Connolly?

Mr. CONNOLLY. Yes.

Senator Moss. And you are the son-in-law of Henrietta Stuve, and she has been missing from Leben Home since August of 1975?

Mr. CONNOLLY. She has been missing since November 17, 1975.

Senator Moss. Will you explain how she was lost?

Mr. CONNOLLY. The first report any member of the family had of her being missing, or of anything irregular happening, was approximately 32 hours—the next day. At approximately 5 p.m., the family was notified—not that she was missing, but a call came to the family: "Do you know where she is? Is she with the family?"

My wife—the daughter specifically got the call.

She naturally became excited. She said, "No we do not know where my mother is. She is supposed to be there."

We immediately started making calls—investigating. My call was made back to the home, and I was told, "I am sorry; we cannot notify the police. The police cannot be notified until somebody is missing for at least 48 hours."

I said, "This is kind of irregular," and I just wanted to verify it.

I called the local precinct, which is the 110th precinct, and asked the desk officer to explain the situation. He said, "By no means do they have to wait 48 hours. We are supposed to be notified immediately."

He said, "I will send a police officer to get the details."

He said that was being done. This is now Wednesday morning, 2 days after my mother-in-law had been missing—or at least reported at the time of her disappearance from the home. The actual time is in question, and my wife and niece went to the home to try to determine from her belongings what, possibly, she was wearing to help the police identify her.

#### HOME DELAYS IN NOTIFYING POLICE

When they got to the home, the police still had not been called. When the home said that the family was extremely agitated, they very haggardly called the police. The local police precinct—the police officer—arrived and started to get the details.

The representative of the home said to the police officer, "This is not necessary; we do not require a missing person's alarm to be sent out. We have our own means and methods of investigating these things."

The police officer immediately turned to the family, and then he said, "Are you declaring her missing?"

The family said yes. The police officer informed the home, and then the family's request took precedence.

They proceeded to fill out the details—what she was wearing. I might say, on this date in November, quite cold, all that we know is that she was wearing a pair of blue house slippers, a black and gray dress, no coat, no sweater—no outer garments whatsoever—and yet, this was the middle of November and very cold.

The 110th precinct filled out the details and said it would be filed with the missing persons bureau. That evening, as a matter of procedure, I called the missing persons bureau to list an additional telephone number that we could be notified at, and which was in operation 24 hours a day.

The missing person's bureau advised me that, "We cannot even talk to you about this case." The home interceded, and they said the family was not to be notified—that there was a mistake made, and that the home was to be notified.

I said this is not the case at all.

He said to call the 110th precinct to get it corrected. I did that. The 110th precinct called the missing person's bureau and said that the family was to be listed—the two telephone numbers were to be listed. I can say that the missing person's bureau—the detective in charge of the case—has been most cooperative.

Also, I would like to say that the police officers of the 110th precinct have been most cooperative.

Subsequent to this, I was at the 110th precinct, at the invitation of the officer, to address all of the police officers at 7 a.m. to appeal to them, with a picture, for help.

They have been commended for this, but by the same token, I would say for the record that the home has been very negligent—and I would emphasize that, negligent—in withholding information and in not cooperating.

It can only be emphasized by the fact, when calling there for information, the manager was not available. He was always too busy.

I finally had to get the social service department to give the name of another one of the owners—which, up until that moment, did not even know of the problem—to intercede and to get the information.

The home has not cooperated in any manner with a fulfilling of this investigation—to the contrary. After 2 months had lapsed we felt it best to go to the home to remove her clothing. The home was called during the day and told we would be out that evening to get her belongings.

When we arrived that evening, the office had not communicated with anyone about us removing this.

#### STAFF REPORTS "NO PATIENTS MISSING"

Going back to the police investigation and to prove negligence, when the police from the 110th precinct went to the home to get information, they were very politely turned away by the staff, saying "There are no patients missing from our home." They said that every one of their patients had been accounted for.

It was only after many hours that there was an admission that she was missing at approximately 9 a.m., and this is only their time of disappearance. This cannot be substantiated by them in any fashion. This was the second time on record of a disappearance from the Leben Home. In July 1975, Mrs. Stuve disappeared from the Leben Home sometime in the morning, and we cannot be sure of the time. She was found to be wandering, incoherent—apart from the fact she was found 6 miles away by the police department.

The police department did some investigative work, and found a family contact. The granddaughter was told to go to the Jamaica Hospital to retrieve her grandmother.

She called the Leben Home and they said they have no means of going out there: "You take a cab, and you go out there and bring her back. We will reimburse you."

To this date, there has been no effort made on the part of the Leben Home to reimburse.

We immediately resisted the Leben Home's answer and insisted that Mrs. Stuve be seen by a doctor.

We were told that she would be seen the following day. I said, "No; we want her to be seen now."

She was seen, and it was said the following day that she would be seen by a medical doctor and the psychiatrist, if it was found necessary.

We asked the Leben Home if it was not advisable to remove Mrs. Stuve from their premises, because of lack of security. If she had

been able to walk away once, what would prevent her from walking away in the future? We were told that they had very, very tight security there now.

She could not have possibly gone out through the front door. The only way they could suggest that she had disappeared from the home was through the service entrance gate being left unlocked for a truck delivery.

The proprietor of the home said, "You can rest assured that the best thing is to leave her here. It is not necessary to take her out of here. We have informed our entire staff that that gate is to be kept locked at all times, and that Mrs. Stuve was not to be allowed out of the home under any conditions unless escorted by a member of the family or a trusted friend."

We understood this as a tightening of their security.

We removed Mrs. Stuve for a weekend, and we took her to the country. We signed her out on the log in the office.

#### HOME DENIES "SIGNING OUT" RESTRICTION

Within one month after her going in the home, she lost her husband of 55 years. She was taken out for the funeral. The home was notified, she was signed out, and there was no problem. I emphasized this to refute statements made in the press by the home saying that the patients could come and go as they wanted, and specifically, that Mrs. Stuve had done this. This was not true by any stretch of the imagination.

Assemblyman STEIN. Mr. Connolly, did you receive notice that medicare was billed by the Leben Home for ambulance service when your mother-in-law was hospitalized? How, in fact, did she get to the hospital? Was it by ambulance that medicaid was paying for?

Mr. CONNOLLY. We were notified that she was in the hospital and, again, the family had not even been notified that she was in the hospital.

Assemblyman STEIN. She was hospitalized?

Mr. CONNOLLY. She was hospitalized, and we were told by the Leben Home that she was taken there by ambulance. We investigated and found under no circumstances was she taken to the hospital in an ambulance. She was taken there in a private automobile.

Assemblyman STEIN. If that is true, then there was a falsified medicaid form that was filled out.

Mr. CONNOLLY. Yes.

Assemblyman STEIN. That is the kind of thing that Mr. Hynes should be able to investigate.

Mr. CONNOLLY. Yes, definitely.

Senator Moss. Thank you. It is a tragic story. There have been no clues that turned up as of this time?

Mr. CONNOLLY. No, sir, we have had articles in the paper, for which we paid. Just last evening, on the 11 o'clock news, Mrs. Stuve's picture was on television for anybody who could have noticed her, to notify us.

Senator Moss. Well, we do appreciate your report on that, and we do appreciate all of the witnesses coming in to talk with us.

We regret that our time is as limited as it is.

Mr. CONNOLLY. Could I just add one additional remark to this?

For the record, the social services department—when they referred Mrs. Stuve to the Leben Home—did not even mention that the home had any patients from the mental institutions.

To the contrary, they denied that there were any mental patients in the Leben Home. I think this should be a matter of record, that the social services department recommended this home, and stated emphatically that there was 24-hour-a-day medical attention.

#### MEDICAL COMPETENCE QUESTIONED

They said there were qualified medical personnel on the premises for administering medicine. We questioned this. We saw medication being administered by questionably qualified personnel. We also saw the patients in the home standing in line to draw their part of their \$20 spending money from social security.

I saw, in fact, these patients stand in line from 2 to 3 hours—sitting on the floor, mind you—waiting for the doling out of money which was rightfully theirs. In many cases, patients had never gotten the money that was rightfully theirs.

Assemblywoman LIPSCHUTZ. One question, if I may. I would like to address my question to both Mr. Platzner and Mrs. Joffe.

He stated that he kept a refrigerator in his own room. I would like to know whether there were other patients—or other guests in the home, let us put it that way—who also had to administer medication to themselves, whether they were capable of judging whether medication was necessary, and so forth. I would like to direct the same question to Mrs. Joffe, when she speaks about alcoholics—were they under medication and, if so, who administered the medication?

Mrs. JOFFE. I do not know whether the alcoholics were on medication.

Assemblywoman LIPSCHUTZ. You do not know?

Mrs. JOFFE. No; but I do know some people are not capable of taking medication themselves.

Assemblywoman LIPSCHUTZ. Do you know if medication was administered by a nurse?

Mrs. JOFFE. I would take my own, but for those that the management feels cannot take care of themselves, someone at the desk or switchboard gives them their medication.

Senator Moss. Thank you very much, ladies and gentlemen. We appreciate your coming here to help us fill out the record and to give some of your direct personal experiences. As I said, I hope we can assure you that there will not be any reprisals.

Mrs. JOFFE. I would like to add—after I wrote to the commission for the aging and I called various people, I wrote to the Governor and he sent two people to talk to me. They made me the culprit, and told me, "Why don't you get out of there and why don't you mind your own business?" I spoke for the people who are inarticulate and do not know how to go about anything or do not know where to go or how to help themselves. I try to help those people. That is the answer I got.

Senator Moss. These are State people?

Mrs. JOFFE. These are people that were sent by Governor Carey who investigated me.

#### HOME FOR ADULTS—\$225 PER WEEK

I went to another place, and they wanted \$225 a week, also a home for adults—a private home for adults.

I cannot afford to pay that kind of money. They think if you are not on medicaid or if you get no assistance from anybody, they can tell you to get out. What do you do?

We also need help. Just because we did take care of our money—we put money aside for a rainy day—that does not mean that we should be neglected completely.

Only those on SSI are taken care of. The private people—they do not listen to us at all. They say, "If you do not like it, get out."

Senator MOSS. Thank you, Mrs. Joffe, for your comments, and thank you, Mr. Connolly, and the others.

Mrs. JOFFE. Thank you.

Senator MOSS. We have told Mr. Bernard Shapiro, the executive director of the State Board of Social Welfare, that we would permit him to leave by 12:30. We did not quite do it, but we will ask Mr. Shapiro to come up at this time.

Mr. SHAPIRO. Mr. Chairman, Mr. Maull, the chairman of the board of the State Board of Social Welfare, is here with me, and with your permission, I indicated to Mr. Halamandaris that Mr. Maull would be with us and would make a statement. Mr. Maull would also like to address himself to your remarks, and to the remarks of the special prosecutor.

Senator MOSS. You may proceed, Mr. Maull.

#### STATEMENT OF BALDWIN MAULL, CHAIRMAN, NEW YORK STATE BOARD OF SOCIAL WELFARE

Mr. MAULL. Thank you, Mr. Chairman.

I am Baldwin Maull, chairman of the New York State Board of Social Welfare. Mr. Shapiro, our executive director, and I are very happy to speak to this distinguished group today.

The board is a 15-member group of citizens appointed by the Governor with the consent of the State senate. The chairman is selected by the Governor from this group and serves at his pleasure. Formed in 1967, the board has a long history of involvement with the social needs of New York State. Its duties and responsibilities come from the State constitution itself and from statutes in the executive law concerning the care of children and adults living away from home, the regulation of charitable fundraising, and certain nonprofit corporations. It is an enforcement arm, working for the health, welfare, and safety of the children and elderly and infirm persons under its care, but also a coordinating and planning body and advocate for these most vulnerable groups.

Enforcement is based not only on State laws but also on board rules which have the effect of law. Guided by these rules and also by board procedures and administrative letters, staff in six area offices actively inspect the facilities supervised by the board, including:

adult homes—to check their compliance with the law and board rules.

The adult homes under our jurisdiction are intended for persons who are basically well, though they may need help. They do not require the continuous nursing care that is provided in nursing homes and health related facilities—intermediate care facilities under its Federal designation—which are supervised by the State department of health.

### THREE-FOURTHS OF ADULT HOMES ARE “FOR PROFIT”

According to our latest census, as of January 15, there are 547 of these adult homes under the board's supervision. About three-fourths of them—426—are private proprietary homes for adults, or PPHA's, operated for profit. The other 117 are not-for-profit facilities, operated by voluntary organizations, counties, or other government units. The total population of these homes is 22,000—17,000 in PPHA's.

The key to enforcement, of course, is our staff who inspect. The law requires the inspection “from time to time,” but board policy is to make at least two surveys a year of each of these homes scattered across New York State.

The great majority of these inspections are unannounced and 15 percent are made at night. Besides reporting violations of board rules, the staff works with the proprietors of homes and advises them on how to bring matters into compliance and improve quality of care.

We have only 22 field staff to inspect all these homes and these 22 must spend an estimated one-half of their time on other duties. The State budget cuts and budget freezes have badly hurt our enforcement program but we have been asking for more adequate staff since 1971 when the board was given these responsibilities. It is quite clear that the board cannot satisfactorily perform its statutory duties with this limited staff. I cannot stress too strongly our need for greater quantity and quality of staff.

The board strongly supported legislation in 1974 under which operating certificates are issued to the facilities the board is responsible for. The board can suspend, limit, or remove the certificate from any facility in serious violation of its rules.

Mr. Shapiro will outline in more detail both the board's accomplishments and our remaining problems.

Let me only repeat that we welcome the assistance of this honored group in our advocacy for what is a most dependent element of society. We are eager to supply you with any information you need, and we welcome any recommendations you may make on the national scene.

I would like to add, Mr. Chairman, that we have proposed a bill in the legislature which would give us the power to require financial statements from these homes, and the power to audit and investigate.

If that legislation should fail, we have considered whether we could do it by rule, and we were advised very clearly and strongly that we have no authority to do it by rule.

I might add, before I arrived at this hearing, I am told, it was stated our board had been asked by the Governor to request some



authority for Mr. Hynes. That is not correct. We have had no request either from the Governor or Mr. Hynes in that regard.

#### AUTHORITY QUESTIONED

I had a letter from Mr. Berger, the commissioner of welfare, suggesting there was a question as to Mr. Hynes' authority in relation to PPHA's, and suggesting that we should suggest to the Governor it be expanded. Let me say, first, that we are no judge of Mr. Hynes' authority. We do not know whether he can expand to include the PPHA's or not. No. 2, the Governor does not need anything from us if he wants to expand that authority. No. 3, what is really needed to put this house in order is to give us the tools to do our job, and I so notified Mr. Berger.

I would be glad to offer my letter in evidence.

Senator Moss. We would be glad to have that for the record as a part of your testimony. Is this your letter to Mr. Berger?

Mr. MAULL. Yes.

Senator Moss. All right. That will be included in the record.<sup>1</sup>

Did you have any objection to any investigations?

Mr. MAULL. We have no objections. Our job is to get the needed job done. We want to be able to do our own job, and we have no objection to any investigations.

Senator Moss. I am wondering if I got the wrong connotation from the last sentence of your letter.

You appear to conclude that an investigation would not do any good in this area.

Mr. MAULL. I will modify that. I will say anything that brings close attention to our needs or that calls attention to our needs will help the elderly. We will cooperate with that.

Senator Moss. We had the prosecutor on earlier, and he said in order for him to exercise investigatory authority he would have to have approval of your board, and that it was not forthcoming.

Mr. SHAPIRO. Mr. Maull was not here when Mr. Hynes testified, but I was. He indicated he had received a number of complaints and he was looking into these complaints.

We have worked with Mr. Hynes on all of these complaints that came to his attention, and we have made our records available. We have cooperated in every possible way in regard to the complaints that have come to his attention and this is for the record.

Senator Moss. I am sorry Mr. Hynes is not here now. However, he stated that he has been denied permission to investigate in this area.

Mr. SHAPIRO. He has not been denied access, and we will cite actual records he and his staff have read and have pursued on the basis of individual complaints that have come to his attention.

Representative KOCH. Mr. Chairman, Mr. Maull, what you are saying in the last sentence is that in your judgment the investigation would not serve any purpose. Could you expand on that?

Do you think the powers of the special prosecutor would not provide the necessary help to the elderly people living in the adult homes?

<sup>1</sup> Not received at time of publication.

Mr. MAULL. What I am saying is that that is a one-shot job, which would not provide adequate—

#### EXPANSION OF DUTIES INITIALLY RESISTED

Representative KOCH. All I am saying is that you seem to indicate a negative attitude to expansion of the special prosecutor's duties. The special prosecutor said, in his judgment, that it was necessary in one or two ways to secure jurisdiction, and one way would be your permitting him access, and the second way would be the legislature authorizing it.

Now, it is apparent from that letter that you were not encouraging it, but that it is OK. As I understand that, you welcome it now.

Mr. MAULL. We are very glad to cooperate with the special prosecutor, and we said at the start that we would be glad to cooperate, and we welcome it, if that is what is necessary.

Representative KOCH. Fine. So if the request is made of you that the special prosecutor's jurisdiction should include the homes under your supervision, you will respond by saying we welcome it. Is that a fact?

Mr. MAULL. Yes. I said that in advance, and I said we would be glad to cooperate, but believe me, it is not up to us to tell the special prosecutor. That is the Governor's job.

Representative KOCH. The problem I have found with agencies is one of a defensive mechanism that they all have, and it is not related to you. You are not paid?

Mr. MAULL. Right.

Representative KOCH. And you maintain this position because you are good government minded, and I appreciate that.

Mr. MAULL. Our board receives a fee for attendance at meetings.

Representative KOCH. But what I want to state is that in almost any case involving an investigation in which Government is concerned, whether the people involved are former employees, or volunteers, as the nature of your position is, there is a defensive mechanism, which is: "We are doing our job, and we do not need outside overseers. If you would only give us additional money and additional power, we would do a better job."

Mr. MAULL. I recognize that.

Representative KOCH. Our purpose today is to obtain your consent now, that you welcome the introduction of the special prosecutor's office into this area, if that is what is required for him to enter. And you have already told us that you will do that, that you do not have to respond any further.

Mr. MAULL. Yes, and if the Governor wants him to, we would be glad to have him, but we are not the one that deals with it.

Representative KOCH. I understand.

Now, the second question I have concerns the special prosecutor's earlier statement today, that for every investigator out in the field, it has been his experience that the State picks up some \$2,500.

You were not here when he said that, but I think Mr. Shapiro was. You will verify he said that?

Mr. SHAPIRO. Yes.

Representative KOCH. As I understand, your people spend half of their time investigating, so it is approximately 11 people working full time.

Will you tell us what your experience is with respect to recovery of money based on their investigations into these areas?

#### RECOVERY OF COSTS "NOT RELEVANT"

Mr. SHAPIRO. They do not produce any return, because they do not look at finances, and also these homes are not paid on a cost-plus basis the way the nursing homes are, which is that the recovery of costs are not relevant here.

There is a fixed amount paid regardless of costs, and I would guess from my observation that some homes are run at a loss, but also that some are making a profit.

It depends on how they are run and also probably on whether they have low or high building costs.

Representative KOCH. I understand. Your investigators do not relate to the financial aspect. They relate more to the life saving code.

Mr. SHAPIRO. Yes, and even if they did, it would not affect the amount that was paid, so I do not see the savings.

Representative KOCH. I understand. It makes perfect sense. Your investigators are not related to the financial aspect. Now, who is?

Mr. SHAPIRO. State Social Services Commissioner Berger is the one that makes the payment.

Representative KOCH. Do you know of any department investigating the financial aspect? Perhaps Mr. Shapiro could respond to that since you are only a part-time employee, so to speak, as a volunteer.

Mr. MAULL. I will say that I just don't know of one.

Representative KOCH. Maybe Mr. Shapiro can answer that. Is there anyone looking to the financial details?

Mr. SHAPIRO. No. The statement made here from the committee itself and the distinguished members at the table indicated exactly what we have said, and that is, that in 1975, the State board had a bill sponsored to request financial disclosure.

That bill passed in the senate, and it failed to pass the assembly. We again have that bill in the assembly and in the senate, and we hope it will pass at this time.

Representative KOCH. So at this moment, to your knowledge, there are no investigators looking into the financial aspect of these homes. Is that a fact?

Mr. SHAPIRO. That is a fact.

Representative KOCH. Would you not say that is outrageous?

Mr. SHAPIRO. That is the purpose we requested the legislation, to be able to do it.

#### FINANCIAL INVESTIGATION NEEDED?

Representative KOCH. Does the fact that there has not been, over the years up until the present time, a financial investigation in these homes indicate a special urgency that the special prosecutor should get into this?

Mr. MAULL. We know what is needed. If he can produce something, fine.

I would say that we think we know what is needed to be done, and if he can produce it, well and good—so much the better.

Senator DOMENICI. Of course, you think you need more authority and more investigators so you could get a better performance.

He could be looking at something completely different from that.

Mr. MAULL. Outside of our jurisdiction, it could well be.

He will not be looking in the nursing home in relation to financing, because that was to establish costs, and that is not pertinent to payments under our jurisdiction.

He will be looking for some other type of criminal activity.

Senator DOMENICI. Who has jurisdiction over acts of neglect that might be criminal?

Mr. MAULL. We do. We have jurisdiction over their performance, yes.

Senator DOMENICI. And those 22 inspectors are part time?

Mr. MAULL. They look at it, in the first place, and we have building inspectors. Then those who go in and look at the way the place is run, the personnel, the food.

We had two nutritionists. They are both gone, and we have not been able to replace them. We have no nutritionists now, either in this or in the children's field.

Senator DOMENICI. You indicated in your prepared remarks that operating certification is part of your role.

Mr. MAULL. Yes.

Senator DOMENICI. That is not too old a role. In fact, it is rather recent—I think you said something like September 1974.

Mr. MAULL. Yes.

Senator DOMENICI. What is the criteria for granting operating certificates? Perhaps Mr. Shapiro would have it in writing. Do you ever set up criteria?

Mr. SHAPIRO. Adequate performance in accordance with the rules of the board and we will be glad to make all of these rules available to the committee.

Senator DOMENICI. Will you make these rules as they apply to certification of domiciliary homes available for the record?<sup>1</sup>

Mr. SHAPIRO. Yes, I will.

Senator DOMENICI. Let me ask you this, with reference to the kind of services required under your regulations. Can you just briefly summarize for this committee, aside from adequate shelter and physical plants and food, what are the services and capacities for services as required by your certification?

Mr. SHAPIRO. Nutrition, recreation, health, safety, comfort, well-being of the residents.

Senator DOMENICI. You said recreation?

Mr. SHAPIRO. Yes, adequate nutrition, adequate building and equipment, adequate space requirements suitable and comfortable beds, adequate supply of clean linen, hospital beds shall not be used, and recreation.

Senator DOMENICI. I know we are running late. I want to ask you just one more question.

<sup>1</sup> Not received at time of publication.

Do you have any qualifications in writing as to the 22 inspectors you turned out?

Mr. SHAPIRO. Yes, these are all people under the civil service; they do have to be college graduates; they have to have a number of years of experience in the field in which they are working.

Senator DOMENICI. What procedure do you have to protect the SSI funds, with regard to sick people not going to these kinds of homes?

#### MEDICAL CERTIFICATE REQUIRED

Mr. SHAPIRO. We have a requirement that they produce a medical certificate that, in effect, requires that they do not require medical care upon admission.

That certificate must be produced within 30 days, and we require a followup medical examination once a year to indicate for those under 65 to the effect their medical situation has not changed, and that they can continue to stay there.

We have a rule which requires those over 65 to have a medical statement three times a year, which means three examinations per year, that they are suitable to stay there. The regulations further require that anybody who does not belong there should not be accepted and should be moved.

Senator DOMENICI. Mr. Shapiro, if, as a matter of fact, there are many sick people in these kinds of domiciliary homes, wherein does the fault lie in their being there, and how come we have not caught them?

You do not have to believe it is true, but I am asking you in your answer to assume it is true in this statement. If it is true, where does the blame lie?

Mr. SHAPIRO. I think the blame lies among a number of agencies and a number of people.

I think in the first instance, a doctor is not supposed to give a statement when, in fact, somebody does not belong there.

The department of mental hygiene, on behalf of the first deputy commissioner, Dr. McKinley, with whom we work very closely—he is here, and he is ready to testify before your committee to indicate a screening of persons is required before they are placed in these homes. We have a cooperative agreement with that department. The State Board of Social Welfare and the State Department of Mental Hygiene have agreed with regard to the screening of patients with regard to notification to the local social service commissioners in advance, with regard to the appropriateness of placement, and this will be borne out, as Dr. McKinley will indicate to all of the medical directors in the State institutions.

I understand this was not always so. This is something we have developed by working very, very hard over the past year and a half with the department of mental hygiene.

Before that, I think you indicate in your remarks, throughout the Nation there has been a wholesale discharge of mental hygiene people. In New York State, discharges are about 30,000 to 40,000 each year, of whom a certain percentage—over 1,000 a year—wind up in our institutions.

Senator DOMENICI. We could go on all day. I just want to ask this simple question. Is there one agency in this State responsible for enforcing that basic rule, that people should not be in these kinds of homes if they are sick?

Mr. SHAPIRO. We have promulgated such a rule.

Senator DOMENICI. I did not ask you that. I said is there one agency responsible to see that that is the case?

Mr. SHAPIRO. We are.

Senator DOMENICI. I am asking you, are you satisfied that this State has set into motion the machinery to enforce that?

Mr. SHAPIRO. No, we have not.

Senator DOMENICI. Thank you.

Representative SCHEUER. You are responsible for the recreation, safety, comfort, and well-being of the patient for their nutrition, space, and so forth.

#### DUTIES OF INSPECTORS QUESTIONED

When your inspectors go to a home, what do they find out about the adequacy of all of these elements you are responsible for?

Mr. SHAPIRO. We have our own inspectors here, and they will testify.

Representative SCHEUER. I am asking you to tell me what they do. Don't you know what your inspectors do?

Mr. SHAPIRO. Yes. There is a very long, very comprehensive list of items that we need to look at.

Representative SCHEUER. Do you have a checklist? How do they check, for example, inadequate nutrition, recreation, and so on?

Mr. SHAPIRO. On adequate nutrition, we have two nutritionists that made unannounced visits, and during the unannounced visits, they made sure that they tasted the meals at the time they visited. Also, they asked for the actual menu; this is where we first came upon the idea that we need a disclosure of information, because the two items the board really was concerned about basically were staffing services and nutrition—we emphasized that—and when we began to ask the operators, not only for the daily menu and the daily meal, but to give us their purchases over a period of a whole year—as related to the number of people that they have—so that we could get a picture whether the three meals per day cost \$1 a day, \$2 a day, \$3 a day, or what.

Senator Moss. Did you say the industry resisted that disclosure?

Mr. MAULL. Yes.

Representative SCHEUER. Do you have that information now?

Mr. SHAPIRO. No.

Representative SCHEUER. You did not get the information on how much they spend per day?

Mr. SHAPIRO. Some do not keep adequate records.

Representative SCHEUER. Do you require them to keep adequate records?

Mr. SHAPIRO. No, because we did not get passed by the legislature the disclosure of information required under the law.

Representative SCHEUER. Do you mean that you cannot require them to tell you how much they spend for food per patient per day?

Mr. SHAPIRO. They will tell us, but we cannot get the records that we need to determine that what they say is correct.

Representative SCHEUER. Do you have authority to find out how much they are spending for recreation or safety?

Mr. SHAPIRO. We have asked for legal authority to give us the complete disclosure of information statements.

I will file with the committee the material that we have developed, and it is quite comprehensive.

Representative SCHEUER. Let me go ahead.

#### VIOLATION OF RULES WARRANTS SUSPENSION

You say you can suspend or remove the operators' certificates from any facility in serious violation of the rules, is that correct?

Mr. SHAPIRO. This is in my statement. That is correct.

Representative SCHEUER. But you do not have the right to get needed information?

Mr. SHAPIRO. We are asking for it, and we hope it will pass the legislature.

Representative SCHEUER. There seems to be a void or vacuum in the law right now?

Mr. SHAPIRO. That is correct.

Representative SCHEUER. Now, you have the right to suspend or to remove the operators' certificates for violation of the rules?

Mr. SHAPIRO. Right.

Representative SCHEUER. In how many cases of the 426 private proprietary homes have you commenced proceedings for suspending, limiting, or removing the operating certificates for gross violation of your rules?

Mr. SHAPIRO. We have four we have actually removed. We have a number of others in process.

Representative SCHEUER. How many?

Mr. SHAPIRO. About 3 or 4 additional ones in process, and we have a number of wildcat operations, operations that pawn themselves off as a hotel, but actually they are homes of that nature, like the private proprietary homes. Those have been referred to the attorney general for enforcement.

Representative SCHEUER. For criminal prosecution?

Mr. SHAPIRO. Yes.

Representative SCHEUER. Have you commenced any prosecutions?

Mr. SHAPIRO. There are a number of them in progress, yes.

Representative SCHEUER. Criminal prosecutions going on?

Mr. SHAPIRO. Well, we started the investigations. We do not know if it is of a criminal nature or not.

Representative SCHEUER. So you have three or four in progress?

Mr. SHAPIRO. Four have already had their licenses removed.

Representative SCHEUER. Plus another four?

Mr. SHAPIRO. Yes.

Representative SCHEUER. So that is a total of eight or nine—out of 426, that is about 2 percent.

Mr. SHAPIRO. Yes.

Representative SCHEUER. Would you say that 98 percent of the institutions are operating up to snuff?

Mr. SHAPIRO. No, but we have one counsel who does all that work, and that is what Mr. Maull was talking about, need for staff for enforcement.

Representative SCHEUER. You do not have any legal and inspection ability to enforce your requirements and to prosecute those that are in violation of your rules?

Mr. SHAPIRO. Not infrequent violations, violations of the rules—but we have indicated we have revoked certificates.

Representative SCHEUER. You have four in progress, and another four that have been revoked.

#### HEARINGS HELD TO CONSIDER REVOCATION

Mr. SHAPIRO. During 1975, the first full year of the new program, I called to your attention that the board arranged for hearings as required by law to determine whether to remove certificates.

Two hearings resulted in revocation, the third home surrendered its certificate the day before the hearing. The fourth is in process of releasing its operational certificate and transferring its property to a new owner acceptable to the board.

Representative SCHEUER. How about the other 98 percent?

Mr. SHAPIRO. Wildcat operations are referred to the attorney general. Four actions of this type are in litigation, and two homes have been closed.

Representative SCHEUER. How about the 98 percent? Are they running in substantial compliance with your regulations, would you think?

Mr. MAULL. I am sure a lot of improvement is needed.

Mr. SHAPIRO. There is a lot of improvement that is needed, as the chairman has pointed out.

Only half of the inspectors are available for this type of investigation.

Representative SCHEUER. Do you have authority over deciding what percentage of their time is spent on inspections?

Mr. SHAPIRO. Yes.

Representative SCHEUER. Why don't you increase the half to 75 percent?

Mr. SHAPIRO. We would not get the new applications done.

Representative SCHEUER. Is it not more important to make sure that existing institutions are running properly, rather than licensing new institutions that you will also not be able to supervise adequately?

Mr. SHAPIRO. I agree with you.

Representative SCHEUER. So maybe you have your priorities wrong.

Mr. SHAPIRO. It is to do a total job.

Representative SCHEUER. But if you cannot do the total job, then you have to have priorities to do the more important things first. Before you license institutions, would it not be intelligent to make sure that existing facilities are functioning properly?

Mr. SHAPIRO. Yes.

Representative SCHEUER. I suppose the nonprofits are doing a better job than the for-profits, are they not?



Mr. MAULL. Yes.

Representative SCHEUER. By and large.

#### NONPROFIT HOMES REFUSE MENTAL PATIENTS

Mr. SHAPIRO. The nonprofits—and this is a very important point—the nonprofits by and large have refused to take mental hygiene patients. They have mainly, with the exception of a very few, people who are aged and infirmed, and not the mental hygiene people.

Now, I think what your committee can do, and the Congress can do, is to encourage more funding for the voluntary agencies—to give them an incentive to go into this.

Representative SCHEUER. We are talking about the job you are doing.

It seems to me you ought to look at the functions of these 22 inspectors. If any of them can be deferred from licensing new facilities, I would think you would be able to put them on inspecting old facilities.

Mr. SHAPIRO. It would still be 22 inspectors.

Representative SCHEUER. It seems to me, that if you take them away from certification and concentrate more on criminal prosecutions, you will capture the minds of a lot of the operators of these institutions.

If they want to keep their franchises operating, they will have to perform up to standard. Maybe we'll get a little self-enforcement in the industry if you send a few to the cooler.

I think Dr. Bergman, if he goes to the cooler, and I hope he will, it will be a lesson for a lot of other operators who would think twice before committing the outrageous abuse against these pathetic people who cannot take care of themselves just to make an extra buck.

They'll notice a significant chance of their being brought in a criminal proceeding. It seems to me it would behoove you to spend more time with those inspectors to bring into line more of the 426 that are doing a grossly inadequate job.

Let me ask you one last question. As you may have heard, I am sponsoring legislation whereby the Federal Government will pay the costs of prosecution in medicare and medicaid fraud and abuse cases. If the funds come from the Federal Government for this kind of inspection and preparation of criminal cases, do you think that would help you do your job better?

Mr. SHAPIRO. It would help us very much to do the job better. The basic thrust is that we need staff to do that job, and that includes attorneys, enforcement officers, auditors, and inspectors.

Representative SCHEUER. Thank you, Mr. Chairman.

Senator Moss. Assemblywoman Lipschutz?

Assemblywoman LIPSCHUTZ. Mr. Shapiro, I was just asked by the chairman of the Assembly Committee of the Aged to form a Subcommittee on Safety and Security.

#### CUSTODIAL SUPERVISION NEEDED

I would like you to tell me, many of these persons released from the mental hygiene institutions—do you feel these people need custodial supervision?

Mr. SHAPIRO. They need custodial supervision very much, and that is why I am waiting to read my statement in connection with the mental hygiene situation, if the chairman will permit me, and then a lot will fall in place.

Assemblywoman LIPSCHUTZ. That is up to the chairman. May I ask you, are you familiar with the term "transitional services"?

Mr. SHAPIRO. I am familiar with it, but I think Dr. McKinley, deputy mental hygiene commissioner, is the one to talk about it, because that is a mental hygiene term.

Assemblywoman LIPSCHUTZ. Will that come partially under your supervision as well?

Mr. SHAPIRO. Basically it will come under mental hygiene supervision.

Assemblywoman LIPSCHUTZ. Would it involve the 22 inspectors in any way?

Mr. SHAPIRO. No, it would not involve services that are needed to be given to persons who are located in the homes who are discharged from mental hygiene facilities.

Assemblywoman LIPSCHUTZ. So there is no relationship?

Mr. SHAPIRO. For whom there is an outreach service, doctor care service, and actual placement of staff in many of our homes.

Assemblywoman LIPSCHUTZ. I see. Then there is an interrelationship.

Mr. SHAPIRO. There is an interrelationship there, and also between the local departments of social services. This is a very important point because before the advent of SSI, January 1, 1974, it was the local commissioner of social services, and I am talking about some 58 jurisdictions—New York City, Nassau County, Erie County and so forth—it was the local social services commissioner who negotiated the rate.

It was the local social services commissioner who knew his client—who issued the check—and therefore the local social services commissioner delivered the service.

The moment SSI came into being on January 1, 1974, the checks are all coming out of Washington. They are received directly by the client, and very little local social services are being delivered to these homes and to the people who need the services.

Now, when we asked them—the local social services commissioners—and cajole them, and direct them that they should give services, we also asked the State commissioner for social services that the social services be given, that efforts be made by the social services departments; they say there is a closed-end budget for services, and we have to determine where to deliver the social services most needed—to the children or to the people in these adult homes. One of the things Congress can do is allow more money for social services. The thing to do is get the job done.

Assemblywoman LIPSCHUTZ. Are you going to refer to transitional services?

Mr. SHAPIRO. No; Dr. McKinley, the mental health commissioner, will. He is here.

Assemblywoman LIPSCHUTZ. Fine. I did want you to know that some of the legislation being asked for in your statement—it, in fact,

went into the hopper as of late Thursday afternoon—it is legislation that will be introduced into the assembly by myself.

Mr. SHAPIRO. Thank you very much. It is very worthwhile, and we will support it.

Senator Moss. We have all jumped into questioning this witness and Mr. Shapiro has never given his statement. You may go ahead and read your statement.

### STATEMENT OF BERNARD SHAPIRO, EXECUTIVE DIRECTOR, NEW YORK STATE BOARD OF SOCIAL WELFARE

Mr. SHAPIRO. Thank you, Mr. Chairman.

The State Board of Social Welfare is responsible for the health, welfare and safety of more than 22,000 persons in 547 adult care homes—domiciliary care facilities—throughout New York State. Three-fourths of the facilities are private proprietary homes for adults—PPHA's; the others are owned by nonprofit organizations or governmental units, usually counties.

The traditional population of elderly and infirm persons has been joined in recent years by large numbers of discharges from mental hygiene facilities, following a policy decision several years ago by that department to shift patients from institutional to community living.

Domiciliary care is distinct from that provided by skilled nursing homes and intermediate care facilities since it does not include medical and nursing care services. Domiciliary care facilities focus on meeting the nonmedical needs of persons who, because of old age or disability, cannot function in totally independent living arrangements.

The board, through its rules and through inspections by staff in six area offices, monitors the safety and adequacy of buildings, the physical care of residents, and activities to maintain their mental and emotional as well as physical well-being.

The board welcomed new enforcement legislation which was effective September 1, 1974. The board now issues operating certificates and can limit, suspend, or remove the certificate from a facility which violates its rules.

During 1975, the first full year of the new program, the board arranged four hearings, as required by law, to determine whether to remove certificates. Two hearings resulted in revocation; the third home surrendered its operating certificate before the hearing; the fourth is in the process of surrendering its operating certificate and transferring its property to a new owner acceptable to the board.

Wildcat operations—homes which have not applied for board approval—are referred to the attorney general for action. Four cases of this type are in litigation and two homes have been closed.

#### PROPER PLACEMENT IMPORTANT

A most important concern is that residents be in the appropriate level of care. Adult care homes offer help in getting about, eating, dressing, and bathing.

Upon entering an adult home, each resident must have a physical examination and a physician's statement that this level of care is

appropriate. A new board rule concerns annual physicals for residents.

The board has requested the cooperation of other State agencies in urging local health, sanitation, mental hygiene, and social services staff to supplement board inspections by reporting inappropriate placements as well as any deficiencies.

Between 30,000 and 40,000 patients a year have been discharged from mental hygiene facilities under the 1968 policy. Over 1,000 persons a year enter adult care homes. Now 30 percent of the residents in board-supervised homes are former patients—more than 5,000 of its 17,000 PPHA residents.

Percentages are highest—up to 72 percent—in counties which have mental hygiene facilities. In 93 adult care homes where 40 percent or more of the residents are former patients, they form 80 percent of the total.

Formal agreements between the board and the departments of mental hygiene and of social services have set procedures, including plans for needed services before a patient is discharged and for continuing aftercare in the adult home or its community.

Since most expatients take prescription drugs, the board worked with health and mental hygiene to formalize medication procedures. These specify how much a home's employees may help a resident to take medicine, how to store medicines—especially controlled drugs—and what records are necessary.

Nearly 70 percent of the residents in board-supervised homes receive U.S. supplemental security income—SSI—which went into effect on January 1, 1974, amounting to over \$80 million. While this flat payment avoids abuses revealed in the cost-plus medicaid reimbursements to nursing homes, other problems are created.

The flat SSI payments provide for \$386.70 for each resident. This same amount is paid no matter what the quality of the home—it may be excellent, good, or just plain or minimal. As a result, when SSI came into being on January 1, 1974, some homes received windfalls, whereas others who charged above the flat rate claim that they are suffering losses because they cannot keep up with the quality of care they wish to provide on the basis of the SSI reimbursement rate.

Technically, an SSI check goes directly to the resident, who negotiates a rate with the home. Practically, however, a resident with no other income will likely have no money for personal expenses if the rate equals the whole SSI payment.

When the SSI statewide payment for congregate care rose this year from \$375 to \$386.70 a month—\$229 of it given by New York State through the Federal Government—the board strongly urged operators, through an administrative letter, to allow residents to keep the additional \$11.70 as an allowance.

Senator DOMENICI. Are they doing it?

Mr. SHAPIRO. Some are, and some are not. It is very regrettable, and I will have to make a recommendation at the end of my statement which I hope the Congress can do something about.

#### CHANGES IN SSI PROCEDURES URGED

The board continues to work with other State agencies—social services, budget, and mental hygiene—in urging changes in Federal SSI

procedures. One suggestion is that the Federal Government send separate checks, one to be turned over to the home and one to be kept for personal use.

The board is again supporting legislation, which failed to pass in 1974, to require each home to file an annual financial statement of its operating and capital costs. Such information is essential for State recommendations to the Federal Government on the level of SSI payments. It is most important for us to have such financial disclosure so that we will know how much is paid for administration and general expenses, for leasing or rental, for equipment leasing, if any, for plant operation and maintenance expenses, for dietary expenses, for laundry and services, for housekeeping services, for social and recreation expenses, and gross income, and drawings of proprietors or partners. Our main concern is to assure quality of care and to analyze how much is available for proper staffing, for services, and for nutrition.

Domiciliary care facilities offer an enterprising alternative to the very expensive nursing home and health-related facility care.

The administrator of an adult care home—this may be the owner or a person he hires—is the key to the quality of its care.

A new board rule spells out qualifications for administrators—age, education, experience, et cetera—and requires them to continue training in such subjects as business management, geriatrics, recreation, and recordkeeping.

Senator Moss, I understood you were to visit one of the homes yesterday—Queens Manor. I visited that home. There were three recreationists there, and it makes all the difference whether you have a recreation program or not. The place is alive. There is a reason for living.

Recreation is especially important for persons whose time is almost all leisure. We do not want people to just sit all day long and stare vacantly into space; they become alive when there are recreation or other activity programs. Activity programs are emphasized in board rules. Project Recreation, funded by members of adult home associations, has completed its first year with notable successes.

In a pilot project to be applied statewide, the board's recreation specialist worked with 43 adult homes in the Rockaways, Long Beach, and Rockland County.

As a result, several homes have added full- or part-time recreation staff. One home bought a schoolbus for trips and outings, and other homes are cooperating on joint projects. Staff of the homes have attended workshops and courses about activities for older or mentally disabled persons.

Some improvements cost nothing: moving lobby chairs into conversation groups, getting on mailing lists for announcements of local events, arranging for a bookmobile to bring large print books, records, and films.

For little cost, homes can add a radio, record player or piano, an aquarium or pet, a gardening project, or just outdoor seating.

#### VOLUNTEERS PARTICIPATE WITH RESIDENTS

Community groups have welcomed residents at senior citizen centers, and volunteers take residents to parks, shopping centers, movies,

or just come to the home to visit. Some funding has come from local and State government agencies and voluntary groups.

Through Project Recreation, the Associated YM/YWHA's of Greater New York ran a pilot project from its senior citizen centers in the Rockaways. With funding from the New York community trust, three recreation workers have started programs at homes and urged residents to use the centers.

To make sure that residents understand their rights, the board is requiring each home to post an information statement the board has prepared and to distribute copies to the residents.

This statement explains admissions agreements; the right to privacy for visitors, mail, personal business; freedom to move to another home; and the availability of help from staff in the board's area offices.

The rapid discharge of mental hygiene patients over the past 7 years is a major problem in the metropolitan area and an increasing concern upstate. This development has intensified the board's concern with medication procedures, activities suitable for these generally younger persons, placement criteria and agreements with State agencies about care for these residents.

The board is working with the department of mental hygiene in developing community residences for the mentally disabled. These were supervised jointly by that department and by the board in order to obtain public assistance funds. Since the start of the Federal supplemental security income program on January 1, 1974, however, these residents now receive a flat \$386.70 a month—before \$375—from SSI and the department of mental hygiene has now taken complete responsibility for the community residences.

Programs to adapt our adult care homes for mentally disabled residents include a 200-bed ceiling on new facilities, a staff specialist in recreation and diversionary activities, guidelines on PPHA staffing and on qualifications for administrators, and procedures on medication.

A new board policy limits approvals for new facilities according to the vacancy rate in the relevant planning region. Applications are not accepted where the vacancy rate is 20 percent or more, and are more stringently evaluated where the vacancy rate is between 10 and 20 percent. The board is proposing legislation that would strengthen its enforcement power in requiring a demonstration of need for new facilities.

The board has encouraged training of adult home staffs on the special problems of serving the mentally disabled. In Rockland County, for instance, in response to accusations between local mental health agencies and PPHA operators, the board has arranged regular meetings between the homeowners and other agencies. These help to resolve problems and have resulted in workshops on nutrition, recreation, recordkeeping, medication, and other matters.

#### GUIDELINES DEVELOPED BY BOARD

The board has developed a statement of principles with the department of mental hygiene to assure predischARGE planning, appropriate placement, and suitable aftercare within the facility or the com-

munity. In Far Rockaway, for instance, board staff has met with representatives of the public agencies to encourage expanded mental health, health, and vocational programs in that community.

Assemblywoman LIPSCHUTZ. Mr. Chairman, Mr. Shapiro, when you refer to recreation workers, how many workers did you say there are in the Rockaways?

Mr. SHAPIRO. We indicated that our staff members gather the home operators together and try to teach the homes—

Assemblywoman LIPSCHUTZ. How many homes?

Mr. SHAPIRO. We have one recreation worker for the State.

Assemblywoman LIPSCHUTZ. One for the State?

Mr. SHAPIRO. Yes, for the whole State. That was done with private money.

Assemblywoman LIPSCHUTZ. There are no qualified on staff recreational workers for the adult homes, is that correct?

Mr. SHAPIRO. There are some in some homes.

Assemblywoman LIPSCHUTZ. But not in the Rockaways, sir. I would also advise you—

Mr. SHAPIRO. We have the person here, Miss Dolores Pascarelli, who works on Project Recreation and can fill you in as to the work she does in the Rockaways.

Assemblywoman LIPSCHUTZ. She does it on a visiting basis, which is not on a regular basis.

Mr. SHAPIRO. I am talking about getting the people involved, getting the operators involved, and some of the things outlined that can be done that do cost money, but some that do not cost money.

Assemblywoman LIPSCHUTZ. The other thing I would like to know, that is in the senior citizen centers, which operate under the city, or under a combined program with the Y—the people of the Rockaways that work the senior citizen day centers that go to visit the guests of an adult home—it is not the other way around in most instances is it?

Mr. SHAPIRO. Either way. It is very helpful if we can get them out from staring into space.

Assemblywoman LIPSCHUTZ. But it is a question of who is going to whom, is it not?

Mr. SHAPIRO. Either way is our concern. I must frankly admit the problems caused by the influx of discharged mental hygiene patients. Admittedly, problems stem from the prejudices of our residents, most of them elderly and infirm. Some stem from the lack of services in the community. Some stem from the home staffs' lack of training and experience in this special field.

The board is now working with the department of mental hygiene to set down principles to guide us in solving these problems. These include the ideal locations for mentally disabled persons: not too large a home, and one with access to services, in a safe environment, et cetera.

#### "REAL LIFE MIX" OF RESIDENTS DESIRABLE

Ideally, too, mentally disabled persons should not form a separate ghetto within an adult home—there should be a real-life mix of men and women, black and white. We have not answered one question, however, whether a wide spectrum of ages is also desirable—whether

young but severely disabled persons should be placed with our elderly residents.

The board's genuine concern, for what affects its policy on permitting the commingling of the increasing number of mental hygiene discharges and the aged resident population has on the residents in board-supervised facilities, impelled it to seek the answers through a research project.

A proposal for the project was developed and submitted to the National Institute of Mental Health recently with the objective to determine if commingling should be continued as at present, ended, or encouraged. The major outputs of the research would be a set of policies for dealing with commingling which could be implemented by the board.

In addition to determination of policies by the board, the findings would be of real national significance since there has been within the last few years a nationwide trend in the policy of mental hospitals and institutions toward the releasing of large numbers of patients into the community.

There have been a number of arguments over the issue of commingling; Advocates suggest that both groups benefit from commingling; that is, the aged residents benefit from the stimulation of living with the generally younger former mental patients and that former mental patients benefit from living in a protected environment with persons who have never experienced the dehumanizing effects of a mental hygiene confinement.

Opponents of the commingling process have been concerned that the aged residents may be harassed or in other ways disturbed by the generally younger former mental patients. Further, domiciliary care facilities—PPHA's—have been geared to the aged so long they cannot easily make adjustments necessary for the new resident group of former mental patients such as in the areas of nutritional, activity, and recreation needs.

If our research proposal is approved by NIMH, we should be in a position to address the question of commingling to the benefit of the present and future residents of DCF's.

To uncover any evidence of rentals and purchases from related companies, the board adopted a rule requiring a detailed financial report on any real estate companies that lease their property for domiciliary care facilities. Under State law, the owner of a home cannot be a corporation. This form, required of any new owners and including changes in partnerships, requires a list of all partners, stockholders, and shareholders in companies which rent property—with the amount of their investments.

The board has urged legislation to require annual uniform financial reports from every home, covering operating and capital costs. This legislation failed to pass last year and the board is urging it again this session.

#### SUGGESTED CHANGES IN REGULATIONS LISTED

Flaws in the administration of SSI, however, cannot be remedied at the State level. We strongly recommend the following changes in Federal regulations:



One: Differential payments based on facilities' quality and perhaps on the area cost of living.

Two: A point system based on the type and age of physical plant; such routine services as housekeeping, food, maintenance; and such special services as recreation, activities, and special programs.

Three: A separate check for personal allowances in addition to the check turned over to the home for the monthly payment.

DCF's are a preferable environment for those who do not need intensive care in a nursing home. And it offers savings, too—an average of no more than \$400 a month compared with \$900 in this State for health-related facilities and \$1,600 in nursing homes.

What we need is more monitoring of costs, more efforts to improve quality, and more coordination to provide homes that operate efficiently and with commitment to the welfare of their residents.

Adult care homes are not inferior nursing homes. They are a separate category. It would be short-sighted to eliminate this type of care because some residents should be in health facilities, some programs need improvement, or because some operators are motivated solely by profit.

It is possible—and can be profitable—to operate this type of home with quality care and with commitment. It is Government's duty to provide the leadership and enforcement needed.

In conclusion, I must stress the commitment of the board members and staff to the well-being of those vulnerable persons. In many ways the board stands as their advocate—between operator and resident—guarding residents' safety, comfort, and happiness.

This is the point we make constantly to individual operators and to their associations and to State and local representatives of government.

As I told proprietors from across the State at a conference in January:

For many of our residents, old age is a time of peril and loneliness. They are threatened by poverty and infirmity. All too many have been neglected. They have no contact with relatives, old friends, old interests. What I urge is not so much to spend more money as it is to spend more feeling, more mercy, more respect, to provide the best life possible for those in our care.

At the heart of our concern is to assure that those who need service receive it, that the quality of care is adequate and that it is provided at reasonable cost.

Senator Moss. Thank you, Mr. Shapiro. That is a fine statement. I concur with you very much on the need for more than just the minimal services.

Mr. SHAPIRO. Thank you. I appreciate your being here. I think we are both crusaders. That is the way it should be. This is the only way to improve this country of ours.

Senator Moss. I do appreciate that very much and I know we have had quite a long session.

We have time to finish up with a few questions, if there are any that remain.

Senator DOMENICI. I just want to make a comment to Mr. Shapiro.

Mr. Shapiro, I am impressed with your suggestions, regarding the national legislation. However, it seems to me that the thrust of the SSI payment at the national level was never intended to be used the way it is.

## REEVALUATION OF PROGRAM IS INDICATED

I will not be so harsh as to say it is being used illegally. I think in a very real way, however, technically, it is being used illegally. It was intended that you receive the check. Then you turn it over to someone furnishing you a service, and that service charge is related to the SSI payment. It seems to me that when you recommend that we have a personal allowance check, we have also a regional disparity for costs of providing care. A third consideration might be that mental patients in the transition be treated differently from others. What we need to do is look at the whole concept of SSI in this area. It is not just an add-on. The whole thing has to be looked at again. Is that correct?

Mr. SHAPIRO. That is correct. We did not establish SSI for that purpose. Instead of having SSI, as now is established with something like five groups and different rates for each group, and then you have the situation when the check comes in to the PPHA people—the SSI check—these home operators get that whole check, which leaves the residents without money for personal needs.

There were some homes, when SSI came into being, that were getting only \$200 a month. All of a sudden they are getting \$375. These homes received a real windfall.

Who do you think is getting the money? The operators are.

Senator DOMENICI. That is a very good observation. I wonder if there is any area—

Mr. SHAPIRO. Perhaps the State department of social services can also do this. We will be working with the State department of social services, negotiating with SSI. We—the board—will be doing that, because every time we get into it, the department of social services says the Federal Government will not pursue that. We need your help in that; that is, the help of Congress.

One other item in regard to the personal allowance in turning over the check. Perhaps it would be a good idea, considering all of these people who are mental discharges—they have been in mental hospitals for the last 20, 30 or 40 years. I want to stress this—and not to apologize for the homes—because we are here to do the best that we can. These discharges have many problems, and this is why we have our inspectors and this is why we ask the department of social services to do their job and why we have asked the mental hygiene people to do their jobs. The thing that we really need is to guard against this kind of thing, the taking away their personal allowance, particularly with the mental hygiene discharged people.

They do not know how to handle the money. There should be a requirement that there be a guardian appointed to handle the money function for them—whether that guardian be the local social services commissioner or someone else, a relative or a voluntary agency.

This would cut out many of these abuses, and this would have to be a Federal thing. It cannot be done just by the State, because the State would lose the Federal money and be cut off because they are restricting public assistance grants.

Senator DOMENICI. Mr. Shapiro, we are looking for a lot of reform, but let me ask you a very basic question.

## NEW OPERATORS SHOULD BE APPRISED OF COSTS

It would seem to me, with reference to the costs of the particular parts of that which goes into a home—how much are the real estate and building costs, how much are the basic health costs, how much are the kitchen costs, the food—you could almost predict in advance to certain new operators that they cannot make it and provide adequate services. Because if the real estate costs vary, as I understand they do in New York, you can have a potential operator going in the home that has 40 percent of its operational budget in real estate taxes and the mortgage, so he would not make it. Or he would provide nothing else. Are you developing those kinds of facts?

Mr. SHAPIRO. That is part of the disclosure of information requirement which is in the legislation we are sponsoring, because then we would really know how much is being spent for each because the real estate costs—it must be known exactly what these costs are—and these people, the owners, that may not be called Bergman's, they could be called something else, some other name, but the builders are the ones. They build and then they lease. This is where the profit is—where the money appears to be made.

We should know how much goes for rental, and how much goes for lease. Then our most important concern is to figure out how much is left for services, how much is left for staff, and how much is left for nutrition. Those are the things we are concerned about.

Now, together with the department of social services, we are in favor of sponsoring the legislative bill to get that disclosure, and then to get the auditors and analyze all of these figures.

Senator DOMENICI. Thank you.

Senator Moss. Mrs. Lipschutz?

Assemblywoman LIPSCHUTZ. No questions. Thank you.

Senator Moss. Thank you very much, gentlemen.

You have given us very good testimony, and some insights as to what the problem is. You are, of course dealing with the new phase, really, and you are just getting started.

Mr. SHAPIRO. We are happy that you are holding these hearings, Mr. Chairman. This is the way to solve the problem, before it becomes a real nursing home scandal situation. We are very happy that you are here and that you are holding these hearings. It will prevent in the 1980's what happened in the 1970's with nursing homes.

Senator Moss. That is our purpose in coming. We have been much longer than we planned, and obviously, we will have to have a brief recess for lunch.

At the recommendation of Mr. Stein, we will recess until 2:30, at which time we will return and continue with the panels.

The subcommittee stands in recess.

[The subcommittee was recessed at 2 p.m.]

## AFTER RECESS

Senator Moss. The subcommittee will please come to order.

We have two panels to hear. Panel No. 2 is composed of Dr. Bernard Lanter of Peninsula Hospital; Detective Gary Messina, the 101st precinct; and Morris Schneider, the city manager of Long Beach.

We are pleased to have you before the subcommittee and anxious to hear what you have to say as we try to understand and simulate the situation that exists here in New York and in other parts of the country—this matter of adult homes.

First, we will ask Dr. Lanter if he would proceed.

**STATEMENT OF DR. BERNARD LANTER, PENINSULA HOSPITAL,  
FAR ROCKAWAY, N.Y.**

**DR. LANTER.** Mr. Chairman, members of the panel, I am Dr. Bernard Lanter, director of Emergency Service at Peninsula Hospital.

We are one of the two hospitals that Congressman Scheuer mentioned, that it is in an area surrounded by 17,000 senior citizens who live in nursing homes, health-related facilities and senior citizen hotels. Here are some of the numbers that we have accumulated providing the health care for this population. The entire group represents 12 to 13 percent of our total emergency room visits. A breakdown of these patients is:

One: Of the patients who come from the nursing homes, 40 to 45 percent require admission to the hospital.

Two: Of the patients from the health-related facilities, 35 percent require admission.

Three: Of the patients coming in from the senior citizen hotels, 25 percent require admission.

Comparing this population against the cross section of the average population that appears in a voluntary hospital emergency room, 5 percent of the average population that utilizes the emergency room requires admission. It becomes quite apparent that this population—nursing home, health-related facilities, senior citizen hotels—is in need of closer medical supervision than the average population. In caring for these patients, we feel some of these recommendations might be helpful.

**PHYSICAL EXAMS INADEQUATE**

The senior citizen hotels do not require having a physician on the premises. They are required to have a preadmission history and physical. These exams are very rapid and often inadequate. There is no central record kept of these examinations. When the patients appear in our emergency room they are often filthy, wearing all the clothes they own, and are totally ignorant of the medications they are on. These people are often senile and wander off. We suggest since we are the providers of the care, when these people become acutely ill, that we create an outreach department and do the initial physical examinations, maintain a central file, and make an identification band that the patient wears which would identify him, his medical illnesses, and the medication he is receiving. There should then be a mechanism whereby the social services department of the hospital would be able to follow through to make sure that the patients receive their required diets and are receiving the necessary medications.

This would not cost the government any additional funds since examinations are being paid for at present by medicare and medicaid.

Most of the people in this situation are on medicaid. We treat all medicaid people, so there is no expense to the patient; it is of no expense to the hotel, and these people would get a good physical examination.

Senator Moss. If they have a medicaid card, then that is billed off to medicaid?

Dr. LANTER. That is right.

Senator Moss. Is that 25 percent you mentioned—are all these people from the domiciliary homes?

Dr. LANTER. No. We are surrounded by nursing homes and health related facilities.

The 25 percent of the patients comes from these hotels and they are ill enough to require hospitalization, so this number really stands out. These people are ill.

Senator Moss. What condition are these people in when they come in?

Dr. LANTER. We see some of them completely disoriented. Some have three pairs of trousers, two pairs of jackets; some of them have all of their belongings on them.

Senator DOMENICI. With all these patients being released from these mental hospitals, does that have an impact on you?

Dr. LANTER. The only way it would have an impact on us is that they would all come to us. We do have some that do come into our hospital and some are retarded, but we do render care to them.

Senator DOMENICI. Do you have any observations as to the state of their health with reference to the diet of these people that you see?

Dr. LANTER. There are some who come in quite dehydrated—with weight loss. There are others that come in with various types of illnesses.

Senator DOMENICI. For this age group, compared with their counterpart age group of those who are not in these institutions, is there a noticeable diet deficiency?

Dr. LANTER. There have been, but not totally.

#### ONE HOSPITAL TO SERVE 17,000 PATIENTS

Assemblywoman LIPSCHUTZ. Also, I would like you to bring out the fact that the hospital you are representing is projected to become the only hospital in the area, and I would like you to talk about that.

Dr. LANTER. There are two hospital facilities in our area.

There is the possibility by the end of June of one being closed completely. Or there is the possibility if it is kept open, within the next 2 years it will be relocated about 8 or 9 miles away, and just on the other side of the city line. This would make us wholly responsible for 17,000 patients.

This will be a tremendous impact on us, and this is one of the reasons that we thought about setting up this program of reaching out, to provide the medical care. It is not only for the hotels, but we felt also the nursing homes needed this and the health related facilities—having each facility being run parallel. If the beds in these facilities are utilized and patients are moved out of these facilities, then the hospital beds can be moved. If they can be con-

trolled through an agency that is primarily concerned with the health care of the patient, and the proper utilization of the patient, there would be better use of the beds in this area.

Now, to address the question on malnutrition, we see there is enough of these individuals to realize that there is a range of services, so there is a need. There is much to be desired.

The patients in these homes and hotels represent about 3 percent of the volume, and about 25 percent of those come in by police car, or they wander in, or sometimes the family sees that there is something wrong and they bring them in.

Some are in a chaotic state, some are mentally retarded, and there is no way of finding out from the patient in many, many cases what their history is or what their diet is. Are they diabetic, are they on some kind of pills, and then we have to go out and fish for that information.

In dealing with some of these homes, it is very readily given to us. In others it is not so readily obtainable.

In other places, if you call after 5 in the afternoon, the manager has left and there is no one there except custodial help.

Other times, the patient being presented in an emergency room in a comatose condition, you have to start from ground zero to work them up.

We run into this problem in the hospital and on an in-patient basis. We run better than 100 percent occupancy, and it is tough when you have to spend this amount of time with this added burden. If there was some kind of identification on a permanent basis, it would help us:

Senator Moss. I thank you, Dr. Lanter.

We appreciate that very much.

Dr. LANTER. Thank you.

Senator Moss. I want now to turn to Detective Gary Messina of the 101st precinct. I would like you to tell us what kind of burden these homes place on the police department.

Detective MESSINA. Thank you, Mr. Chairman. With me is my precinct commander, Captain Kelly, who will present our statement, and I will assist him in answering any of your questions.

Senator Moss. Very good. We are glad to have you. You may proceed in any way you want.

**STATEMENT OF CAPT. JOHN J. KELLY, 101ST PRECINCT, NEW YORK,  
N.Y.; ACCOMPANIED BY DETECTIVE GARY MESSINA**

Captain KELLY. Thank you, Mr. Chairman.

As the doctor pointed out, many of these people wandering around become police problems and, in addition, become hospital problems.

They are sometimes in a comatose state. They do not know where they are staying and when you ask them where they stay, they will give you an address of 25 or 30 years ago; then we find the address is wrong. So we do have that problem of identifying where they stay, especially when these people are senile.

Sometimes we find them in an unconscious situation, or in an accident, and we are the precinct that Congressman Scheuer

referred to earlier in which the lady walked out on the roof in January and froze to death—literally froze to death on the roof before she was found to be missing. After that incident, the rest of our staff met with a group of concerned people—private citizens—and with Assemblywoman Lipschutz and Mr. Fried, who spoke here earlier this morning representing his group. We have gotten together sort of an ad hoc committee to mutually work out some of the security problems—some of the problems that are involved.

As you know, we are in a budgetary crisis. There is no hope of getting more manpower in the police department so we have to look for ways to conserve our time. We have gone through our records, and I find we have 67 lost adults reported from the various facilities.

So from some of the nursing homes and from some of the adult related facilities, 67 people were reported missing last year.

#### PATIENT IDENTIFICATION IMPORTANT

Each one of these persons require an investigation by the police department involving missing persons, and a great many of the police officers—this is one of the problems that we try to approach with the various people and with the owners and administrators of the adult homes—identification problems—we should have some means of identifying these people, a picture, a brief rundown of who the patient is, where he or she is from, his blood type, any allergies he might have.

In addition to many nursing homes and health homes, we have a school for retarded children—functionally retarded—who will put this together for us.

They will make these cards and laminate them at a cost of 25 cents per card.

Now, our suggestion to the adult-home owners was that they have two of these made: One to remain in the file of the adult home in the event they report the person missing, and then we have a picture to start with; and the other one is to be given to the patient to carry on his person.

At first we had a little resistance because of the 25-cent cost, but the reasoning has been pointed out to the senior citizens; that is, since we have had this program going, we have put out an identification card<sup>1</sup> and we now have these people buying these on their own because they want to have this on their person to notify the hospitals and the police in case of an accident.

<sup>1</sup> See page 3603.

## SENIOR CITIZEN IDENTIFICATION CARD

The person described on the reverse side of this card is a resident of



\_\_\_\_\_

PRECINCT

_____		
Name		
_____		
Address		
_____	_____	_____
City	State	Zip
_____		
Telephone		
_____		_____
Blood Type		Allergies
_____		
Emergency Telephone		
_____		_____
Birthdate		Soc. Sec.

We have had people in the community who are willing to spend the money to rent the camera and, I think, on March 28, we will start going into the nursing homes. We will have these as of early next month, and one of our problems will be reduced to a degree.

Senator Moss. I was going to ask, would it be possible to punch that and let them hang it on a dog tag?

Detective MESSINA. They have had the necklaces and bracelets in some of the homes and, apparently, some of the guests feel this is marking them in some way and have removed them as soon as they get out on the street.

This is why we have suggested in this particular area that we send men in and explain the benefit of carrying one of these cards.

Senator Moss. I see.



Captain KELLY. That is part of our program; and we will talk to the people and show them the benefits of using these; that it is not a concentration camp identification thing—like numbers tattooed on the hand—but that it is of a benefit to us and a benefit to them.

#### TOO MANY IN "LOST" CATEGORY

Senator DOMENICI. Excuse me.

Officer Kelly, the 67 people that you cannot find in the homes who are in the lost category—this does not tell me very much in terms of whether that is abnormal. Relative to what? Tell us a little bit about that.

Captain KELLY. This is the adult category. I would say maybe in the course of a year you would have four or five lost adults from other areas, other than from the various homes.

Again, that 67 represents an across the board—nursing homes and adult homes. We do not break them down and classify them.

This was another reason for calling the meeting to clarify this matter, for there was some confusion of what a nursing home is and what an adult home is. All of these labels: What services are being provided by each; who are dispensing what drugs. We did have a lot of information from the mental health people. They were very helpful to us.

Then on another day we met with the seven adult home proprietors and administrators, and came up with this plan. We made some recommendations to them regarding security; I would also like to point out, regarding the lady who froze on the roof—we did call a search procedure.

This fixes responsibility for some one in that hotel or hospital to look on the first floor, look on the roof, look in the basement, closet, T.V. room, the laundry room, corridors, patios—if they have them—and that kind of thing. The person who conducts that search, since it is documented as a search that was, in fact, conducted by someone and is not left for someone else to do—we know where to point the responsibility. It's documented who did it, and what the time was.

The reason for this is that some confusion can develop if, after 5 at night when the staff is greatly reduced, Joe thinks John did it, and then we have someone go through the scene and see what areas have been searched and have not been searched, and where to go from there.

This also was accepted by the adult-home owners. They have these now, and this procedure is now in effect as of last week.

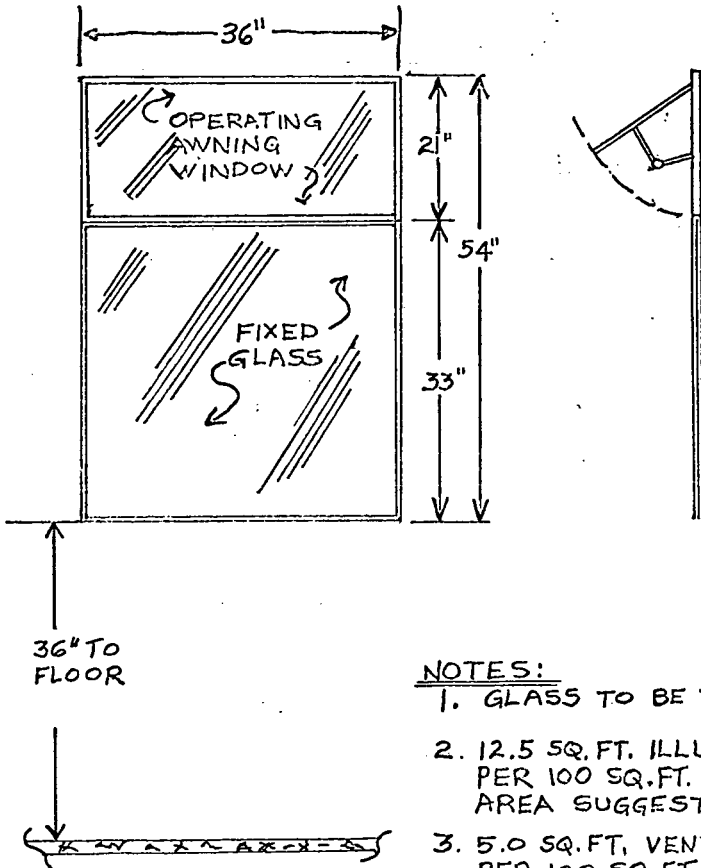
Detective MESSINA. In that location, the female was found out on the roof, and this was a health-related facility.

Also, the time lapse was over 2 hours 45 minutes between the time this individual was reported lost and the time she was found. Apparently the employees were aware of the fact that she did go to the roof area frequently. We have that report also.

Captain KELLY. Additional recommendations—some will cost money, others will not cost much, when made.

The search procedures cost nothing. We have the diagram<sup>1</sup> for

<sup>1</sup> See page 3605.

WINDOW

that type of window in which the patient will not be able to fall out or have an accident from.

#### LOCKS SERVE DOUBLE FUNCTION

We have recommendations on locks that should be equipped where it is opened easily enough from the inside, but will keep intruders out.

You also have the problem of residents wandering outside and intruders wandering in. The security responsibility—someone has to be placed in charge of security, to check the doors to see that they are secure.

With regard to new construction being done, we have procedures that we can recommend.

Some of the homes have TV cameras and they can monitor them. We recommend that they be set up at main entrances to see the people coming out, and to see who is coming in. We understand that people are not locked in these buildings. They are guests: they can come and go as they please. But the person leaving should sign out to a specific destination, and then we would have some place to start from if they did that.

We did get resistance on that, because the owners stated that it would require an additional person on their payroll that they cannot afford.

It would be a big help as far as controlling people in and out of the building, from our point of view.

As far as people wandering in the streets, even though the person is, in fact, out on his own free will—oftentimes he is not dressed appropriately. He may have slippers on, or no coat, on a cold and rainy day.

Some of them may be the type of individual, like the woman who comes to the station almost every day and solicits cigarettes—when they find out that the cops are pretty generous—and she comes for a cigarette every morning.

We do get some slack also, and these are what help us in controlling the people.

When we talk about the psychotic patient who has to be referred back, a police officer is required to take that individual in an ambulance. This ties him up for 3 or 4 hours at a time in that kind of service.

That is all I have.

Senator Moss. Thank you very much.

Do you have anything to add to that, Detective Messina?

#### ALARM SYSTEMS SUGGESTED

Detective MESSINA. Just to elaborate on some of the things the committee had come up with in the area of alarms. Apparently, there is nothing that says that alarms are a must in any of the types of facilities, yet they do house many people in an area. I do not want to get Mr. Fried angry at us, but it was a health related facility. To go to the situation where a female was out on the roof, there should be a large sign on the door saying that if you cannot open the door or if the door is jammed, push the panic button—a very large button—which will notify others of the problem. In this way someone could get up there to save the person out on the roof. Again, if we go into an alarm situation, this would be advantageous to us, not only to the police department, but to the community as well. Some of these people might get out to the streets at night and they themselves might become the victims.

It is not that they are endangering the community as much as they become victims of crime.

Senator Moss. You have suggested many procedures which are sensible and that would help. They should be implemented. I appreciate your help very much.

Senator DOMENICI. Are you in communication with Mr. Shapiro and his agency with reference to these suggestions?

Detective MESSINA. We have had communications with that agency relative to complaints that have been given to us by other police officers relative to these facilities. Since February 4, we have received two.

Senator DOMENICI. It would seem to me some of the things you are suggesting are properly within the jurisdiction of a State agency that controls the properties, the facilities and some minimal standards that might be incorporated on a broader scale.

We cannot do some of the things on a national level, but the kind of work you are doing is a tremendous contribution. I think you and your representatives ought to push it up the ladder, where you can, wherever it applies to minimum standards.

This is the only way to solve some of the problems, and I appreciate your telling us about them.

Assemblywoman LIPSCHUTZ. Being one of the members of the ad hoc committee who has worked this out, first of all, I do want to give a good commendation to the captain.

It was a very difficult job. It took more than 6 weeks through the cooperation of many people, all over. Since then, I have taken this report and used most of it in a bill which I placed in the hopper this past week.

It has not been assigned a number as yet, and therefore has not been committed to a committee. But hopefully it will be next week, and as soon as it has, I should think that I will be able to rally support in the State assembly. Hopefully, we will get the option of the State senators as well.

Congressman Scheuer.

#### PROFESSIONALISM EVIDENT

Representative SCHEUER. I think the testimony of Captain Kelly and of Detective Messina speaks for itself. I take great pride in the professionalism that the captain and the detective are showing in the 101st precinct. We have enough problems in the Rockaway's nursing homes and health related facilities. If we did not have men of this caliber in our local precinct, I just do not know what we would do. We would have a disaster instead of a service—a very difficult situation.

I want to commend them for their very thoughtful contribution.

Senator Moss. Thank you very much gentlemen. We appreciate your appearance and your testimony.

Detective MESSINA. Thank you.

Senator Moss. We now have a panel of domiciliary owners and operators.

They are made up of Dov Bercu Stoleru, owner of the Royale Manor, and Solomon Ripstein, owner and administrator of the Shalom Adult Care Home.

We will begin with Mr. Ripstein at this time.

Mr. Ripstein, tell us about the Shalom Adult Care Home.

**STATEMENT OF SOLOMON RIPSTEIN, OWNER/ADMINISTRATOR,  
SHALOM ADULT CARE HOME, NEW YORK, N.Y.**

Mr. RIPSTEIN. I am the owner and administrator of the Shalom Adult Care Home.

Mr. Lerner was also an owner. We provide the best possible care for our residents, and I myself welcome this opportunity to testify.

[Mr. Lerner did not appear to testify as requested. The committee received the following letter for the record:]

Re: Joshua Lerner.

To WHOM IT MAY CONCERN: Mr. Lerner is my patient. He is currently under observation and treatment for both a heart condition and the after-effects of abdominal surgery.

There is drainage at the site of the surgical scar on his abdomen. He had surgery for the removal of polyps 1 year ago. This required removal of part of the large intestine.

He suffers from arteriosclerotic heart disease with angina pectoris and is unable to do anything which requires exertion. He is, for all practical purposes, confined to his house. He should avoid any emotional or physical stress.

Very truly yours,

GEORGE METZ, M.D.

Mr. RIPSTEIN. I sincerely wish you would come back, and we hope that this committee will get to the bottom of everything. We want our problems out in the open. I think Mr. Bernstein has contacted Mr. Scheuer's office in the past and has spoken to his secretary, and we have had correspondence. I also want to emphasize that we welcome any help, and we hope that the State ultimately will live up to its responsibilities to its senior citizens and to its former mental patients. Hopefully, we will see some progress.

Senator Moss. Is this a proprietary home or is it a nonprofit home?

Mr. RIPSTEIN. It is a private home for adults.

Senator Moss. How many people do you have?

Mr. RIPSTEIN. Approximately 117.

Senator Moss. Are they on SSI?

Mr. RIPSTEIN. Exclusively on SSI.

Senator Moss. What is your gross income per month?

Mr. RIPSTEIN. About \$44,000 a month—somewhere in that area.

Senator Moss. You have medical personnel in the home?

**REGULAR SCHEDULING FOR PHYSICIANS**

Mr. RIPSTEIN. We have doctors who come to see the residents on a regular basis, and we have optometrists, podiatrists, and we are alert to any conditions that the residents might have. If there are any problems, we also arrange for them to see specialists, urologists, or other types of specialists, and we usually bring them down to the out-patient clinic and pick them up.

Senator Moss. Do these doctors come on a regular schedule?

Mr. RIPSTEIN. On a regular schedule, yes.

Senator MOSS. They are available on-call as well?

Mr. RIPSTEIN. Not always, but usually.

Senator MOSS. How many people do you have in your employment to take care of these residents?

Mr. RIPSTEIN. We have a full staffing, as demanded by the board of social welfare.

As a matter of fact, we have more than full staffing, because we recently hired a maintenance firm which takes care of our maintenance problems in the buildings. This firm has worked in nursing homes and other adult homes.

Senator DOMENICI. I have an awfully lot of questions that I would like to ask, but we will certainly run out of time.

Let me ask you, what is the monthly rate?

Mr. RIPSTEIN. \$386.70.

Senator DOMENICI. Go ahead.

Mr. RIPSTEIN. For the residents, we receive \$386.70, but ever since the inception of the SSI program, we have always managed to give out some money to these patients, and sometimes we receive nothing.

At first we gave them \$17, and we just could not afford it. But now we give them \$10.50, because we do have to give them some dignity.

Senator DOMENICI. What is the normal fee for somebody that wants to stay there full time?

Mr. RIPSTEIN. \$386.70.

Senator DOMENICI. Why do you say that reluctantly?

Mr. RIPSTEIN. That is it; \$386.70.

Senator DOMENICI. You have two different rates, or are they all the same?

Mr. RIPSTEIN. They are all the same.

Mr. DOMENICI. Now, if these people are on SSI, they get checks, do they not?

Mr. RIPSTEIN. Yes.

Senator DOMENICI. What is the process of handling the checks? After they turn them over to you, how do you handle them?

Mr. RIPSTEIN. We ask them to sign their checks.

Senator DOMENICI. They bring them to a certain place in the building?

Mr. RIPSTEIN. We do not line them up. We usually do everything alphabetically. It is senseless to have them line up and wait.

We deposit the checks and then afterwards they receive a refund. Anything over the \$386.70 goes to the resident.

Senator DOMENICI. Do you have a contract with these people?

Mr. RIPSTEIN. Yes.

Senator DOMENICI. Did you bring one along?

Mr. RIPSTEIN. I did not, but you are free to see it.

Senator DOMENICI. I would like to have one for the record. Supply one for us, will you?

Mr. RIPSTEIN. We would be glad to. We will mail it to you.

[The contract follows:]

## ADMISSION AGREEMENT

Name of resident.....

*Agreement of Home for Adults*

1. To furnish lodging, board, linens and beddings, and such personal services as may be required for the safety, good grooming, and well-being of the resident.

2. To secure the services of a licensed physician of the resident's choice whenever necessary, or the services of another licensed physician if their own is not available.

3. To arrange for transfer of the resident to an appropriate facility when the home is no longer able to provide suitable care. Such a transfer to be arranged in agreement with the personal physician and/or responsible party.

*Agreement of Resident*

1. To provide such personal clothing and effects as needed or desired by the resident.

2. To be responsible for physicians' fees, medications, and other treatment or aids ordered by physician.

3. To be responsible for transportation costs, hospital or nursing home charges if transfer of resident becomes necessary.

The resident or responsible party agrees to pay and the home for adults agrees to accept this payment in full consideration for above listed services.  
\$386.70 per month.

If the resident receives public assistance, the financial cost agreement with the local Welfare department and the resident is the following ..... Total .....

The resident agrees to pay for the following items which, if provided, are not included in the basic weekly or monthly financial agreement.....

-----  
Either party may terminate this agreement on 10 days.

-----  
(Signature of proprietor)

-----  
(Signature of resident or responsible person)

-----  
(Witness)

-----  
(Date)

Senator DOMENICI. Let me ask you, do many of your boarders give you a check for more than they owe you? Do you ever hold any money for them that belongs to them?

Mr. RIPSTEIN. No. Only if they—sometimes they will ask you to please hold some money. "I do not want to lose it," they say. We do it as a favor to them; we try not to make it a practice.

Senator DOMENICI. So you do not have a cost accounting system set up with your holding in trust for each one of your patients?

Mr. RIPSTEIN. No.

Senator DOMENICI. Let me see if I can get some yes or no answers. Did you tell us how many people you have full time at your place to handle an average load of 117.

Mr. RIPSTEIN. I did not tell you.

Senator DOMENICI. How many is it?

Mr. RIPSTEIN. I think it is about 22 or 23, not counting rehabilitation workers from the department of mental hygiene. I think it is 22.

Senator DOMENICI. Do you have any recollection of how many of those are involved in social type work, like recreational activities?

Mr. RIPSTEIN. Yes.

Senator DOMENICI. Will you tell us?

Mr. RIPSTEIN. We have one full-time recreational therapist. We have, I think, five people assigned to us from the rehabilitation department.

They are departmental hygiene workers, and they assist the people in rehabilitation. We have sheltered workshops for the residents which are run by the department of hygiene, and there is a recreational program.

Senator DOMENICI. Do you have a program where your patients work for you part time in the delivery of services? Do you employ any of your patients part time or full time?

Mr. RIPSTEIN. No.

Senator DOMENICI. Are you aware that in some of the States they are experimenting with this?

Mr. RIPSTEIN. I am aware that sometimes residents may do some therapy work, but it is only for their own therapy. We do not take advantage of any of our residents.

Senator DOMENICI. I did not ask you that question.

Mr. RIPSTEIN. I know that.

Senator DOMENICI. In Chicago they do work, and they earn some money, and they enjoy it. They are paid under Federal law. They are paid less than the minimum wage, but they help with the dishes and they help clean up the place. This work is therapy, and people do like it.

I was not asking whether or not there is abuse, but are you familiar with it?

#### \$7 PER WEEK FOR DOING LAUNDRY

Assemblyman STEIN. A complaint letter was received by the board of social welfare that someone was receiving \$7 a week, that is, to do all the personal laundries of 124 residents.

This was verified by the board of social welfare. It is in the report to the social welfare board.

Mr. RIPSTEIN. We have aides around the clock—at least one aide around the clock—to do bathing. Most of the bathing is done during the 8-to-4 shift.

Most of the shaving is done by people in the unions. It is not done by our residents.

I do not know of any letters. We do not use our residents to do laundry. That is it.

Assemblyman STEIN. Specifically, in the report, the board of social welfare said in a particular case they give \$7 a week to residents to do laundry for 124 people.

Mr. RIPSTEIN. That is ridiculous.

Assemblyman STEIN. Perhaps we should straighten out this thing here.

Senator DOMENICI. I will yield.

Mr. SCHEUER. I have no questions.



Senator Moss. Perhaps you could remain here; you may want to come back.

Assemblyman STEIN. Were there compliance hearings against the Shalom this year.

Mr. RIPSTEIN. We have been, since November 1974—we started this before—this refurbishing of our facilities. We started this to modernize our facilities and to make ourselves competitive with the other homes.

Assemblyman STEIN. But you were not in compliance?

Mr. RIPSTEIN. Excuse me? There is no hearing as far as I know, but can I say something?

Assemblyman STEIN. Sure.

Mr. RIPSTEIN. Most of the violations that we had received in 1975 had to do with decor, but we have undergone a complete remodelization. We have refurbished the building—actually the furniture—put in new furniture; completely redid the rooms and the lobby. You can see it for yourself.

Senator Moss. I wonder if you could furnish us, for the record, your last year's income and that of the owner's salary, the manager's salary, and any dividends that you pay out.

Mr. RIPSTEIN. Can I send that in to you?

Senator Moss. Yes, if you would, please.

Mr. RIPSTEIN. There is no problem.

[The information follows:]

SHALOM HOME FOR ADULTS.—STATEMENT OF PROFIT AND LOSS FOR THE YEAR  
ENDED DEC. 31, 1975

Income.....	\$594, 268. 80
Expenses:	
Dietary costs.....	65, 968. 03
Laundry.....	3, 056. 16
Cleaning and rubbish.....	4, 239. 24
Insurance.....	6, 508. 59
Repairs and maintenance.....	14, 681. 61
Recreation and services.....	2, 164. 05
Telephone.....	6, 676. 71
Fuel.....	14, 638. 48
Supplies.....	10, 727. 48
Auto expenses.....	567. 63
Professional fees.....	3, 938. 73
Rent.....	222, 000. 00
Taxes.....	14, 955. 86
Equipment leasing.....	2, 571. 69
Payroll.....	178, 174. 92
Dues.....	6, 812. 00
Electric.....	9, 451. 70
Bank charges.....	438. 52
Miscellaneous expenses.....	169. 78
Depreciation.....	2, 323. 73
Total expenses.....	570, 064. 91
Net profit.....	24, 203. 89
Partners drawings.....	20, 213. 00
Net profit after drawings.....	3, 990. 89

Senator Moss. Thank you very much.

Mr. RIPSTEIN. Thank you, Mr. Chairman.

Senator Moss. We will now turn to Mr. Bercu Stoleru, or his representative, I believe.

**STATEMENT OF JERRY KLEINMAN, ADMINISTRATOR, ROYALE MANOR HOME FOR ADULTS, LONG BEACH, N.Y.**

Mr. KLEINMAN. Mr. Chairman, Mr. Stoleru received a telegram at 6 p.m. last night, and due to the fact that there was an incorrect ZIP code, he just received it then. No one was home to receive it, and there it was under the door. So I am here—I am the administrator and I can try to do whatever I can.

Senator Moss. All right. Mr. Kleinman, where is the Royale Manor located?

Mr. KLEINMAN. Long Beach.

Senator Moss. How long have you been connected with it?

Mr. KLEINMAN. Approximately June 1974.

Senator Moss. And how many residents do you have there?

Mr. KLEINMAN. 185 residents.

Senator Moss. And what staff do you have?

Mr. KLEINMAN. Off hand, maybe 27.

Senator Moss. And are these all full time?

Mr. KLEINMAN. Yes.

Senator Moss. And do you have a flat rate?

Mr. KLEINMAN. Yes.

Senator Moss. What is your flat rate?

Mr. KLEINMAN. The rate is \$386.70, which is negotiated with each resident on a contract. Each resident comes into the office, sits there, and negotiates the rates, basically.

Senator DOMENICI. You do not have a flat rate then?

Mr. KLEINMAN. We have some residents who receive more money back which seems, afterwards, that we get less money.

Senator Moss. Everything they may have comes off of the \$386.70—you pay back to the resident anything over?

Mr. KLEINMAN. Yes.

Senator Moss. Do you set a trust account for these people?

Mr. KLEINMAN. Yes.

Senator Moss. As soon as the check comes in.

Mr. KLEINMAN. Yes.

Senator Moss. Do you employ any of the people there—any of the residents?

**“MAKE-WORK” EMPLOYED**

Mr. KLEINMAN. Yes. It is all make-work. It is a thing that we have tried to stop before. A lot of the money that is received is for make-work, and it was very difficult to stop.

The board of social welfare is aware of this. It has worked out very well, in a sense, for the residents. They are making some extra spending money and they are regulated as to how much they can work. None of this work has to be done for the facility.

One thing I can guarantee: If these residents do not work, the facility does not suffer.

All of this is make-work. This is a condition we found when we came into the facility. I will give you an example. This one woman received a small stipend, and then she was not able to do anything. We had to keep giving her the stipend. There is no way we can stop it. She has no money, and this money is in addition to whatever she receives from her check.

Senator MOSS. Would you mind furnishing us with a statement of accounts<sup>1</sup> as I have asked Mr. Ripstein to do?

Mr. KLEINMAN. I will have to ask Mr. Stoleru. This is of the previous year?

Senator MOSS. Yes; the previous year.

Mr. KLEINMAN. I would imagine so.

Senator MOSS. Have you had any difficulty of people wandering away, such as the woman that we talked about earlier today?

Mr. KLEINMAN. When we find problems, we straighten it out right away. Our residents have a bracelet which states the name of the home and their room number.

Also, anytime a resident is missing, we try to report it, but they can come and go as they please from this facility.

If the resident has nowhere to go and that person is missing, we fill out a missing person's report.

I just put on the report what they are wearing and the fact that the person is wearing a bracelet, and to contact us immediately when they find them.

Senator MOSS. How much does that bracelet cost to provide?

Mr. KLEINMAN. Ten cents, or something like that.

Senator MOSS. A very small amount.

Mr. KLEINMAN. Yes. I believe it is 10 cents each. It is like those you find in the hospital.

Senator MOSS. So that would identify them.

Mr. KLEINMAN. Yes; and again, I am in the facility almost 7 days a week, from early morning until late at night.

I know the habits of every single resident. I am very, very close to my residents, most of whom I know by their first name. That is all I can say.

Senator MOSS. Assemblyman Stein.

#### BUSINESS RELATIONSHIP QUESTIONED

Assemblyman STEIN. Thank you, Mr. Chairman.

I noticed that you lease the building and property, which is owned by a realty corporation, which is owned by Mr. Stoleru.

On August 30, 1970, Mr. Stoleru drew up a lease for himself and his wife to lease that property and building. The question is: Is Mr. Stoleru the landlord and tenant?

Mr. KLEINMAN. I'm not sure about that. I don't think so.

Assemblyman STEIN. Would it be possible for you to get Mr. Stoleru to answer that?

<sup>1</sup> Not received at time of publication. See appendix, item 3, p. 3623.

Mr. KLEINMAN. Yes.

Assemblyman STEIN. In writing?

Mr. KLEINMAN. Yes.

Assemblyman STEIN. This is the same kind of thing that we ran into in the nursing home investigations, where we have these arms-length agreements.

Mr. KLEINMAN. The point is, I believe it is arms-length here.

Assemblyman STEIN. On August 30, 1970, the annual rent was \$35,000. Today, from January 31, 1975, it is around \$120,000 paid to himself.

Would you not state that 340 percent increase in less than 4½ years is high?

Mr. KLEINMAN. I don't know. I am not familiar with Mr. Stoleru's financial condition.

Assemblyman STEIN. I am sorry that Mr. Stoleru is not here. Maybe you can have him answer some of these questions. I will give you a copy of this,<sup>1</sup> and see what you can do with it.

Mr. KLEINMAN. What difference does it make if he does that, since we are not on a cost-plus rate?

Assemblyman STEIN. First of all, I am asking the questions, even though you may be better than I am. But to me, 343 percent increase in rent is a little bit high.

Senator DOMENICI. It might make a difference as we attempt to evaluate whether or not the amount of money being paid to these homes as a direct result of a national SSI law, supplemented by the State, pays enough so you can pay this kind of rent. It may not be in the sense of a deal, in the sense of doubledealing under the previous law, where we were paying any excess that occurred in a non-arms-length transaction, but we are trying to evaluate why the resident patients are not able to get more service in this State. It is obvious that one reason is the real estate costs. They are very high here, yet the rates are flat.

#### SERVICES NOT COMPARABLE TO OTHER AREAS

I have been to Chicago, and \$328 gets a tremendous amount of service—more service than you are giving—for the same kind of alleged facility with the same kind of management.

In one of the best homes in Chicago, they charge \$335 a month, and the ratio in staff is a great deal better. All recreation is provided in-house, and all sorts of services are provided in-house.

It is very relevant as to whether or not you ought to be talking about expensive downtown buildings, or about getting out somewhere in rural areas. All that affects the profit picture. I'm not saying that it is criminal, but it is just what we want to know.

I would like to ask you, what are the biggest problems you have in operating these homes?

Mr. KLEINMAN. We would like to be able to give more service. I would like to have a larger staff. Our staff has been enlarged and we would like to increase it more. We would like to have full-time

<sup>1</sup> See appendix, item 3, p. 3628.

recreation. Some of these people like bingo all day long, and some like to watch a movie all day long.

I would like to have recreation for all. This is something we would like to have.

Senator DOMENICI. You are saying, as manager, the amount of money you are receiving per month does not permit you to provide the kind of service that you think the people need—is that correct?

Mr. KLEINMAN. Right. We provide the kind of service that is approved by the board's code, but I feel that I would like to do more.

Senator DOMENICI. One question about the state of health of your clients. I understand you are supposed to have, in your facility, people who are ambulatory and who do not need constant attention.

Mr. KLEINMAN. Yes.

Senator DOMENICI. Is this a serious problem, whether you can maintain a healthy group of people that do not require medical attention?

Mr. KLEINMAN. None of my residents are all nonambulatory.

I interview everybody personally, and the first question I ask: "Are you ambulatory? Can you take care of yourself?" If not, they go to a nursing home.

Senator DOMENICI. Do they get physical examinations?

Mr. KLEINMAN. Yes.

Senator DOMENICI. Who does those physicals? Is it a doctor, do you, or do you have a staff?

Mr. KLEINMAN. Every resident is examined by a doctor within 24 hours of admission to the facility.

Senator DOMENICI. What do you do with the doctor's examination when it comes back? Does it say to admit the person, or does it say not to admit him?

Mr. KLEINMAN. Based upon the original interview with the social worker, if the person has been under the doctor's care, they will tell you—documentation will tell you this. If he is a person with diabetes or if he has any infectious disease, the person receiving the examination will learn of these things.

A number of doctors provide care to facilities.

Senator DOMENICI. Thank you, Mr. Chairman.

Senator Moss. I thank you.

We will now hear from Mr. Milton Klein.

#### STATEMENT OF MILTON KLEIN, NEW YORK, N.Y.

Mr. KLEIN. Thank you, Mr. Chairman.

My name is Milton Klein, and we operate four facilities in the city of New York.

I have been in the business for the past 15 years. I had been in it before—they were known as adult homes, but they were run as hotels for senior citizens.

Two of our facilities come under the grandfather clause. They are old, and two of them are newer facilities. Within the last 4 years—it must be brought to mind this morning the question of why any operator would go into this business and be losing money.

No business is put together over night. It takes us approximately 3 to 4 years to draw up plans of location then get started.

When we started building these facilities 4 years ago, no one thought, you might say—at that time our rate was \$375; we were receiving pay for and by the city and the State of New York.

In the 4 years' time, there has been no increase for the operators. The SSI program in January a year ago took away the payments, and they started sending in the SSI checks.

Somehow, in all that time, we were all forgotten. No one thought that our expenses were going sky high—taxes, food, health costs, insurance, license—no matter how many meetings we had with various agencies we were promised increases, but nothing ever developed.

First, we were told we could look to a certain percentage, but our costs continued to go up—that is, the maintenance. The social service board asked for more staffing, and our costs continued to go up.

I, for one, have complied, and I am in full compliance with all regulations and with staffing. In fact, we are above staffing. I do not believe in cutting services, food, or anything, in any of our places.

#### COSTS INCREASING

Two of our new facilities—last July we were forced into a chapter 11 bankruptcy proceeding. The costs of running these facilities have gone up—the costs are tremendous.

Fortunately, I was in a position where I owned the property and also operated it. The mortgage that was taken out—the payments have to be made to the bank, and we will not take anything out after we make those payments.

An increase must be given to this industry for it to survive. The operators cannot keep on taking money out of their pockets in the amount of hundreds of thousands of dollars and to keep borrowing to keep their doors open, and to continuously keep operating.

We've got to have relief. We must have that relief to give service and to provide service to people.

Now, we know there are certain homes that may cut services and take away things from the guests. I am sure that most of the industry does not condone this action, but the mere fact three or four or maybe six homes may do this does not constitute a condemnation of the entire industry. No more than three or four or seven crooked politicians should condemn the entire political system, and that goes for us, too.

We welcome this investigation and hearing—it is about time it was held—so that the truth and, maybe, some relief will finally come out of it, to see that the elderly get what they so justifiably deserve.

Thank you.

Senator Moss. Thank you, Mr. Klein, and I agree with you. We need to find out whether or not the costs are sufficiently met and I wish you would furnish a balance sheet also.

Mr. KLEIN. I think you have it. You were given it this morning—the transcript<sup>1</sup> of our bankrupt proceedings.

Senator Moss. That is fine. That will help us and we will look at it.

Where are your four homes located?

Mr. KLEIN. Three in Brooklyn and one in Staten Island.

<sup>1</sup> Retained in committee files. See footnote, p. 3557.

If I may continue—there has been a lot of talk about people coming from mental hospitals into these facilities. I think it is only fair that the talk of these people coming from mental hospitals should be clarified.

Most of the people that are coming have been deemed to be released from the State hospitals into the homes, and most of them, by today's standards, should never have seen the inside of a mental hospital.

It was not uncommon 30 years ago to have a mother or father or child in these facilities with nothing being done for them. In the thirties after surviving the depression when hundreds and hundreds of people jumped from windows and from roofs, they suffered a lot. Thousands suffered mental breakdowns due to business and financial failure.

They wound up in these same hospitals. At that time, it was not uncommon for a husband or a wife who wanted to put a mate away to have such done by just a signature.

#### NONRESIDENTS EXPERIENCE DISCRIMINATION

I know in our facility we do a good and thorough screening job before we take anyone in. We go through three screening processes. Unfortunately, in the community of Staten Island, we run into the very severe community problem of the last 2 years where the community does not believe that Staten Island is a part of New York City, or the State of New York, or even of the United States. They have applied much pressure to the South Beach Hospital to withhold services for these people unless they were residents or former residents of Staten Island.

They absolutely refuse—it is a matter of public record that they will not service these people or to allow anybody to be discharged from another hospital through our Staten Island facility.

Now, I think that is an outrage. After all, the mental person is a human being also, and he does have rights. He has a rightful place when he is discharged back into the community.

Senator Moss. Well, we do thank you very much. I appreciate your discourse of what has happened in the years past. With regard to mental hospitals—and I agree with you—the fact that many are coming out does not necessarily indict them provided they are screened properly. But we know that many are being left adrift.

We regret that we are going to have to terminate this hearing because we have an airplane to catch, but we do appreciate your testimony. I think you have added a good bit to our record.

We do have two additional documents that were furnished that I will place in the record. We have a statement from Dr. McKinley, who stayed here all day, and I appreciate very much that he has given us a written statement.

This statement and that of Mr. Haugh will be made a part of the record.

[The statements follow:]

#### STATEMENT OF ROBERT A. MCKINLEY, ACTING FIRST DEPUTY COMMISSIONER, NEW YORK STATE DEPARTMENT OF MENTAL HYGIENE

I am Robert A. McKinley, acting first deputy commissioner of the New York State Department of Mental Hygiene. I feel that it is appropriate that I testify

here inasmuch as of the 17,000 people residing in proprietary homes for adults, 5,000 are former patients in State and local psychiatric centers. It is quite likely that more than these are in need of some form of psychiatric care.

To put the problem in perspective, it should be realized that there were about 33,000 patients released from State mental hygiene facilities during 1975. Of this number 1,100—or 3.3 percent—have found their way into proprietary homes for adults. Annually, over the past 10 years, about 6,000 chronic patients have been released from State centers. I mention these statistics not to minimize the problem but to point out that it should be manageable.

Until appropriate living arrangements can be made available for the mentally disabled and perhaps all persons, the problem will continue to exist. PPHA's now provide an alternative to living in a departmental institution—an alternative which many people prefer.

#### WHAT ARE WE DOING?

(1) We are in the beginning stages of implementing a program to develop treatment plans for every discharged patient. These plans include arrangements for appropriate community care. In this effort we are working with the Board of Social Welfare and the Department of Social Services. This cooperative effort needs to continue and expand.

(2) Currently, we, along with others, do provide some treatment, though inadequate in amount, to clients residing in PPHA's. We estimate the equivalent of 120 State full-time Department of Mental Hygiene staff now provide service to clients in PPHA's. Local mental health programs and in some instances private psychiatrists in the surrounding communities also give some care. To the extent resources are available we are asking department facilities to provide more service.

(3) We have stopped our facilities from placing clients outside their own catchment areas unless assurances are given by the director from the receiving area that he can follow the patient adequately.

(4) We are studying all of our State facilities for multipurpose use with the view to develop domiciliary care programs for patients already in residence but who will require a lesser degree of care. We do not necessarily see this as a long-term solution but an intermediate step in dealing with the problem. We must now secure non-State sponsorship for these arrangements.

(5) We need more facts. In collaboration with the Board of Social Welfare, the Department of Mental Hygiene is undertaking an assessment of the needs of PPHA residents so we can plan more effectively for their care. This assessment will be completed by late spring of 1976.

#### WHAT CAN BE DONE?

(1) Federal legislation should be enacted to permit medicaid payments to persons between the ages of 21 and 65 who are admitted to State mental hygiene facilities. The denial of medicaid effects a substantial number of our citizens in New York. About 80 percent of admissions are in this age group as are about 60 percent of the patients residing in psychiatric centers on any particular day. This could make more resources available so that patients would be more adequately prepared for community life.

(2) Presently supplemental security income recipients cannot live in residential arrangements operated by a State agency. A change in Federal law is needed to permit State sponsorship.

(3) Mandate that any federally funded mental health center must take into account this population in its annual plan. This would include a survey of this high risk group in their service area and a requirement to see that quality care is provided. This should be part of a larger program to insure that federally funded mental health centers are truly comprehensive and that they are serving the most seriously disabled.

(4) SSI recipients residing in PPHA's should receive an adequate amount of spending money as an aid to their rehabilitation so that they can participate more actively in the life of the community. Regulations should be developed to assure that this happens.

I hope some of these remarks will be helpful in moving toward a solution of some of these very complex problems. There are no easy answers, particularly since we all realize that resources will always be limited and attitudes toward those with mental impairment change slowly. I feel that the trend



toward treating most of the chronically mentally disabled in the community will continue and that it is desirable on a programmatic basis. PPHA's are not, in many instances, the preferred residential arrangement, but they will continue to be an option for some dependent persons for many years to come. People should be served in PPHA's on the basis of their need and the capacity of the home and other supporting elements to meet that need. Diagnosis of a mental illness, or any other illness, should not be the determining factor.

We will provide the committee with any data we have available and would be pleased to meet with committee staff to discuss these problems in detail.

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STATEMENT OF BRIAN HAUGH, DIRECTOR, PUBLIC INFORMATION  
AND RESEARCH, STATEN ISLAND, N.Y., COMMUNITY CORP.

Ladies and gentlemen, my name is Brian Haugh, and I am here representing the Staten Island Community Corp. We have come to raise several questions regarding the vital issue of domiciliary care for our citizens.

Since April 1974, the Staten Island Community Corp. has been actively investigating the patterns of nursing home and domiciliary care facility ownerships. While we have focused our attention primarily on Staten Island facilities, our efforts have led to inquiries regarding related properties in other boroughs, as well.

Our interest in these institutions began 2 years ago, when Bernard Bergman began an intensified lobbying effort for his Danube Nursing Home (also known as Island View Nursing Home and Richmond Manor—Home for Adults). Bergman proposed to place Department of Mental Hygiene patients, then residents at Willowbrook Developmental Center, into his facility at an inflated annual rate. For, although his contract would call for reimbursement at a rate appropriate for a skilled nursing home, Bergman planned to deliver only domiciliary care.

It seemed to us that Bergman had a facility built as a nursing home, but capable of being licensed only as a domiciliary care facility. And, since there was a limited potential for excessive profit-making in the domiciliary care field, Bergman desired a means of increasing his profit.

The main difference in reimbursement for these facilities lies in the area of Medicaid. Since a domiciliary care facility provides only "hotel" services, its residents are usually ineligible for health-related benefits such as Medicaid. Even now, the real profits remain in nursing homes.

But, despite this lack of current profit potential, several areas of New York have continued to experience an increase in the number of domiciliary care facilities being constructed in their communities. Staten Island, for instance, has seen a disquieting "boom" in the number of DCF beds available in the borough. No less than five new facilities, with a combined total of more than 1,000 beds, have been constructed on Staten Island during the past 2 years.

There is, however, little need for these 1,000 domiciliary care facility beds in this borough. Quite simply, a population sufficient in number to fill these beds does not exist in Staten Island. Most of these beds, therefore, remain empty. Four domiciliary care facilities, in fact, have not even opened their doors. It is as though they are waiting for their "ship to come in"—a ship bearing Medicaid reimbursements and New York State Department of Mental Hygiene contracts.

Many Department of Mental Hygiene patients have already been placed in domiciliary care facilities during the past few years. Several facilities, owned by the Klein family, have filled their beds with a number of former mental patients.

The Klein family are associated with at least six facilities, including two in Brooklyn and one in Staten Island that house former mental patients. These residents, many of whom still require some supervision and out-patient care, have found themselves in domiciliary facilities where they receive little more than bed and board.

The results of such care (or lack of care) have, on occasion, been quite tragic. At Klein's Forest Manor, located on Staten Island, there have been a number of "accidental" deaths where residents fell from windows or rooftops. These deaths have always been classified as suicides.

At Klein's Ocean Manor, in Brooklyn, two former residents were involved in an altercation last year—it resulted in murder. Obviously, these former

patients were in need of therapy and care—the kind they were not receiving in a domiciliary care facility.

Why do tragedies like these occur? The reasons are many, but the fact that these DCF's are not really community living situations is a contributing factor. The State has sought to empty its mental hygiene and retardation facilities following the exposure of conditions in places such as Willowbrook. Unfortunately, instead of developing group and foster homes for these patients, the State has chosen the easy way out—by transferring these patients from a large institution to a smaller institution. And, in mini-institutions such as DCF's, the quality of care is frequently worse than that provided directly by the State.

#### "PERCHED LIKE VULTURES"

The four vacant DCF's on Staten Island are in close proximity to two State facilities—Willowbrook and South Beach Psychiatric Center. It seems obvious that these buildings are perched like vultures, waiting to snatch State mental patients as they exit the larger institutions.

More disturbing, however has been the continuing efforts of some facility owners to win outright contracts with the State Department of Mental Hygiene. For instance, there is a 300-bed facility on Haven Avenue in Manhattan that has remained empty for 2 years.

Owned by the Walter Scott Co., a realty firm that has garnered the attention of several investigative reporters, including the Village Voice's Jack Newfield, the Haven Avenue facility has been considered as a residential facility for 300 Willowbrook residents. According to a Willowbrook mother who toured the facility, the owners emphasized the chandeliers and Ethan Allen furniture—but said little about available care. "They kept asking: 'Now, isn't this better than Willowbrook?'" she recalls.

Obviously, many developers are looking to the State as a source of bail-out money and contracts for facilities that can't be filled by conventional means. The question of who receives these State patients, and why they are assigned to a particular facility or chain of facilities, remains a most curious and puzzling issue. Certainly, the potential for corruption exists in such State contracts.

We are opposed to this placement of mental hygiene patients in domiciliary care facilities for another reason, as well. The Staten Island Community Corp. has always supported the deinstitutionalization of these patients and their settlement in foster homes and small-scale group homes. Frequently, we encounter neighborhood resistance to a group home's establishment—the local residents fear for their children, their property values, and themselves.

They have heard stories about the patients "running wild" at Klein's Forest Manor, and they fear that sort of atmosphere in their communities. We try to explain the difference between those unsupervised mini-institutions and a group home, but it's a difficult case to make.

Certainly, the questions regarding ownership and illegal profiteering in the DCF industry deserve the attention of this committee. Just as Bergman, Heisler, and Hollander emerged as the heads of nursing home syndicates, certain names frequently appear, in various combinations, as DCF owners.

The Klein and Scharf families, for instance, are involved in a number of facilities. Sidney Pullman, a facility developer who operates under a variety of corporate names, is also heavily involved in the industry—especially in Staten Island. There are even instances of international ownership in DCF's—Broadview Manor, a Klein-Pullman venture, included two residents of Vienna, Austria, as owners.

And, regarding the Haven Avenue facility, there have been ownership changes complicated enough to rival any Bergman property. A half-dozen listed owners (including a carpet company), all residing at the Walter Scott address, have been listed as owners during the past few years.

Considering the rather confusing nature of this industry and its questionable reliance on a State agency for patients, the domiciliary care facility business seems a most appropriate target for this Senate committee's investigation.

Senator Moss. We stand adjourned.

[Whereupon, the subcommittee was adjourned at 4 p.m.]

## APPENDIX

### LETTERS FROM INDIVIDUALS AND ORGANIZATIONS

#### ITEM 1. LETTER FROM CHARLES J. HYNES,<sup>1</sup> DEPUTY ATTORNEY GENERAL, STATE OF NEW YORK; TO STANLEY STEINGUT, SPEAKER OF THE ASSEMBLY, STATE OF NEW YORK, DATED MARCH 18, 1976

DEAR MR. STEINGUT: Three days ago, on the very day the Senate was voting upon the budget, I learned for the first time of the proposal to withhold the additional funds I requested to complete my medicaid investigation. I am addressing this letter to you in your capacity as speaker of the assembly to underscore the details of my budget request. I am convinced, based on more than a year of investigating nursing home abuses, that these funds are vital to the success of my office. I therefore request that next Monday, when the legislature votes on certain changes in the budget, you move the restoration of the deleted funds.

I requested funding for 164 additional positions: 96 auditors and 68 additional support staff, including some 30 investigators and 9 lawyers. This addition to my existing staff would provide the essential personnel to carry through to completion several main thrusts of my investigation:

(1) The audit and investigation of reimbursement claims submitted during the past 6 years by all nursing home facilities in order to recapture the funds misappropriated from the State;

(2) The determination of the extent of medicaid fraud in other public health areas;

(3) The development of a permanent fraud control mechanism to prevent any reoccurrence of medicaid abuse once my office goes out of existence.

Unless those objectives are achieved, my investigation will make but a temporary contribution to the sound management of the medicaid system and the provision of decent care for the elderly, and the funds misappropriated at their expense will be beyond our reach forever, as the Statute of Limitations runs.

It has been suggested that a substitute for my proposal would be my use of 120 of the 288 new auditors provided in the new budget for the department of health. I think this suggestion needs careful analysis and clarification. The department of health is only gaining 120 new auditors. The remaining 168 positions will be filled by patient-care survey personnel. Under legislation you passed in the 1975 session, you required the department of health to make at least two inspections annually in order to review the adequacy of care in all residential health facilities. These 168 positions presumably will carry out that obligation. They are not fiscal auditors.

In actuality, the legislature provided the department of health with 120 new auditor positions. These are not a resource we could effectively draw upon to do fraud audits covering 5 years of past reimbursement claims of nursing home operators.

This addition of 120 auditors will give the department of health a total of 204 auditors. Perhaps that figure sounds impressive, but not when it is measured against the department's obligations. Those auditors must:

(1) Audit the current year's returns of all nursing homes and health related facilities, a total of 780 institutions with 1975 medicaid expenditures of \$1.25 billion. This requirement was imposed by the legislature in the 1975 session.

<sup>1</sup> See statement, p. 3545.

(2) Review the Blue Cross and Blue Shield audits of 360 hospitals, with 1975 medicaid expenditures of over \$1 billion.

(3) Audit the construction under articles 28A and 28B of the public health law of nonprofit health care facilities—both hospitals and nursing homes. The current workload is 120 projects with a total construction cost of approximately \$500 million.

(4) Audit all other facilities, such as home health care agencies, and clinics, under the department of health's jurisdiction—more than 400 facilities with 1975 medicaid expenditures of some \$500 million.

(5) Address the problems of some 700 medicaid mills, currently operating without any effective supervision.

This is a staggering task that will easily consume all health department audit personnel, both existing and newly budgeted.

#### OFFICE CONDUCTS SOPHISTICATED AUDITS

Moreover, the proposal to use health staff in my investigations bears no relation to the way my office functions. My office conducts sophisticated fraud audits, which take my staff behind nursing home books to scrutinize vendor dealings and to identify the nature of and participants in potentially corrupt transactions. I must have my own audit staff, trained and skilled in sophisticated fraud audit techniques. Equally indispensable are the legal, investigative, and support personnel who do the field work and develop materials for prosecution.

This request has been carefully structured. It grows out of the experience of my office in more than a year of investigation and prosecution, where I found the common thread among nursing home operations to be a sweeping pattern of improper claims for reimbursement.

It comports fully with the desire of Governor Carey to identify and deal swiftly with misuse of medicaid funds in other health areas, as part of his long term goal of reforming health care management in New York State.

Finally, it was based on my own personal belief that these abuses, which undermine high standards of patient care, must never be allowed to reoccur; that the sequel to this office shall not be another round of scandals once the public expressions of concern have faded. Only the development of an effective and permanent fraud audit unit to supplement the day-to-day work of the department of health can guarantee this.

The size of this budget request is modest, particularly in the context of the size of a \$3.2 billion medicaid program. I envision that if this budget request is approved my work can be completed by the spring of 1978, and the diversion of medicaid funds from patient care eliminated.

My proposal offers immediate and concrete fiscal benefits to the State, far in excess of its cost. My audit of nursing homes' past claims would identify a minimum of \$70 million in overpayments for recovery and return to local, State, and Federal governments. These millions are to be lost if my request is denied.

The identification of overstated costs in past returns will play a real role in controlling spiralling medicaid costs. Once overstated, many costs remain permanently in a nursing home's rate base, falsely inflating expense ceilings, depreciation allowances and equity returns. Identifying and correcting cost overstatements will insure that future medicaid reimbursement is limited to the amount actually expended on patient care, and reduce the rate of growth of medicaid payments to nursing home operators.

These conclusions are not based upon speculation. Rather, they are founded upon analysis of the findings of our audits to date. My auditors have already identified more than \$13 million in overpayments which will be available for recovery by the State. I have received actual restitution, in hand, of \$237,000; moreover, additional restitution is to be made in several other cases.

I have extensively detailed my first year's experience and the considerations which led me to make this request for additional staff in my first annual report to the Governor. I have enclosed a copy of this report for your information.

The issue before you here is the extent of our commitment to reform the sagging medicaid system and to provide top quality care for the elderly. Failure

to restore these funds to my investigation would be an unmistakable signal that the State's commitment to qualify medical care for the aging is limited and tentative, as my investigation would then have to be.

I view my duty in light of the goals set out by Governor Carey at the time of my appointment: to fight to change a system that has left thousands of our older citizens to live out their lives in misery; to see that those who have exploited and mistreated our elderly for gain must feel the full force of an outraged people; to insure that institutions built to serve the elderly are scrutinized and reshaped. I have submitted this budget request pursuant to that duty and to carry out successfully the obligations it imposes.

Sincerely,

CHARLES J. HYNES.

ITEM 2. LETTER AND ENCLOSURES FROM CAPT. JOHN J. KELLY,<sup>1</sup> NEW YORK CITY POLICE DEPARTMENT; TO SENATOR FRANK E. MOSS, DATED APRIL 12, 1976

DEAR SIR: Enclosed please find a copy of a report on security conditions in homes that house senior citizens.

This report was dated February 4, 1976.

Very truly yours,

JOHN J. KELLY, *Captain*.

[Enclosures]

POLICE DEPARTMENT,  
New York, N.Y., February 4, 1976.

From: Commanding Officer, 101 Precinct

To: Commanding Officer, Queens Area

Subject: Recommendations Re: Security at homes for senior citizens.

1. In response to an incident in which an 82-year-old female was found frozen to death on the roof of a "Health Related Facility," the undersigned directed the 101 precinct crime prevention and community affairs specialists to research problems at senior citizen's facilities.

2. An ad hoc committee was formed, and on February 4, 1976, a meeting of that committee was held in the office of the 101 precinct commander.

3. The attached report contains recommendations formulated by said committee which will be made to the operators and administrators of nursing homes, health related facilities, and adult homes within the 101st precinct.

4. I call your attention to paragraph No. 7 and suggest that the recommendations made in this report be forwarded to the crime prevention section and the legal bureau for consideration of formulation of such legislation.

JOHN J. KELLY, *Captain*.

[Enclosures]

POLICE DEPARTMENT,  
New York, N.Y., February 4, 1976.

From: Commanding Officer, 101 Precinct

To: Commanding Officer, Queens Area

Subject: Nursing homes, health related facilities, and adult homes within the confines of the 101 precinct.

1. On January 17, 1976, at a health related facility located within the confines of the 101 Precinct, a resident exited from the roof door, undetected, and was later found dead on the roof. The administrator of this facility stated that he had checked the door alarm that evening before leaving, and it was in good working order. Further investigation indicates that in the year 1975, 67 people were reported lost from nursing homes, health related facilities, and adult homes located within the confines of the 101 Precinct. These were individuals lost over a period of 24 hours, and our reports do not indicate how many others are lost for a lesser time and do not come under the heading of "Missing Persons." Of the 67 reported lost, 30 were from the location where the female was found dead on the roof.

<sup>1</sup> See statement, p. 3601.

2. In an attempt to correct existing conditions and prevent further occurrences, Captain John J. Kelly, commanding officer, 101 Precinct, directed his staff to draw together the expertise of certain selected individuals in the community and solicit their help and suggestions. This ad hoc committee consisted of the following individuals:

- Mr. Bernard Feuer, nursing home administrator;
- Mr. Herbert Rothman, health related facility administrator;
- Ms. Anne Wyden, South Shore Rockaway Mental Health Service;
- Mr. Antonio Blanco, director, South Shore Mental Health Services;
- Mr. Gerald Fried, State Association of Homes for Adults;
- Mrs. Gerdi Lipshutz, community liaison, Rockaway Health Council;
- Mrs. Pearl Appelman, mayors office, Neighborhood services;
- Detective Gary Messina, crime prevention specialist, 101 Precinct; and
- Detective Frank Favilla, community relations specialist, 101 Precinct.

3. Generally, these institutions are divided into three categories: Nursing homes; health related facilities; adult, or proprietary homes.

Information relative to these institutions is as follows:

**A. Nursing homes:**

1. Regulated—New York State Department of Health.
2. Registered nurse—on premises 24 hours per day (one per "X" number of patients).

3. Controlled drugs—dispensed by authorized personnel.

4. Administrator—licensed by the State.

5. Service—complete medical care for injured; mentally retarded; etc.

**B. Health related facilities:**

1. Regulated—New York State Department of Health.

2. Registered nurse—on premises 40 hours per week, Monday through Friday (one).

3. Controlled drugs—can be possessed by resident, at the discretion of the administrator.

4. Administrator—licensed by the State.

5. Service—supervisory care for ambulatory residents.

**C. Adult—or proprietary:**

1. Regulated—New York State Board of Social Welfare.

2. Registered nurse—not required on premises.

3. Controlled drugs—held by administrator and brought to the guest at meal time. Not dispensed by a registered nurse or practical nurse.

4. Administrator—not licensed.

5. Service—food, shelter, custodial care, recreation.

4. There are no existing laws or regulations that mandate:

- A. Bed checks.

- B. Alarm installations.

- C. Camera surveillance.

- D. Search procedures.

- E. Security responsibility.

5. All the above indicates a lack of laws or regulations that are specific in the areas pertaining to drug control, building security, and the safety of the individual patient, resident, or guest. Rules that merely state "The safety of the patient, resident, or guest will be the responsibility of the administrator" are vague and are not generally enforceable. Many administrators have provided security techniques and controls on their own; however, some have been remiss in the matter.

**6. Security suggestions:**

(a) *Bed checks.*—We suggest bed checks to be conducted by the outgoing and incoming shift, and recorded on a form. Responsibility will then be placed on an individual. We also recommend an additional bed check at 0400 hours. We feel that this is necessary because if an individual does leave one of these facilities unnoticed, the lack of pedestrian traffic on the street will lessen chances that he or she will be observed and reported to the police.

(b) *Alarms.*—We suggest a "proprietary alarm" installation. All exterior doors and doors that lead to sensitive areas should be equipped with alarms that terminate at either a central point at the nursing station, or at another point within the premises. The alarms should be equipped with two reset



## SEARCH AREAS

Time search was started-----

Basement :	<i>Search conducted by</i>	3d floor :	<i>Search conducted by</i>
Boiler room-----	-----	Stairwells-----	-----
Closets-----	-----	Closets-----	-----
Stairways-----	-----	Terraces-----	-----
-----	-----	Public rooms-----	-----
-----	-----	Toilets-----	-----
-----	-----	-----	-----
1st floor :		-----	-----
Stairwells-----		4th floor :	
Closets-----		Stairwells-----	-----
Public rooms-----		Closets-----	-----
TV room-----		Terraces-----	-----
Toilets-----		Public rooms-----	-----
Kitchen-----		Toilets-----	-----
Laundry-----		-----	-----
-----		-----	-----
-----		Roof :	
2d floor :		Court yard-----	-----
Stairwells-----		Patio-----	-----
Closets-----		-----	-----
Terraces-----		-----	-----
Public rooms-----		-----	-----
Toilets-----		-----	-----
-----			
-----			

Name of supervisor in charge-----

Signature of supervisor-----

Police notified by whom-----

Date police notified-----

Name of police officer responding-----

Rank----- Shield No.-----

ITEM 3. LETTER AND ENCLOSURES FROM JULIUS J. ROSEN, NEW YORK ATTORNEY; TO SENATOR FRANK E. MOSS, DATED MARCH 31, 1976

DEAR SENATOR MOSS: You will recall that at the conclusion of the hearing of subject subcommittee in New York City on Friday, March 19, 1976, Mr. Stein requested Mr. Kleinman, the administrator of Royale Manor Home for Adults, to have Mr. Dov Bercu Stoleru, the certified operator of the Royale, and also two other adult homes, respond to certain questions set forth and marked on the typewritten sheet which was given to Mr. Kleinman. The subcommittee also asked if Mr. Kleinman could have Mr. Dov Bercu Stoleru submit a financial statement of his operations.

Mr. Dov Bercu Stoleru submitted to our office to forward in his behalf for your subcommittee, responses to those questions. I enclose herewith such responses together with the sheet on which the questions were propounded.

I trust this is the information you require.

Very truly yours,

JULIUS J. ROSEN.

[Enclosures]

QUESTIONS SUBMITTED TO DOV BERCU STOLERU BY NEW YORK ASSEMBLYMAN ANDREW STEIN. MR. BERCU STOLERU'S ANSWERS FOLLOW EACH QUESTION

*Question.* Mr. Bercu, the building and property that the Paradise Manor stands on is owned by the Gerax Realty Corp. Is that true?

*Answer.* The building and property constituting Paradise Manor Home for Adults is owned by Gerax Realty Corp.



*Question.* I noticed that from the lease of August 1, 1974, the Gerax Realty Corp. has the same address as the Paradise Manor. What is the reason for that?

*Answer.* Since the lease from Gerax to Paradise Manor Home for Adults was a strenuously negotiated arms-length lease, and since none of the partners of the lessee have any connection with or control over Gerax, we can only conjecture that the reason for Gerax having the same address as Paradise Manor is because prior to our leasing this facility, Gerax leased to its own principals who were the certificated operators of Paradise Manor and they merely failed to correct the address when the then-certificated operators were replaced by the new lessees.

*Question.* Do you personally know any of the partners of the Gerax Realty Corp.? Partners: Jenö Berger, Louis Buchler, Jenö Friedman, Simon Friedman, Bernat Reisman, Armin Reisman? How have you known them?

*Answer.* I know all of the partners of Gerax Realty Corp. named in your question. However, I know them as former operators and owners of the real estate constituting Paradise Manor. They have never been partners of mine in any business transactions and my dealings with them have been as fellow operators of NNHA's and as lessors with lessees in an arms-length negotiated transaction.

*Question.* I noticed that from the lease of the building and property that the Ila Adult Home stands on is owned by the 325 West Realty and that 325 West Realty is owned by you. Is that not correct? On August 30, 1970, you drew up a lease for yourself and your wife to lease the property and building. That is, you are both the landlord and the tenant. Does the 325 West Realty Co. buy and sell other real estate (probably not)? Then the sole purpose of this realty company is to lease the property to you? Do you get any benefits from this type of transaction? (Tax deductions?)

*Answer.* 325 West Broadway Realty Corp. is a wholly owned subsidiary of 401 Boardwalk Corp. which is entirely owned by my wife and myself. Therefore, we do indirectly own and control 325 West Broadway Realty Corp. (sometimes called "325"). 325 does not buy or sell other properties. We would point out to you that the reason a lease was made to my wife and myself for the Ila is because the board of social welfare does not permit a corporation to operate a PPHA. They were fully aware of the fact that this was not an arms-length lease. The purpose of this lease was exclusively to comply with the requirements of the board of social welfare at the time an application was made to certificate our operation of the Ila. The only benefits we received from the transaction indicated was a substantial loss since, as will be explained in the answer to No. 13 below, we did not consider the necessary carrying charges of the property in preparing this non-arms-length lease whose sole function was to comply with the requirements of the board of social welfare. 325 was not formed for the purpose of leasing the Ila to my wife and myself. Instead, it was formed for the purpose of purchasing the real estate and the hotel business in 1969. It was not until over one year later that application was made for certification and at that time the \$35,000 lease was executed.

*Question.* In your August 30, 1970, lease, your annual rent paid to yourself was \$35,000. Today, taken from your January 21, 1975, application for an operating certificate, your annual rent is \$120,000 paid to yourself. Wouldn't you say that a 34 percent rent increase in less than 4½ years is exorbitant, to say the least?

*Answer.* The annual rental of \$35,000 in the 1970 lease did not include costs of interest, taxes and amortization of the first and second mortgages which alone amount to over \$60,000. Between the time of that lease and the new lease which provides a \$120,000 rental, the property was sold in an "arms length" transaction and the carrying charges alone are approximately \$95,000 to \$100,000. There are now obligations of taxes, interest and amortization to the current owners which come close to the new rental. The implication of your question No. 13 is not only erroneous but it is not based on any legitimate and correct facts. We point out to you as was done by our administrator, Mr. Kleinman, that we have every right, legally and morally, to cover all costs and even make a legitimate return on our real estate investment. We are not required to disclose our financial situation to either you or the Board of Social Welfare but we have always done so voluntarily.

With regard to the submission of financial statements, our accountants have advised that due to pressure of year end statements they will be unable to furnish us with same until some time after April 15, 1976. Upon receipt of the statements, we will be pleased to furnish you with a copy of same.

Respectfully submitted,

\_\_\_\_\_  
DOV BERCU STOLERU, *Partner.*

ITEM 4. LETTER FROM ROBERT A. MCKINLEY, M.D., ACTING FIRST DEPUTY COMMISSIONER, NEW YORK STATE DEPARTMENT OF MENTAL HYGIENE; TO SENATOR FRANK E. MOSS, DATED MARCH 23, 1976

DEAR SENATOR MOSS: I would like to send along some additional comments which I would have made in response to questioning had time allowed me to speak at the PPHA hearing last Friday. It was a privilege to be there and to hear about some positive steps that were being taken, especially by the police in Long Beach and the Peninsula Hospital in Far Rockaway.

The saturation of areas with health and welfare facilities has indeed been a big problem and one would hope to see this better controlled by having all of them come under the purvue of the health planning agencies.

We are attempting to provide alternatives to the PPHA's but it is a fact that many patients who have had an emotional or menal illness are candidates for admission to them and certainly have the right to be considered along with those who may be suffering from other chronic diseases such as diabetes mellitus, arthritis, and heart trouble. As was mentioned, work is being done to develop community residences (capacity no more than 40) and hostels with capacity of 10 to 20. We were pleased to note that federally funded mental health centers can now secure construction money for hostel development and this effort should be expanded. Money for leasing might perhaps be even more appropriate. It would be advantageous if these mechanisms could be expanded to those areas not covered by mental health centers.

The problem, age old and at times made worse by ill advised placement efforts, of community resistance to the mentally ill in their midst is ever present and not easily countered. The provision of space in public housing for patients returning should also be considered.

The thing to remember in all of this is that the discharged mental patients do not form a homogenous class but are as different as the diabetic in coma and the diabetic able to play professional football.

Sincerely,

ROBERT A. MCKINLEY, M.D.