

# **Profit Making in Not-For-Profit Care:**

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**A Review of the Operations  
and Financial Practices of  
Brooklyn Psychosocial  
Rehabilitation Institute, Inc.**

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**NYS Commission on**



**QUALITY  
OF CARE**

**for the Mentally Disabled**

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## PREFACE

Over the past eight years, in carrying out its statutory responsibility for oversight of the mental hygiene system, the Commission has investigated several cases in which the quality of care provided to mentally disabled individuals in programs requiring operating certificates from the State was found to be seriously deficient. A common explanation offered by the program operators to excuse the substandard care has been the inadequacy of funding provided by the State. In some cases, there is an on-going debate between the provider and the State licensing agency as to where responsibility rests regarding the poor care, with the result that the program continues to operate with its deficiencies, while the State refuses to renew the provider's operating certificate. Often, in such cases, state and federal funds continue to flow to the provider as the debate proceeds, and no litigation is commenced to compel compliance with quality of care standards contained in law and regulations.

In some instances, however, it is clear to the Commission that the problems with quality of care stem not from an inadequacy of funds provided for the program, but from the operator's decision to divert public funds intended for the care of mentally disabled people to private purposes unrelated to client care (see, Profit vs. Care: A Review of Greenwood

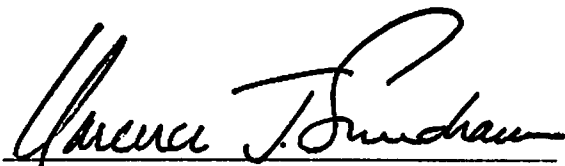
Rehabilitation Center, Inc., A Private School for the Mentally Retarded and Related Regulatory Processes, March 1981; Pitfalls in the Community-Based Care System: A Review of the Niagara County Chapter NYS Association for Retarded Children, Inc. and Agencies Responsible for its Oversight, September 1984). In both of these cited cases, affecting agencies serving mentally retarded persons, the regulatory checks that were intended to prevent such diversions of public funds failed to either detect the financial improprieties or prevent the problems which were well known. But, many other problems were relatively unknown because they involved undisclosed less-than-arm's length relations among parties who bought, sold, or leased real estate to the facility and its programs.

The case of Brooklyn Psychosocial Rehabilitation Institute, Inc. illustrates a similar hidden phenomenon in a community mental hygiene facility providing services to the mentally ill. This investigation reveals how the profit motive has permeated a not-for-profit corporation and perverted its operations to a point where client care has suffered, while the principals have reaped exorbitant profits through less-than-arm's length real estate transactions, potential Medicaid fraud, and questionable charitable deductions on income taxes.

Beyond the specific recommendations contained in this report for responding to this particular situation, the Commission believes there is a critical need to strengthen the regulatory capability of the Office of Mental Health to enable it to

prevent, detect, and correct deficiencies in the operating and fiscal practices of the agencies under its jurisdiction. This need for a strong regulatory system is increasingly important as the mental health services network places greater reliance on community-based residential and day program services provided by private and voluntary agencies.

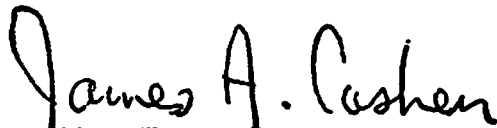
The findings, conclusions, and recommendations contained in this report represent the unanimous opinions of members of the Commission.



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## EXECUTIVE SUMMARY

The Commission on Quality of Care for the Mentally Disabled was created in 1977 by the State Legislature as an independent watchdog agency over the State-operated or -certified mental hygiene system to ensure quality services for mentally disabled persons. The Commission's functions include investigating unnatural or unusual deaths, providing advocacy services, responding to complaints, and conducting program and cost effectiveness studies to both improve service delivery and to ensure that the quality of care provided to the mentally disabled in the State is of a uniformly high quality.

This investigation into the financial practices of the Brooklyn Psychosocial Rehabilitation Institute, Inc. (BPRI) was undertaken because of the Commission's concerns about claims of inadequate funds as an explanation for numerous continuing deficiencies in the quality of care and the occurrence of several suicides at the facility within a short period. (Appendix A describes the deficiencies in quality care found by the Commission.) As a result of the continuing deficiencies, BPRI's operating entities--the Boerum Hill Residence and The Lafayette Center--had current operating certificates for periods of only four months and

seven months, respectively, since 1980. In the interim, there was protracted discussion between BPRI and the Office of Mental Health as to the nature of, and explanations for the deficiencies, as well as the need for additional funding to correct such deficiencies.

BPRI's executive director is Mr. Irving Link. Its medical director and founder is Karl Easton, M.D. Dr. Easton, and his family, operating through closely held business corporations, own the real property at which BPRI programs are conducted. These corporations also act as landlord for mentally ill people living in 25 "satellite apartments."

This review has uncovered that these proprietary enterprises (Cobble Hill Center Corp. and 3 Lafayette Ave. Corp.) significantly influence the behavior of a not-for-profit corporation (BPRI) which is licensed by the Office of Mental Health. The dominion and control exercised by the Easton family over both the proprietary corporations and the not-for-profit corporation have permitted a series of transactions between BPRI, Cobble Hill Center Corp., and 3 Lafayette Ave. Corp. that have inured to the benefit of the Easton family at the expense of quality care for BPRI's residents.

The Easton family has earned rates of return on their investments in BPRI of many times the rates of return



permitted in similar regulated facilities in the health care system. They have achieved this result because none of the checks that exist either detected, prevented, or corrected the on-going diversion of public funds. Neither BPRI's Board of Directors, which has a fiduciary obligation to the corporation, nor the independent certified public accountant, who is bound by standards of professional conduct, nor, ultimately, the State's regulatory system, functioned appropriately.

The information gathered by the Commission provides reason to believe that Dr. Easton violated Federal and State tax laws; that The Lafayette Center fraudulently billed the Medicaid program for over \$1.4 million in 1985 alone; that BPRI's operating entities have continually violated the conditions of their operating certificates and OMH regulations; and, that the Board of Directors at BPRI violated their fiduciary obligations under the Not-For-Profit Corporation Law.

These findings raise grave doubts about whether the holders of the operating certificates for BPRI's operating entities meet the "character and fitness" requirement necessary to qualify for a State license to operate such facilities. These findings also cast substantial doubt on the commitment of BPRI to properly care for its mentally ill clients, and raises serious questions as to the future viability of this not-for-profit corporation.

### Summary of Findings

The Commission investigation uncovered the following concerning BPRI:

- A. When OMH issued an operating certificate for The Lafayette Center to BPRI on June 28, 1979, it did so on the condition that ownership of the property at 3 Lafayette Avenue would be transferred from 3 Lafayette Ave. Corp. to BPRI within six months. This written agreement was appended to the operating certificate. The property was to be transferred at its 1978 purchase price of \$150,000. To avoid any conflict of interest, Karl Easton, who was on the Board of Directors, also agreed to resign as the paid medical director of The Lafayette Center. BPRI never purchased the property, although it was financially able to do so. Instead, BPRI continues to pay annual rent to 3 Lafayette Ave. Corp., Karl Easton continues as paid medical director, and the BPRI's executive director, a former associate of Dr. Easton, has been authorized to pursue the purchase of the property at its appraised value which, by 1986, has risen to \$690,000. (Report, pp. 7-8.)
- B. On December 31, 1979, Karl Easton's wife, Jacqueline Easton, transferred to BPRI the assets

and liabilities of Jacqueline Easton d/b/a Boerum Hill Rehabilitation Residence. The transfer included an assignment of the Cobble Hill Center Corp. lease, as well as current assets. For its part, BPRI agreed to assume the personal liabilities incurred by Jacqueline Easton as the proprietary operator of Boerum Hill Rehabilitation Residence. On the date of the transfer, the liabilities assumed by BPRI exceeded the assets accepted by \$54,312. BPRI also assumed responsibility for paying \$27,530 in unincorporated business taxes and interest assessed against Jacqueline Easton. In addition, at the time of the transfer, Jacqueline Easton d/b/a Boerum Hill Rehabilitation Residence owed back rent to Cobble Hill Center Corp. in the amount of \$712,798. BPRI, having assumed Jacqueline Easton's liabilities, may be liable for this back rent. In March 1981, Cobble Hill Center Corp. secured an uncontested lien of \$718,502 for the past due rent and other liabilities against Jacqueline Easton's business. Jacqueline and Karl Easton also benefited from the transfer by taking a charitable contribution deduction on their 1980 joint Federal income tax return of \$680,120 for the gift of

Jacqueline Easton's interest in Boerum Hill Rehabilitation Residence. (Report, pp. 8-10 and 13.)

- C. BPRI has entered into property leases producing enormous profits for the real estate corporations owned by the Easton family, while at the same time placing itself in a position of financial insolvency. Since 1980, total rents due Cobble Hill Center Corp. and 3 Lafayette Ave. Corp. amount to approximately \$4 million. Actual rents paid have totaled \$2.7 million, which represents almost entirely profit on the landlords' initial cash investments of \$150,000 and \$30,000 in the properties leased to BPRI. BPRI has not been able to meet its rental obligations to the landlord corporations, and as of December 31, 1985 owed a total debt of \$1.3 million in back due rents. BPRI has also agreed to pay \$500,000 interest on the debt. The net return to the Eastons on their investment to the Boerum Hill Residence and adjacent apartments has ranged from 180 to 420 percent annually since 1980. The return on The Lafayette Center has been from 150 to 237 percent each year since mid-1979. This compares to an annual return allowed by the State for nursing homes between 1980 and 1985 of 12 to 20 percent annually. (Report, pp. 10-15.)

D. The money for these substantial profit making abuses came from not only patient funds, but also from BPRI systematically engaging in apparent fraudulent billings to the Medicaid program for "home visits" to clients at the agency's 196-bed residential facility known as Boerum Hill. The billings, which amounted to \$1.4 million in 1985 alone, appeared to have been more of a ruse than clinically justified services, and accounted for 95 percent of all such billings statewide by the 101 licensed continuing treatment programs.

(Report, pp. 16-19.)

E. When the State of New York issues a license to operate a health care or mental hygiene facility, it establishes a reimbursement system to both ensure proper quality of care and the financial viability of the licensee. The government regulations and reimbursement systems are particularly intended to substantially discourage granting licenses to individuals whose interest lies not in providing high quality care, but in manipulating the reimbursement systems to obtain profits from less-than-arm's length real estate transactions. The Not-For-Profit Corporation Law clearly contemplates that the board of directors,

relying on reports of its independent accountant, is primarily responsible for holding the corporation to its purpose and the law. The BPRI Board of Directors and its certified public accountant, however, have failed to act to protect the agency's assets and income. (Report, pp. 21-24.)

- F. BPRI's two main programs have been operating for six and three years, respectively, without current operating certificates. Non-certification resulted from the failure of BPRI to correct long-standing deficiencies; namely, staffing, physical plant, medication, and resident fees. (Report, pp. 24-25.)

### **Summary of Recommendations**

In view of the precarious financial position of BPRI, and the likelihood that the landlord corporations may choose to sell the property or convert it to alternate business uses, the Commission is seeking, through the Office of Mental Health, the Office of the State Attorney General, and various criminal enforcement agencies, the:

- o continuation under new auspices of the residential and nonresidential programs for the mentally ill now operated by BPRI;
- o immediate institution of programmatic changes necessary to assure appropriate services to mentally ill persons now served by BPRI;

- o recovery of cash and other assets unlawfully received by the medical director's family or the closely held corporations under their control; and
- o criminal prosecution of persons who have engaged in systematic fraud against the State and Federal governments.

The Commission has referred an interim copy of this report to the Office of Mental Health and the State Attorney General, and intends to refer the findings of its investigation to the following agencies for follow-up actions within the scope of their responsibilities: the Deputy Attorney General for Medicaid Fraud Control, the State Department of Social Services, the State Department of Taxation and Finance, the State Education Department, the U.S. Internal Revenue Service, the U.S. Attorney for the Eastern District of New York, and the District Attorney for the county of Kings.

## I. INTRODUCTION

### A. Corporate Background

The Brooklyn Psychosocial Rehabilitation Institute, Inc. (BPRI), located at 50 Nevins Street, Brooklyn, New York, was incorporated as a not-for-profit corporation on September 11, 1979 by changing the name of the pre-existing Brooklyn Vocational Rehabilitation Institute, Inc. (BVRI).<sup>1</sup> The purpose of the corporation, as stated in its charter, is to provide day treatment, outpatient, and community support services to persons with psychiatric or social handicaps or mental disabilities; to operate community residences; and, to lease apartments to the mentally disabled.

To achieve its goal, BPRI operates three entities: the Boerum Hill Residence, a community residence with a certified capacity of 196 beds; The Lafayette Center, a continuing treatment program located approximately two blocks from Boerum Hill; and, the Satellite Apartments program for independent living, which are apartments where either BPRI is the surrogate landlord or enters into negotiation with other landlords to lease apartments to mentally ill persons. The executive director of BPRI is Mr. Irving Link. Its medical director is Karl Easton, M.D.

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<sup>1</sup>For simplicity, no distinction is made for the purposes of this report and BPRI is used throughout.



B. Background on Leases with Related Corporations

BPRI leases properties located in Brooklyn, New York, at 50 Nevins Street and 3 Lafayette Avenue to operate its community residence and continuing treatment programs. It also leases 25 Satellite Apartments, including 20 apartments located on State Street, directly adjacent to the Boerum Hill Residence.

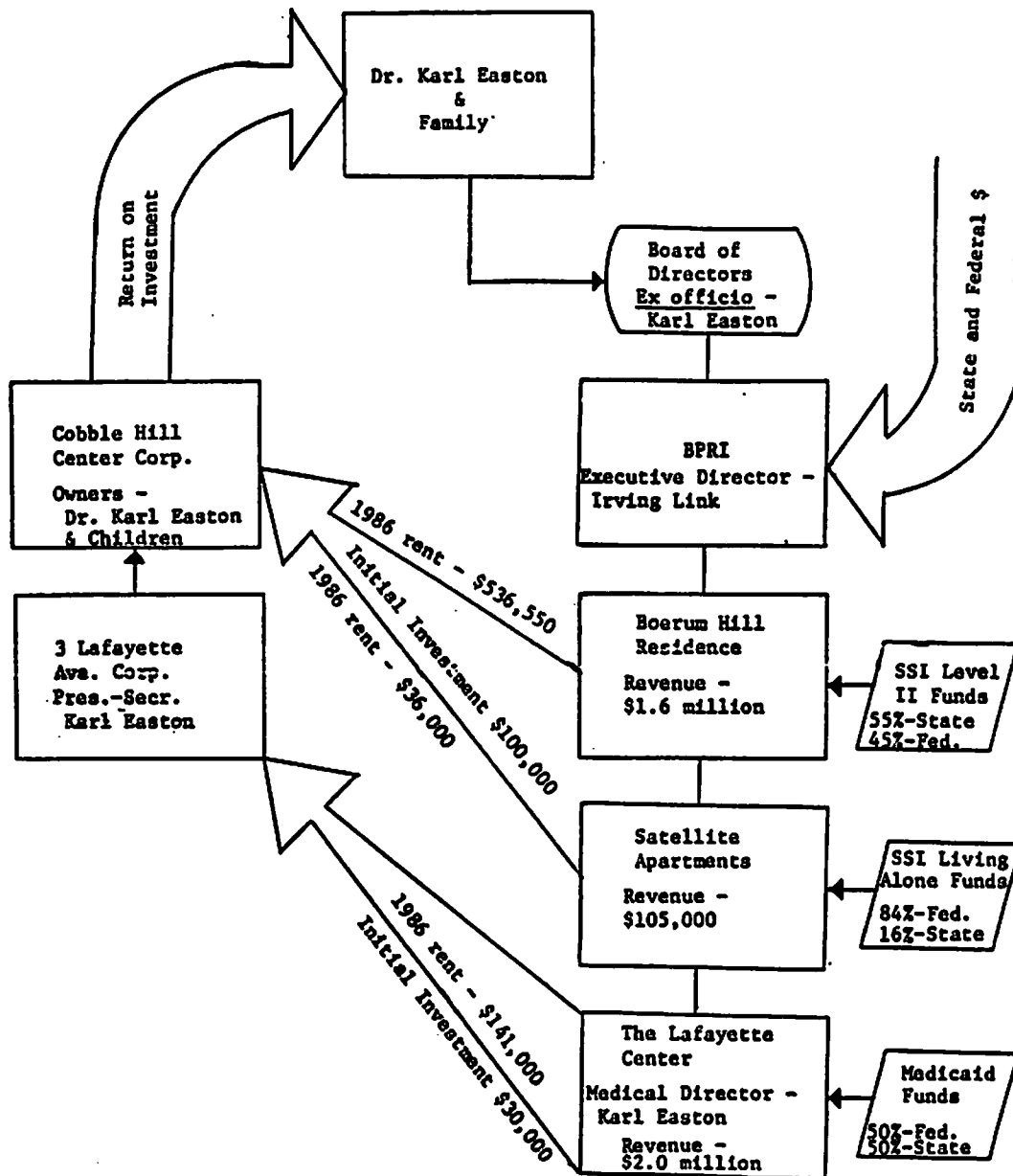
The lease transactions for these properties involve a related party, Dr. Karl Easton, who is the current full-time medical director of The Lafayette Center continuing treatment program and an ex officio board member (non voting) of BPRI. Dr. Easton is also a former executive director, officer, and voting board member of BPRI. In addition, Dr. Easton is president of the corporations which own the leased properties, and he reports that his children own all the stock in these corporations.<sup>2</sup> The Cobble Hill Center Corp. owns the 50 Nevins Street and State Street properties, and the 3 Lafayette Ave. Corp. owns the Lafayette Avenue property.

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<sup>2</sup> At an April 10, 1986 meeting, Dr. Easton told Commission staff that each of his three children were issued the original shares in these corporations, and that he and his wife owned no stock, but documents obtained by the Commission indicate that this might not be accurate. In a January 19, 1978 letter, Karl Easton informed the Department of Mental Hygiene that there were a total of 40 shares in the original issue of the Cobble Hill Center Corp. He said he owned 22 shares and each of his three children, Jonathan, Daniel, and Hilary, owned 6 shares each. In a September 18, 1978 letter, Karl Easton's attorney stated, in response to a conflict of interest inquiry by the Health Systems Agency of New York City, that the 3 Lafayette Ave. Corp. has no stockholders or owners.

Chart I illustrates these interrelationships, financing, and lease payments between BPRI and these corporations.

Chart I



Preceding BPRI as tenant to the 50 Nevins Street property was Jacqueline Easton, wife of Dr. Easton, who, since 1974, used the property to operate the Boerum Hill Rehabilitation Residence. Prior to this, the premises were used as a half-way house and private proprietary home for adults, both run by the Eastons. On December 31, 1979, Jacqueline Easton transferred the community residence program and lease to the recently incorporated BPRI which, in turn, became the tenant on the 50 Nevins Street property. The initial lease on the 50 Nevins Street property was dated April 30, 1970 and had a term of five years. On February 1, 1975 the lease was renewed for 99 years. The lease stipulated a base rental of \$176,400, with annual increases based on the Consumer Price Index (CPI) of Residential Rents in the New York City Area.

The BPRI began to lease the 3 Lafayette Avenue property on July 1, 1979. The lease runs until January 31, 1994 and calls for \$60,000 to be paid annually plus CPI increases.

The 20 Satellite Apartments owned by the Cobble Hill Center Corp. are located at 415, 417, and 419 State Street, Brooklyn. Originally, the 419 State Street apartments were part of the 50 Nevins Street lease, and a separate lease was maintained for the 415 and 417 Satellite Apartments. This latter lease, commencing August 1, 1980, had a base rent of \$19,200 plus annual CPI increases.

C. Reason for Commission's Review of BPRI

The Commission's investigation of the Brooklyn Psychosocial Rehabilitation Institute was prompted by the

occurrence of several suicides at the facility within a short period of time, as well as residents' complaints about living conditions. A site visit by CQC staff in February 1985 pointed to failures on the part of the Boerum Hill program to address concerns about inadequate staffing, programming, treatment planning, and safety conditions. When confronted with these issues, the agency responded that additional funding was necessary to correct the deficiencies. The Commission was aware that OMH was conducting its own reviews which, while addressing a number of concerns raised by the Commission, were not intended to examine real estate transactions or medicaid billings by The Lafayette Center.

Based on the Commission's previous experience of the association between poor patient care in licensed programs and the diversion of public funds intended for patient care,<sup>3</sup> the Commission decided to conduct its own review of these aspects of BPRI's operations.

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<sup>3</sup> Profit vs. Care: A Review of the Greenwood Rehabilitation Center, Inc., A Private School for the Mentally Retarded and Related Regulatory Processes, March 1981; Pitfalls in the Community-Based Care System: A Review of the Niagara County Chapter NYS Association for Retarded Children, Inc., September 1984.

D. Scope and Background of Commission's Review

In the course of this investigation, the Commission conducted several site visits to the Boerum Hill Residence<sup>4</sup> and The Lafayette Center, and interviewed Dr. Karl Easton, Irving Link, the executive director of BPRI, and numerous staff of BPRI involved in conducting and billing for home visits. The Commission obtained a variety of documents and records from BPRI, the Office of Mental Health (OMH), the Department of Social Services, the Department of State, the Office of the State Attorney General, and the Internal Revenue Service. Included among these documents were operating certificates, leases, financial statements of the several corporations involved, tax returns for BPRI, and medicaid billings. The Commission obtained records concerning the landlord corporations, and interviewed BPRI's certified public accountant and Dr. Easton's personal financial advisor. The Commission also examined the records and correspondence relating to the acquisition, renovation, lease, and transfer of real property used by BPRI.

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<sup>4</sup>In a November 29, 1985 letter to the Office of Mental Health, the Commission enclosed a report detailing the conditions that threatened the health and safety of the residents, as well as violating laws and regulations. The report disclosed filthy and unsanitary living quarters, suicide and fire hazards, inadequate medication practices and other conditions (Appendix A).

## II. FINDINGS OF COMMISSION'S REVIEW

### A. Less-than-Arm's Length Property Transactions

#### 1. Failure to Transfer The Lafayette Center at Cost

The Office of Mental Health issued an initial operating certificate to the BPRI for The Lafayette Center on July 1, 1979, with the written condition appended to the certificate that the ownership of the leased property at 3 Lafayette Ave. would be transferred from a landlord corporation owned by the Easton family (3 Lafayette Ave. Corp.), to BPRI, within six months. According to the minutes of an October 12, 1978 meeting with the Health Systems Agency of New York City, and accompanying documents, Dr. Easton stated the property was to be transferred at the purchase price with no profit to the Easton family, who purchased the property on August 23, 1978 for \$150,000. To avoid a conflict of interest, as property owner through one corporation (3 Lafayette Ave. Corp.), and facility operator through another (BPRI), Dr. Karl Easton also told the HSA that a full-time medical director would be recruited, and he would not serve in that capacity.

However, the transfer of the property never took place, allegedly because BPRI did not have sufficient funds to buy the property, and Dr. Easton continues as its medical director. An analysis of BPRI's finances at that time shows BPRI would have been able to purchase the

property. Sufficient funds were on hand to reimburse the landlord corporation for its \$30,000 downpayment on the property, repay start-up costs, and also to pay the monthly payments on the two mortgages held by the landlord corporations. Instead of purchasing this property in 1980, BPRI leased it from 3 Lafayette Ave. Corp. for an initial annual rental of \$64,800. By 1986, the annual amount due had risen to \$141,000 because of an automatic annual adjustment clause in the lease. Since the original agreement, BPRI's management and the Board of Directors have decided to consider the fair market value of the property, instead of the agreed-to initial purchase price as the transfer price. During January 1986, The Lafayette Center property was appraised at \$690,000 and, if sold, would result in a \$540,000 capital gain to the Easton family.

2. "Gift" of the Boerum Hill Residence to BPRI

Since 1974, Jacqueline Easton, wife of Karl Easton, had been the proprietary operator of the Boerum Hill Rehabilitation Residence, which had been leased from Cobble Hill Center Corp. Prior to this time, she ran the facility as a private proprietary home for adults. Effective December 31, 1979, Jacqueline Easton "gifted" the business operations of the Boerum Hill Rehabilitation Residence to BPRI. The transfer included the assignment of the lease on the property, current assets such as cash and accounts receivable from residents, as well as

furniture, fixtures, and equipment. In exchange, the BPRI agreed to assume the personal liabilities of Jacqueline Easton which were incurred by her as the former proprietary operator of the residence.

On the date of the transaction, the liabilities assumed by the BPRI exceeded the value of the tangible assets transferred by \$54,312. In addition to assuming Jacqueline Easton's debt, the BPRI also assumed the responsibility for unincorporated business taxes and interest totaling \$27,530 which were assessed against Jacqueline Easton as proprietary operator of the residence. The gift transaction took effect on December 31, 1979; however, the BPRI Board of Directors approved the gift on August 2, 1979, some five months earlier. In effect, the Board approved of the "gift" without possessing the knowledge of the value of the assets acquired and the liabilities assumed. In fact, it was not until May 29, 1980, or ten months after the approval by the Board, that financial statements were compiled by Boerum Hill's accountant reflecting the financial condition of the residence.

Furthermore, as proprietor of the residence, Jacqueline Easton had been unable to pay the annual rent required by the lease and, at the time of the gift, owed the Easton family realty corporation, Cobble Hill, back rent totaling \$712,798. On March 12, 1981, the Cobble Hill Center Corp. secured an uncontested lien of \$718,502



for the past-due rent and other liabilities against the business of Jacqueline Easton. Under the "gift" agreement, BPRI may now be responsible for satisfying the payment of this debt as it assumed Jacqueline Easton's liabilities.

On their 1980 joint federal income tax return, Karl and Jacqueline Easton claimed a charitable contribution deduction of \$680,120 for the gift of the interest in the Boerum Hill Residence to BPRI. The \$680,120 included \$580,120 for intangible assets (e.g., the value of the operating certificate and prior profits realized) and tangible assets of \$100,000. The documentation supporting the deduction for the gift, however, makes no mention of any liabilities transferred or the unpaid rent. Also, the value of the assets transferred appears to be grossly overstated, since operating certificates under 14 NYCRR 586.4 are not transferable and the pre-existing business had an accumulated deficit rather than "prior profits."

### 3. Real Property Leases

The BPRI leases properties to operate its community residence, apartment, and continuing treatment programs. The landlords of these properties are the Cobble Hill Center Corp. and the 3 Lafayette Ave. Corp., which are owned and controlled by Dr. Easton and his children. Dr. Karl Easton also is the current BPRI medical director and ex officio board member, and was formerly its executive director, vice president, and board member. Because of

less-than-arm's length deals, the landlord corporations have been able to earn a return on investments of \$2.7 million from rent since 1980. This does not include other potential returns in the form of several millions of dollars in appreciation of Easton properties leased to BPRI, back rent and interest of \$1.8 million owed since 1980, and the just discussed debt and lien totaling \$800,000 from the pre-existing business run by Karl Easton's wife. It should be kept in mind that during this period, BPRI was almost continually out of compliance with OMH regulations, and its operating certificate had not been renewed. BPRI claimed it did not have the funds available through its reimbursement rate to comply with the regulations.

The less-than-arm's length leases on the properties occupied by BPRI since 1980 have resulted in total rents due to the Easton realty corporations of \$4 million; actual rent paid was \$2.7 million. The cost bases of the respective properties are \$450,000 for the Boerum Hill Residence at 50 Nevins Street and three adjacent apartment buildings on State Street, and \$150,000 for the continuing treatment center at 3 Lafayette Ave. The Cobble Hill Center Corp. paid \$100,000 down for the residence and apartments, and the 3 Lafayette Ave. Corp. paid \$30,000 down for the continuing treatment center. The remaining principal, closing costs, and about \$22,000 to fix up the properties were financed through mortgages held by the

realty corporations. Other costs of improvements seem to have been the responsibility of the tenants, since property leases with the landlord corporations specify that all property costs will be paid by the tenant. Therefore, costs such as real estate taxes, insurance, and major structural repairs are, under the terms of the leases, the responsibility of the tenant. In effect, this means that annual rent payments represent almost entirely a profit on investment (i.e., \$2.5 million of the \$2.7 million paid) to the landlord because the tenant pays all the property costs, other than debt service and depreciation.

The less-than-arm's length leases state that rent will increase one percentage point each year for each point increase in the Consumer Price Index, rather than by the annual percent of change in the CPI which would adjust for inflation, which, according to Dr. Easton's current financial advisor, was the stated intent of this clause. The result has been that the rent owed by BPRI by 1985 increased at almost three times the rate supported by inflation.

The escalation in the annual rent reached such abnormally high amounts that the BPRI has been unable to pay the annual rent required by the leases over the past five years. Consequently, as of December 31, 1985, a debt of \$1.3 million has accumulated and is owed by the BPRI to the landlord corporation. In addition, the BPRI has also

agreed to pay an additional \$500,000 for interest on the debt. Dr. Easton, as the real party-in-interest, has agreed to defer the repayment of these balances, but expects these payments to commence no later than 1987. It should be noted that these debts are in addition to the debts and lien totaling \$800,000, mostly from back rent incurred by Jacqueline Easton and, seemingly, transferred to BPRI by the "gift" agreement in 1979. Accordingly, if additional resources are granted by OMH to improve facilities or programs at BPRI, there is a risk that these funds, intended for client care, would be used, instead, to repay BPRI's accumulated debt.

By the end of 1985, the escalation of the rent, by almost three times the rate of inflation, had so substantially outstripped BPRI's ability to pay, that the corporation was in danger of becoming bankrupt. Based on the Commission's analysis of the lease agreement, BPRI's annual rent to the Cobble Hill Center was approximately \$835,000 for the Boerum Hill Residence and adjacent apartments. This would have been due even though the residences' total revenue from SSI funds for 1985 was only about \$1.7 million.

Perhaps not desiring to terminate this favorable arrangement that has been so profitable to Dr. Easton and his family, a new two-year lease was entered into for the Boerum Hill residence property on January 1, 1986 to replace the existing 99-year lease. The new lease, which

stipulated annual rent of \$536,550, is reportedly based on an OMH allowed \$7.50 per diem rate for each of the 196 community residence clients. However, under OMH guidelines, the use of the \$7.50 per diem rate basis is not appropriate for BPRI because the rate applies to new rather than existing community residence beds, and includes utility costs which are paid by BPRI. Concurrently, a separate lease allowing for an annual rent of \$36,000 for the apartments was also negotiated.

The less-than-arm's length leases has enabled the landlord corporations (owned and controlled by the Easton family) to earn exorbitant rates of return on investment on the leased properties. To put this into perspective, the annual return allowed by the State for nursing homes between 1980 and 1985 has been from 12 to 20 percent annually. The net return to the Eastons on their investment to the Boerum Hill Residence and adjacent apartments has ranged from 180 to 420 percent annually since 1980. The return on The Lafayette Center has been from 150 to 237 percent each year since mid-1979.

Dr. Easton maintains he is entitled to a fair market rent on his property. By establishing both the proprietary and the not-for-profit corporations which he effectively controls, he has been able to arrange less-than-arm's length leases where rental costs can be escalated to virtually any amount short of bankrupting the not-for-profit corporation. When BPRI is over-taxed, the

landlord corporations can generously forebear collection of accumulated debt, while liens protect their interest in any future income of BPRi.

The nursing home scandals of the 1970s involved similar manipulations of real estate costs to generate excess profits, and resulted in strict controls being placed on the reimbursement of capital costs to prevent such windfall profits. The Moreland Act Commission<sup>5</sup> pointed out that the establishment of such facilities by an operating certificate is a franchise granted by the State which, to a large extent, insulates the facility from the vagaries and risks of a free and truly competitive market, and justifies limitations on profits because of assured reimbursement of capital and operating costs.

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<sup>5</sup> Reimbursement of Nursing Home Property Costs: Pruning the Money Tree, Report of the New York State Moreland Act Commission on Nursing Home and Residential Facilities, January 1976.

B. Possible Medicaid Fraud

1. Home Visits

The Commission's investigation has found that The Lafayette Center billed the Medicaid program for services which are virtually nonexistent and which are disguised as legitimate 30-minute therapeutic sessions. The improper charges relate to "home visits" provided to the 196 residents at Boerum Hill, and in 1985, alone, amounted to \$1.4 million or about 70 percent of the Center's \$2 million total medicaid billings (see Appendix B). In 1984, \$757,000 was charged to Medicaid for home visits, representing 50 percent of the \$1.5 million billed.

The Commission's review of the State's Medicaid Management Information System revealed that BPRI billed for 95 percent of all 1985 home visit costs provided by the 101 privately-operated continuing treatment providers throughout the state (see Appendix C). This statistic supports the view that the aim of BPRI's management, in pursuing Medicaid funds via home visits, appears to be strictly financial in nature, rather than a clinically justified effort to motivate clients to attend the continuing treatment program. Even this expressed intent to motivate clients has been a failure. For example, even though the number of home visits billed between 1984 and 1985 increased by 85 percent; the number of full-day and half-day visits to The Lafayette Center decreased by 31 percent during this same period.

The intent of a home visit is to provide personal attention and support to clients who have dropped out of the continuing treatment program. The purpose is to encourage clients to return to their therapeutic routine. Therefore, home visits should be an exceptional rather than routine activity, temporary in duration, and limited to those patients who are unwilling to receive services at the regular program site. The OMH's regulatory requirements in 14 NYCRR Part 579 requires each home visit to last at least 30 minutes in length and be a face-to-face interaction between a client and a staff member.

The Commission's investigation disclosed that home visits at BPRI have become the rule rather than the exception and, more significantly, have been more of a ruse than a genuine clinically justified service. We found that it was the Center's policy, with its staff trained accordingly, that each client be given a home visit each day. Additionally, the clinical need for a home visit each day, for a particular resident, was not always documented. This home visit itself almost invariably was little more than a "bed check" or "wake up call" conducted by the floor managers at the Boerum Hill Residence, or case managers assigned to the residence by The Lafayette Center. Contact is made by these individuals by simply knocking on the client's door and inquiring how the client feels and what he intends to do



the rest of the day. When interviewed, staff consistently admitted that such visits almost never last more than a couple of minutes, but were considered an "assessment" of the client's condition. We also found that, in addition to the bed checks, other contacts between staff and client were considered and billed as home visits, including: contacts when clients were eating lunch, watching the World Series, and sleeping. In fact, in one case, we even noted that a home visit was billed when the client was "not in his room."

The effect of this policy, whose clear purpose is to maximize Medicaid revenue rather than provide a clinically necessary service, is best illustrated by the number of such visits billed by each staff member during a particular workday. The Commission's review revealed a systemic scheme where almost every floor manager at Boerum Hill provided more home visits on any given day than could have been mathematically possible. For example, of 30 different individuals conducting home visits during October 1985, 28 conducted more home visits than were mathematically possible, given the time each visit required according to the regulations, and the number of hours worked by the staff member. For instance, the Commission found one floor manager who billed for 76 home visits on a day when he worked 13 hours. Budgeting 30 minutes per visit, the floor manager could only have seen 26 patients instead of the 76 that were allegedly seen.

This, of course, assumes that client contacts were made throughout the employee's 13-hour workday. More commonly, home visits are conducted twice a day: once in the morning between 8:00 a.m. to 9:00 a.m., and once in the afternoon between 12:30 p.m. to 1:30 p.m. Based on our interviews with staff, our observations, and our calculations, it is likely that 76 home visits were conducted in just two hours (less than two minutes per visit) by this floor manager, yet billed to Medicaid at the rate of \$39.60 each, or \$3,009 for two hours of client contact by one staff person.

This issue is not new to BPRI. In 1982, a Department of Social Services audit attempted to disallow \$89,363 in billings by The Lafayette Center for home visits rendered at a non-certified off-site location (Boerum Hill). According to memoranda in OMH files, a "verbal agreement" was reached between DSS and BPRI where DSS would reduce its disallowance to \$13,349 if BPRI would voluntarily and immediately cease this practice. In fact, DSS did drop the finding, but, as discussed previously, BPRI has not complied with the agreement and, instead, has dramatically increased the billings for home visits.

## 2. Continuing Treatment Services

The Lafayette Center operates a continuing treatment program. As such, it offers a full array of services to its clients, such as art therapy, pre-vocational and occupational therapy, dance and music therapy, independent

skills, etc. On a number of occasions, Commission staff observed that, on a daily basis, about 50 people attended programs at the Center, even though the program has an enrollment of approximately 250 clients. It may be that because the agency receives full reimbursement just to wake up the client during a home visit, there is little remaining financial incentive to BPRI to have clients actually receive outpatient services.<sup>6</sup> And, of those who do attend the day program, most were often observed in the Center's lounge program. In this program, clients who are unwilling to attend other programs, socialize with each other by watching TV, playing pool, talking, or gazing at pet fish in an aquarium.

We observed that the Center was open in the morning and afternoon for only two and one-half hours each session. However, if a client attends either the morning or afternoon session without meeting the three-hour minimum requirement, the Center will bill Medicaid for the half day. In 1985, the Center received \$75,878 for half-day visits.

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<sup>6</sup> Under 14 NYCRR 579, reimbursement for home visits lasting 30 minutes is \$39.60 per day; full-day visits lasting 5 hours is \$39.60; and, half-day visits lasting 3 hours is \$19.80. Since only one service per day can be billed, it is BPRI's practice, where both home visits and full-day visits are provided, to bill for full-day visits. If a home visit and a half-day visit is provided, BPRI bills for the home visit because of the greater reimbursement.

C. Board of Directors' Oversight

The Not-For-Profit Corporation Law clearly contemplates that the board of directors is primarily responsible for holding the corporation to its purpose and the law. The BPRI Board of Directors, however, failed to accomplish this stated goal and purpose. Over the years, the BPRI board was composed of persons either friendly to the manner of operations of the facility, ex-employees, or former clients, who failed to provide the necessary oversight of the agency and did not vigorously execute their legal and fiduciary responsibilities. For example, in 1986 two of five members resided at apartments leased by the agency. Meetings have been infrequent, attendance at these meetings sparse, and board oversight, as indicated, less than objective.

Dr. Easton has been involved with the BPRI Board of Directors from its inception. Initially, he was the BPRI executive director and as such attended the board meetings. Later, he was a board member or served in an ex officio capacity (non voting). Dr. Easton attended all board meetings of import, and as such was influential in assisting the board to make its decisions, including the appointment of its current executive director who was a former associate of his and for years worked for his wife, Jacqueline.

The Not-For-Profit Corporation Law requires the board of directors to exercise its fiduciary responsibility to promote the best interests of the corporation and to safeguard the opportunities, which in equity and fairness, belong to it.

However, on numerous occasions, the Board failed to exercise this fiduciary responsibility. For example, on August 2, 1979, the Board of Directors approved the acceptance of the "gift" by Jacqueline Easton of the Boerum Hill Residence to the BPRI. The transfer took effect five months later. However, as discussed earlier, acceptance was premature because the board could not have had knowledge of the material facts of the gift transaction until ten months later when the financial statements were compiled. Consequently, the BPRI received what really amounted to liabilities far in excess of assets. The only beneficiaries of this "gift" were the Eastons, who not only transferred substantial liabilities to BPRI but, through a lien by the family controlled Cobble Hill Corporation, turned a personal liability for \$718,000, in mostly back rent, into a receivable from BPRI which would be financed by public funds. In addition, this transaction enabled them to claim a charitable tax deduction of \$680,000.

A second example was where, on December 20, 1983, the directors authorized the executive director to enter into contracts, leases, and agreements on behalf of BPRI without prior board approval. As a result of the board action, the executive director was allowed to pursue the proposed sale of The Lafayette Center to BPRI at the appraised value of the property, rather than at cost, which was previously agreed to by Dr. Easton. By its actions the board has, in effect, relinquished its authority to manage and control the financial affairs of the corporation.

D. Professional Misconduct by BPRI's Accountant

The agency's certified public accountant, Theodore Rosten, appeared to have violated numerous provisions (8 NYCRR 29.10) regulating the profession of public accountancy in the conduct of his financial audit and reports on the BPRI. For example, he was not independent in that he certified the financial statements of BPRI while acting as its comptroller and fiscal advisor. Also, he and one of his partners handled the personal business affairs of the Eastons at the time of the gift transaction, discussed above. This transaction has seriously weakened the viability of BPRI from its beginning, and has adversely impacted on the care of BPRI clients. Because of these conflicts of interests, an objective opinion could not have been rendered on the agency's financial statements.

In addition, Rosten appears negligent in failing to disclose in the financial statements required information, including: a related-party lease transaction involving Dr. Karl Easton as president of the landlord corporations and at the same time medical director at BPRI; and, debt involving rent and interest totaling over \$1.4 million as of the June 30, 1985 financial statements. There are other instances where the CPA failed to acquire sufficient information to ensure the financial statements would be fully informative and not misleading. For example, Rosten failed to take the necessary steps, in accordance with generally accepted auditing standards, to determine whether it was probable that BPRI would

be liable to pay damages in a \$60 million lawsuit brought against the agency by a former client.

E. Certification Issues

The process of issuing operating certificates is not only to certify that facilities are being operated in conformance with all laws, regulations and policies, but also that the operators have the requisite character and competence to conduct corporate activities as a fiduciary; i.e., in the best interests of the patients and residents. In the case of BPRI, a history of gross noncompliance with certification standards has resulted in funds, intended for client care, being diverted into excessive profits of the operators.

The Boerum Hill facility was first certified as a community residence in February of 1974, but the last operating certificate issued to Boerum Hill was for the period April 1, 1980 to July 31, 1980. The Lafayette Center was first certified in July 1979, and was last issued an operating certificate in April 1983. Thus, BPRI's two main programs have been operating for six and three years, respectively, without current operating certificates. Non-certification resulted from the failure of BPRI to correct long-standing deficiencies; namely, staffing, physical plant, medication, and resident fees (the staffing and physical plant issues were identified as early as 1974).

While BPRI has never made any serious attempt to correct these deficiencies, instead, demanding additional funding, OMH has not formally revoked its outdated certifications, permitting it to continue receiving Medicaid and SSI funds.

### III. RECOMMENDATIONS

In view of the precarious financial position of BPRI, and the likelihood that the landlord corporations may choose to sell the property or convert it to alternate business uses, the Commission is seeking, through the Office of Mental Health, the Office of the State Attorney General, and various criminal enforcement agencies, the:

- o continuation under new auspices of the residential and nonresidential programs for the mentally ill now operated by BPRI;
- o immediate institution of programmatic changes necessary to assure appropriate services to mentally ill persons now served by BPRI;
- o recovery of cash and other assets unlawfully received by the medical director's family or the closely held corporations under their control; and,
- o criminal prosecution of persons who have engaged in systematic fraud against the State and Federal governments.

The Commission has referred an interim copy of this report to the Office of Mental Health and the State Attorney General, and intends to refer the findings of its investigation to the



following agencies for follow-up actions within the scope of their responsibilities: the Deputy Attorney General for Medicaid Fraud Control, the State Department of Social Services, the State Department of Taxation and Finance, the State Education Department, the U.S. Internal Revenue Service, the U.S. Attorney for the Eastern District of New York, and the District Attorney for the county of Kings.

APPENDIX A

Letter and Site Visit Report on  
Deficiencies in Quality of Care  
Found by the Commission

APPENDIX A

STATE OF NEW YORK  
 COMMISSION ON QUALITY OF CARE  
 FOR THE MENTALLY DISABLED  
 99 WASHINGTON AVENUE, SUITE 730  
 ALBANY, NEW YORK 12210  
 (518) 473-4057

CLARENCE J. SUNDRAM  
 CHAIRMAN

JAMES A. CASHEN  
 IRENE L. PLATT  
 COMMISSIONERS

November 29, 1985

Steven E. Katz, M.D.  
 Commissioner  
 Office of Mental Health  
 44 Holland Avenue  
 Albany, NY 12229

Dear Dr. Katz:

The Commission has recently reviewed the conditions of care at Boerum Hill (Brooklyn Psychosocial Rehabilitation Institute), a community residence licensed by the Office of Mental Health. The enclosed report details these conditions which threaten the health and safety of the residents as well as violate law and regulations. The conditions include: filthy and unsanitary living quarters, suicide and fire hazards, inadequate medication practices and inadequate coordination of clinical services.

Commission staff have also reviewed the certification history of this facility which indicates that OMH has already documented many of these deficiencies over the period from 1977 to the present, and the Commission staff finds that conditions today are as bad or worse. OMH's own record indicates that, for the past seven years, Boerum Hill has been in violation of community residence regulations and has been found repeatedly by OMH surveyors to have the same deficiencies in the areas of staffing, design and maintenance of the physical plant, fire and safety standards, medication administration and storage practices and the design and implementation of treatment plans.

Indeed, in an OMH report of April 1985, distinct patterns of poor psychiatric management of the facility's clientele were disclosed, including:

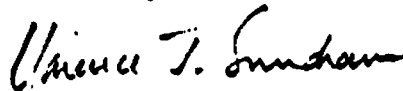
- prescribing as well as discontinuing medications with no rationale for the decisions;
- inadequate monitoring of medication practices, particularly with respect to clients who have past histories of medication non-compliance;

- a lack of psychiatric interventions on behalf of clients who were apparently decompensating. (In fact, the OMH review found that one client, who was decompensating, was given a choice by Boerum Hill -- rehospitization or discharge. The client was discharged without any realistic plan.) And,
- long-standing record of non-compliance with Parts 86 and 586 of the New York Codes, Rules and Regulations, particularly its inability to provide adequate care and safe humane living conditions for its residents.

The failure of Boerum Hill to correct these deficiencies, some existing for many years, surely indicates that it is unlikely that they will be corrected on the facility's own initiative or by further requests from your office to do so. Therefore, the Commission recommends that your office, in conjunction with the State Attorney General, commence legal proceedings to compel compliance as authorized by Article 31 of the Mental Hygiene Law. The Commission's Counsel has been informed by representatives of the Attorney General's Office that they have been looking into aspects of Boerum Hill and would be interested in proceeding with litigation to compel compliance, particularly on the health and safety aspects of the conditions existing presently at Boerum Hill.

The Commission is willing to cooperate in any way it can to assist you in implementing this recommendation. In light of the immediacy of this situation, we would appreciate receiving your comments or intended actions on this recommendation as soon as possible.

Sincerely,



Clarence J. Sundram  
Chairman

Enclosure

cc: Dr. Henrik Dulles  
Ms. Ilene Margolin  
Mr. James Lytle

Boerum Hill  
Site Visit Report  
Commission on Quality of Care  
for the Mentally Disabled

INTRODUCTION

On October 25, 1985, Commission staff conducted a review of basic living conditions at Boerum Hill, a community residence serving approximately 196 mentally ill adults, operated by the Brooklyn Psychosocial Rehabilitation Institute. The unannounced visit focused on the cleanliness and attractiveness of the environment, state of repair of the physical plant, and client health and safety issues.

During the review, Commission staff surveyed a sample of 36 bedrooms, 15 bathrooms and the lounge/sitting area on each floor. Observations were recorded on a standardized survey form and photographs were taken to accurately record a number of the conditions found. Additionally, following the tour, Commission staff reviewed the records of three clients, as their physical appearance or the conditions found in their rooms gave rise to questions concerning their care and treatment at the facility.

This report summarizes the findings of the visit.

FINDINGS

A) Cleanliness

Maintaining clean and hygienic living quarters for clients appeared to be a substantial problem at Boerum Hill. Most of the bedrooms visited (29 of 36) were in need of a thorough cleaning. Furniture was dusty; floors were filthy with caked dirt and

littered with cigarette butts, rolls of dust and other debris; and, due to grime and dust, windows were difficult to see through and not a single mirror offered a clear reflection. Additionally, in several rooms, Commission staff found trays of old food and dirty dishes lying on the floor. Most of the rooms (24 of 36) were malodorous, reeking of perspiration, cigarette smoke and other pungent odors, and in several rooms, Commission staff found open bottles of medication stored on (and, in one room, stuck to) dirt-encrusted dressers.

One of the rooms visited belonged to a client who had been hospitalized for medical reasons approximately a week before the Commission's visit and was still in the hospital at the time of the visit. In this room, Commission staff found the client's bed and bed linens soiled with vomitus, and plates with moldy food remnants lying on the dresser. Obviously, no attempt had been made at cleaning the client's room after she became ill and required hospitalization.

In addition to being filthy, many rooms (16 of 36) were also cluttered. Clothing was found thrown on chairs or piled on the floors, in many cases with little regard to separating clean items from dirty ones. Stacks, sometimes several feet high, of newspapers, magazines, books, boxes and bottles were found in many rooms. In several rooms, in fact, the stacks of newspapers, clothing and other items covered the entire floor and one would have to clear a path through the clutter to walk from the door to the bed.

Reportedly, each client is responsible for cleaning his or her room and, in fact, each room was equipped with a broom or a mop. However, on the basis of the conditions found, it seems that many clients either lack the motivation or the ability to maintain their rooms and receive little staff assistance in this area. (This hypothesis was borne out by the review of one client's record, discussed in section D.)

While hallways and bathrooms tended to be clean (minor housekeeping problems were found in only three of the 15 bathrooms visited), other common areas -- specifically the sitting areas on each floor where clients gather for meetings -- were in need of cleaning. These areas tended to be stuffy and malodorous. Tables, benches and chairs were covered with cigarette ashes, soiled and in need of washing. Carpets were also dirty and in need of vacuuming.

Given the poor state of housekeeping, it was not surprising that Commission staff observed roaches during their visit.

B) Attractiveness of the Environment

Compounding the problems of housekeeping and further detracting from the quality of living conditions at Boerum Hill were the inadequacy and unattractiveness of furnishings and the absence of humanizing touches.

Most of the furniture found at the facility was old, mismatched and uncomfortable. Bedrooms, for example, were furnished with a chair, wardrobe/dresser, desk and bed. However, the chairs were of the hard, metal, folding variety and most were rusty and had peeling paint. And while some rooms had tall metal

lockers for clothing storage, most had old dressers which had been painted white. However, the paint on these dressers had caused many of the drawers to stick and break, and thus many were in need of repair. In 15 of the rooms visited, Commission staff found that beds lacked appropriate linens or the linens and bedspreads that were present were frayed and torn. Staff also found that, although each client is reportedly given two clean towels on Mondays, on the day of the visit (Thursday) clients had only one towel each. For the most part, these towels were dirty.

Inadequate lighting and the lack of humanizing touches contributed to the dingy, dark and barren ambiance found in most bedrooms. Despite the fact that many rooms lacked window coverings (14 of 36 rooms), most were poorly lit during the Commission's daytime visit. In approximately 30 of the rooms, the only source of light was one fluorescent lamp, approximately 12 inches long, mounted on the wall. Many of these lamps had malfunctioning switches which needed to be flicked on and off several times before the connection was made and the lamp worked, and even then the lamp illuminated only a small area of the room. With few exceptions, the rooms were devoid of humanizing touches, such as pictures, plants or wall hangings which could have brought some degree of cheer to otherwise gloomy and dirty living quarters.

Notable exceptions to this finding were the rooms of two clients who had independently purchased their own furniture and bedside lamps, and decorated their rooms with family portraits, plants and wall hangings. These rooms exemplified the potential



for creating pleasant living environs if the motivation and commitment on the part of clients and/or residence staff and management is present.

The common sitting areas on many of the floors shared the same problems as found in bedrooms with regard to the adequacy of furnishings. Most sitting areas had seating for six to nine residents. Not only was this inadequate for the approximately 30 clients who resided on each floor, but the furniture itself was uncomfortable and consisted of wrought iron chairs or benches, cushioned only with limp pillows, or hard, plastic chairs similar to the type found in train and bus waiting rooms. Except for a calendar of events or a schedule of staff assignments posted to the wall, most sitting areas lacked decorations.

C) Physical Plant and Client Health and Safety Issues

Generally, the physical plant of the facility appeared to be in good repair; however, a number of conditions were found which jeopardized the health and safety of the facility's residents.\*

During the survey, isolated and relatively minor problems were noted with the state of repair of the physical plant. These included: two clogged toilets and one sink which would not drain; cracked plaster and/or peeling paint in bathroom areas on the third and sixth floors; a plumbing leak on the third floor which caused some peeling paint on the second floor; and several

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\*It should be noted that the review did not include an assessment of the facility's compliance with applicable building codes.

cracked or broken ceramic toilet tops which were in need of replacement.

However, during the visit Commission staff found other conditions which compromised clients' health and safety, including: impediments to maintaining proper hygiene habits; fire and suicide hazards; and apparently inadequate medication monitoring practices.

The physical layout of toileting and washing facilities, as well as the absence of supplies such as toilet paper, soap and paper towels, appeared to create obstacles to maintaining proper hygiene habits. On several floors, toilet areas were separate from washing/bathing areas (where sinks were located). Inspections of these areas revealed that a number of toilet stalls lacked toilet paper and that the rooms where the sinks were located lacked soap and paper towels and dispensers for such. To wash after using the toilet, clients were expected to go first to their rooms to pick up their soap and towels, then use the toilet, then walk to the wash room where they could wash, and finally return their supplies to their rooms. It seemed highly questionable that clients -- who for the most part could not even keep their rooms clean, as expected -- actually completed these steps and maintained proper hygiene habits.

Fire and suicide hazards were also noted during the visit. As mentioned previously, many rooms were filled with clutter. Much of this clutter consisted of highly flammable materials, such as stacks of newspapers, boxes and magazines. In certain instances, the piles of materials limited clients' means of

egress. It was also noted that, as each room had only one electrical outlet, many clients were using extension cords for televisions, radios, clocks and any other appliances they had. The combination of highly flammable materials, which sometimes limited clients' means of egress, many intersecting electrical wires, and the fact that clients could smoke in their rooms, constituted a fire hazard.

It was also found that many windows were not secured to prevent falls or jumps. (It should be noted that, in the past, a resident of the facility jumped to his death from a window on one of the upper floors.) While some windows had blocks which prevented them from opening very wide, other windows (in approximately 25 percent of the rooms surveyed) were missing such blocks or other devices which could safeguard against falls or suicide attempts. In the same vein, Commission staff noted that, on the upper floors, fire exit doors were sometimes propped open, allowing easy and unsupervised access to the fire escape. While it is recognized that such doors cannot be locked shut, it would seem advisable to install alarm systems to alert staff that a fire exit door has been opened and a resident may be in a precarious situation.

With regard to suicide hazards, it was also found that all of the rooms surveyed contained exposed overhead pipes which could be used as suicide vehicles. In fact, in the past, one of the facility's residents committed suicide by hanging herself from such a pipe. While it is recognized that it would be impractical to eliminate this hazard in all rooms, it would seem

advisable to reduce the risk of suicide by enclosing the pipes in several rooms and using these rooms for clients who may be deemed at risk of suicide.

Finally, of major concern to the Commission was the facility's apparently inadequate medication monitoring practices. As reported previously, Commission staff found medications stored unhygienically -- in open bottles on filthy dressers -- in several clients' rooms. In three rooms, the medications seen appeared to be outdated. In fact, in one client's room, Commission staff found 18 vials of at least ten different types of medications -- some dating back to 1983 -- stored on the dresser and desk. Other bottles filled with medications were found in boxes and bags on the floor of the room.

Of significance is the fact that medication administration, storage and monitoring practices were not in the scope of the Commission's review and Commission staff did not look for and examine medications in each client's room. As such, the situations reported above were chance observations reflecting serious problems in medication practices at the facility and the need for a thorough examination of such practices.

#### D) Treatment Issues

Following the survey of client living quarters, Commission staff reviewed the records of three clients, as these clients' appearance or conditions in their rooms, raised concerns about their treatment. Selected for review were the records of:

- B.R., a 25-year-old man who was found dirty, unshaven, dressed in filthy clothes, pacing about and smoking in his bedroom which was also filthy and foul-smelling;
- E.C., a 69-year-old woman in whose room were found scores of medications, many of which were outdated; and
- L.W., a 32-year-old woman whose bedroom was filthy and cluttered with piles of clothing, boxes, and bottles.

The record reviews revealed serious problems in the areas of treatment planning and follow-through, medication prescribing practices, management of client health needs, and assisting and training clients in the activities of daily living (ADL).

In the case of B.R., for example, the record indicated that the client had not been attending day program. The record also indicated that on September 12, 1985, the day program (also operated by the Brooklyn Psychosocial Rehabilitation Institute) requested a consultation by the facility's psychiatrist, Dr. Easton, because of B.R.'s poor compliance with program schedules. According to staff, B.R. was seen by Dr. Easton and the record indicated that Dr. Easton changed B.R.'s medications from Stelazine 10 mg. once a day to Stelazine 10 mg. PRN. However, the record contained no notes by Dr. Easton regarding his evaluation, findings and rationale for the change of medications. Staff reported, and a progress note by B.R.'s case manager indicated, that B.R.'s medications were changed because B.R. did not want to take medications; but there was no evidence that staff had explained the need for such or attempted to gain his compliance with his previous medication regimen. At the time of

the Commission's visit, B.R. was still not attending program and there was no meaningful plan to address this problem. It was also noted that B.R.'s record referenced B.R.'s poor grooming, dressing and hygiene practices, yet contained no treatment plan specifying interventions (e.g., who would address the problem, how and how frequently) and no notes regarding the progress or outcome of interventions.

The case record of E.C. illustrated significant problems in the management of her medical and medication needs. It was in E.C.'s room that Commission staff found scores of medication bottles -- some current, some prescribed in 1984 and some dating back to 1983. Among the medications found in her room were: Zanax, Clinaril, Slow K, Bumex, Procardia Tolectin, Aldomet, Atarax, Haldol (2 mg), Haldol (5 mg) and Dalmane. Some of these medications were prescribed by Boerum Hill's psychiatrist and most were prescribed by at least one community-based physician.

According to staff progress notes, E.C. is in good physical health. Yet the record indicated that she has not had a physical examination since August 1983. There was no evidence in the record that E.C. was resistant to such examinations.

Furthermore, the record contained no reference to most of the medications found in E.C.'s room -- who was prescribing them, the rationale for the prescription, and whether Boerum Hill's psychiatrist, who had prescribed some medications, was discussing E.C.'s medical management, particularly her medication needs and possible contraindications, with the other prescribing physicians.

In short, it appeared that Boerum Hill was unaware of E.C.'s medical needs, her medication regimen, and the fact that she was stock-piling her medications.

Like the case of B.R., the record of L.W. illustrated poor treatment planning and follow-through relative to training and assistance in the activities of daily living. L.W.'s record indicated her poor housekeeping and hygiene habits, and monthly notes in her record indicated her need for improvement in these areas. However, the record offered no plan specifying how these problems should be addressed, by whom and how frequently.

#### CONCLUSION

The Commission's review of Boerum Hill indicated that, in several fundamental respects, the facility is failing to provide the caliber of domiciliary services and the quality of care and treatment routinely expected of community residential facilities.

Boerum Hill's clients are allowed to reside in filthy, drab, uncomfortable and at times hazardous living quarters. And there appears to be few meaningful interventions to assist them in mastering the most basic skills necessary for everyday life in the community -- skills such as caring for one's own room or maintaining proper grooming and hygiene habits. Further, it appears that clients' medical or psychiatric needs either are not followed up or are followed up but with no rationale for the intervention employed. Of grave concern to the Commission is the facility's medication practices which allow for the prescribing or changing of medications with no rationale and, in the absence

of monitoring, the prescription of medications by different physicians with no regard for the possibility of polypharmacy or contraindications, and the stockpiling of medications by clients -- situations which pose imminent threats to client health and safety.

On the basis of the Commission's review, it is imperative that the Office of Mental Health act promptly to ensure that the clients of Boerum Hill are provided a safe and humane living environment and a level of care on par with regulatory requirements for community residences.



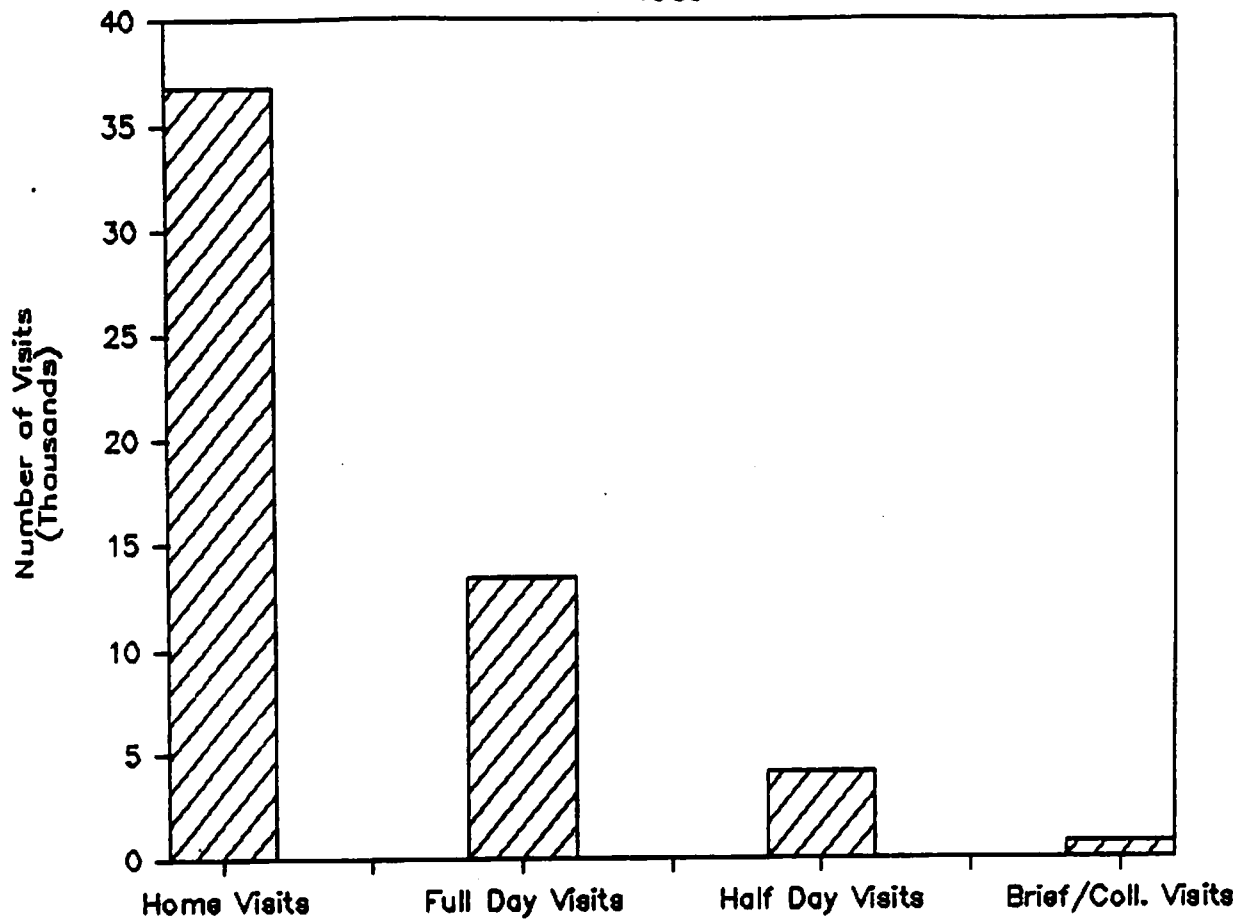
APPENDIX B

The Lafayette Center  
Services Billed to Medicaid, 1985

## The Lafayette Center

Services Billed to Medicaid

1985



APPENDIX C

Home Visits Statewide  
Continuing Treatment Programs  
Privately Operated, 1985

## Home Visits Statewide

Continuing Treatment Programs

Privately Operated

1985

