Personal Care Home:
An Investigative Report of Breckinridge Manor Cloverport, Kentucky

A Report by Kentucky Protection & Advocacy

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of Breckinridge Manor
Cloverport, Kentucky

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Kentucky Protection and Advocacy (P&A) is a client-directed legal rights agency that protects and promotes the rights of persons with disabilities. P&A is an independent state agency, and derives its authority from both federal and state law: specifically the Developmental Disabilities Assistance and Bill of Rights Act (DD Act) 42 U.S.C. § 6000 *et seq*.; the Protection and Advocacy for Individuals with Mental Illness Act (PAIMI Act), 42 U.S.C. § 10801 *et seq*.; and Kentucky Revised Statutes (KRS) 31.010 (2).

The DD Act and the PAIMI Act authorize P&A to conduct abuse/neglect investigations for eligible individuals if incidents are reported to P&A or if P&A has probable cause to believe the incidents occurred (42 U.S.C. § 15043 (a) (2) (B); 42 U.S.C. § 10805(a) (1) (A). Congress also gave P&As the authority to monitor facilities where persons with disabilities receive services, including where they reside. The laws are designed to ensure the safety and protection of all individuals with disabilities from abusive and neglectful practices in public and privately owned facilities, including institutions and community placements.

Kentucky P&A receives part of its funding from the Administration on Developmental Disabilities, the Center for Mental Health Services Substance Abuse and Mental Health Services Administration, the Rehabilitation Services Administration, the Health Resources and Services Administration, and the Social Security Administration.

Personal Care Homes in Kentucky

Personal Care Homes (PCHs) are one of seven types of long term care facilities in Kentucky. Kentucky Revised Statute (KRS) 216.750 states a personal care home is a place "devoted primarily to the maintenance and operation of facilities for the care of aged or invalid persons who do not require intensive care normally provided in a hospital or nursing home, but who do require care in excess of room, board and laundry." Kentucky Administrative Regulations define a personal care home as "an establishment with permanent facilities including resident beds. Services provided include continuous supervision of residents, basic health and health-related services, personal care services, residential care services and social and recreational activities."[1] A resident in a personal care home must be 18 years of age or older per KRS 216.765(2) and per the regulation must be "ambulatory or mobile non-ambulatory, and able to manage most of the activities of daily living. Persons who are non-ambulatory are not eligible for residence in a personal care home."

PCHs provide services to people with mental health diagnoses, and developmental, intellectual and other disabilities.

The services provided to residents of personal care homes are:

- room accommodations
- housekeeping, including laundry
- maintenance services
- three meals a day, and snacks between meals and before bedtime
- soap, clean towels, washcloths, and linens
- planned individual and group activities
- recreational room or space
- reading materials, radios, games, and television sets[2]

Per Kentucky Revised Statutes, "All residents shall be encouraged and assisted throughout their periods of stay in a long-term care facility to exercise their rights as a resident and a citizen, and to this end may voice grievances and recommend changes in policies and services to facility staff and to outside representatives of their choice, free from restraint, interference, coercion, discrimination, or reprisal." [3] KRS 216.515 (6) states that "all residents shall be free from mental and physical abuse."

Other rights of individuals in a personal care home include, but are not limited to:

- the right to be safe
- the right to be treated with respect and dignity
- the right to privacy

[1] 902 KAR 20:036 §2
[2] 902 KAR 20:036 §4
[3] KRS 216.515(5)

- the right to receive and send unopened mail
- the right to access the telephone for making and receiving calls
- the right to participate in social, religious, and community groups of choice
- the right to go outdoors and leave the premises as you wish unless the facility documents why this should not occur
- the right to be free from chemical or physical restraints
- the right to keep and wear own clothing [4]

Personal care homes are licensed by the Office of Inspector General (OIG), within the Cabinet for Health and Family Services. The Office of Inspector General is Kentucky's regulatory agency for licensing all health care, day care, long-term care facilities, and child adoption and child-placing agencies in the Commonwealth. Prior to licensure, long-term care facilities must obtain a certificate of need. According to the OIG, there are 6,128 Personal Care Home beds in Kentucky. Of those, there are 81 freestanding PCHs with 4,371 beds that are not part of a nursing facility. Residents at PCHs who are recipients of Supplemental Security Income (SSI) use their monthly benefits checks plus a state supplement to cover costs. As of January 2013, the PCH receives $1,230 for each resident ($710 from the resident's SSI and $520 from the state supplement). Each resident is allowed to retain $60 a month for personal spending.

Breckinridge Manor Personal Care Home, Cloverport, Kentucky

Breckinridge Manor, located in Cloverport, Breckinridge County, Kentucky, is licensed by the OIG as a 40-bed, freestanding personal care home. It is also certified by the OIG to receive the Mental Health/Intellectual Disability supplement which is fifty cents per day per resident.[5] This is over and above the state supplement previously discussed. Over 35% of the population must have a mental illness or intellectual disability for a facility to receive this supplement. One requirement for facilities that receive the supplement is to provide group and individual activities to meet the needs of the residents.

METHODOLOGY

The OIG issued a Type A Citation to Breckenridge Manor in 2009 for failing to ensure residents were protected from abuse. The facility failed to ensure that staff was knowledgeable regarding the definition of abuse and was capable of identifying abuse when it occurred. The facility failed to ensure its abuse policies and procedures were implemented, failed to report the abuse to the appropriate state agencies (the OIG and Department for Community Based Services (DCBS), and failed to complete incident reports.

The Type A Citation was issued as a result of one resident intimidating, hitting, and threatening other residents. During a routine OIG survey, the surveyors witnessed the

[4] KRS 216.515
[5] 921 KAR 2:015 §12

resident threatening other residents. It was determined this had been occurring for several weeks. The surveyors found that the facility never reported these allegations to the OIG or DCBS. Incident reports were not filled out. The administrator stated the incidents were not reported to the appropriate agencies because the situation did not appear to be abusive. Interviews with other staff stated that they did not think these incidents were abusive. A Plan of Correction was accepted.

Due to complaints received from residents and outside agencies about lack of activities, restriction of individuals' rights, isolation from the community, disrepair of the facility, and a Type A Citation issued by the OIG in 2009, P&A toured the facility and interviewed residents and staff on the following dates: February 27, 2013, March 6, 2013, March 21, 2013 and April 3, 2013. The census for Breckinridge Manor at the last visit by P&A was 25 residents.

Previous visits were made to the facility on April 18, 2011, September 16, 2011 and January 23, 2012 due to complaints received by P&A regarding accessing services in the community.

During the visits, P&A staff:

- Interviewed eleven residents
- Interviewed five staff
- Reviewed the OIG Annual Survey, Type A Citations, Statements of Deficiencies, including a Type A in 2009
- Toured the facility and observed day-to-day living of the residents
- Discussed concerns found at the facility, with Long Term Care Ombudsman (LTCO) and reported other concerns to the OIG

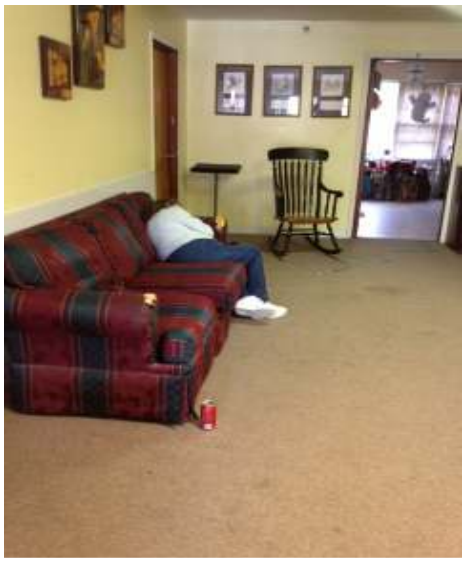
FACILITY OBSERVATIONS

Breckinridge Manor is located one mile from the center of the rural town of Cloverport, where there are several diners and a few specialty shops. As noted, the census for Breckinridge Manor at the last visit by P&A was 25 residents.

The closest town is Hardinsburg. This is where individuals who reside at Breckinridge Manor attend the Illness Management Recovery Program (IMR) operated by Communicare, the Community Mental Health Center for the region. There is not any public transportation in Cloverport. Either residents walk to town or they do not leave the facility. Medicaid transportation is provided for individuals who attend the IMR.

Breckinridge Manor is a one-story facility that sits close to the road. There are two entrances in the front of the building. An accessible ramp leads to the front porch. The day room is located off one of the front entrances. This is where the residents watch TV and participate in activities provided by Breckinridge Manor. There are several board

games located on a shelf below the TV. There are two couches, a recliner, a rocking chair, another chair, and a piano in this area. There is not enough seating to accommodate 25 residents at one time. Residents can also watch TV in the dining room and hallway. The medication counter and administrator's office are located off the dayroom. This is where the activity calendar is posted. Also posted behind the medication counter are the schedules for medications and meal times.



The day room at Breckenridge Manor
The televisions are turned off at 11:00 p.m., preventing residents from watching television after that time, unless they have one in their bedrooms.

Bedrooms

During visits to Breckenridge Manor, P&A staffed observed many bedrooms where two residents shared a bedroom. Few residents at the facility had private rooms.

Five residents have bedrooms located off the dayroom. These individuals do not have roommates. There are several steps that lead down to the two halls where the rest of the bedrooms are located, each with two beds. The furniture looks similar to furniture at a hospital, nursing facility, or other institution. The rooms are crowded and dark. All of the resident rooms have the same type of metal beds which are similar to hospital beds. Many are falling apart and the mattresses are torn and stained. The few linens available for the residents are also torn and stained. Most rooms have small dressers to store their personal belongings and many are falling apart. In most cases this is not enough space to store residents' belongings. Residents did state they are allowed to decorate their bedrooms. The ceilings of the bedrooms and halls are stained and warped from water damage caused by roof leakage and plumbing. During several of the visits, residents approached P&A staff to point out areas of their bedrooms or the bathrooms that were in need of repair.

Residents' bedrooms at Breckenridge Manor

TV in the hallway near residents' bedrooms

Bathrooms

During the visits by P&A, the smell of urine and feces was present. P&A staff observed mold around the toilets and in the showers. The bathrooms had peeling paint, tiles missing on the floor, and stained ceilings.

Residents' bathrooms at Breckinridge Manor

Dining Rooms

There are two dining rooms at Breckinridge Manor. One dining room has four tables with four chairs at each table. The second dining room has two tables with four chairs. This dining room referred to as the “diabetic dining room” is where residents who are diabetic eat their meals.

Residents are not given a choice of where they would like to sit. By requiring residents with diabetes to eat in a separate dining room the facility is segregating this population within an already segregated setting. The dining rooms are located between a hall and the kitchen. The rooms are sparsely furnished with several tables and chairs in each dining room. The rooms are dark and without natural lighting. All of the residents eat at the same time.

Non-Diabetic Dining Room

Diabetic Dining Room

Recreation Area at Breckinridge Manor

Smoking is allowed for residents in a recreation area behind the facility. There are tables and chairs for residents to use. This area is also cluttered with excess furniture not used by the facility.

Smoking area

Storage of Residents' Belongings

Residents' personal belongings, not in use, are stored in a small building beside the facility. P&A staff observed residents' personal belongings piled in plastic garbage bags on the floor. This building is dilapidated and does not provide adequate and safe storage for these items.

The storage building and residents' belongings stored in that building

Improvements to the Facility

P&A staff noticed some physical improvements in the facility throughout its visits.

Photo taken in 2011

Photo taken in 2013

Carpeting had been laid on some of the hall floors that appeared to have been damaged by water.

Photo taken in 2011

Photo taken in 2013

New tile had been installed in one of the shower rooms.

Photo taken in 2011 **Photo taken in 2013**

Siding to the outside of the building had been replaced to cover exposed holes.

INTERVIEWS CONDUCTED WITH RESIDENTS

During all visits made to the facility, P&A interviewed 11 residents who live at Breckinridge Manor. The questions focused on abuse and neglect, administration of medications, resident rights (including access to the telephone, meals, and activities), and community integration.

Upon arrival at the facility during each visit, P&A noted the activities of the residents. Residents were either sitting alone, sleeping, watching TV, walking the halls, or smoking. Four residents were returning from attending the IMR Program in Hardinsburg.

The ages of the residents interviewed ranged from 31 to 75 years of age. Two of the residents interviewed were clients of state guardianship. While the average length of time the residents have lived at Breckinridge Manor was 6.5 years, all of the residents interviewed stated they have lived at personal care homes for longer than 10 years. Nine of the residents reported they have a mental illness and two of the residents have an intellectual disability.

All but five of the residents have a roommate and reported they did not choose their roommate. They did state they were able to decorate their rooms, however, P&A observed most the rooms to be in poor physical condition with institutional furniture as noted above.

Abuse and Neglect

Residents were asked if they have ever been verbally or physically abused by residents or staff while living at Breckinridge Manor. Five residents stated they have been subjected to abuse. When asked about what this involved, the residents reported it was fighting between residents, involving yelling, pushing and threatening. In one instance, a resident stated she witnessed one resident threaten another resident with a knife. Several residents reported they have witnessed staff "yelling" at other residents. Residents did report their concerns and complaints to staff, primarily the administrator or assistant administrator. Several female residents stated they do not feel safe at night. They stated they feel vulnerable because there is only one staff who works second shift (6:30 pm - 11:00 pm) and one staff who works third shift (11:00 pm - 6:30 am). Residents also reported other residents enter their rooms and steal from them. Some residents expressed they do not feel comfortable discussing concerns or complaints involving staff with the administrator and assistant administrator because their family members also work for the facility. This concern was also reiterated by the LTCO that advocates for residents of nursing homes, personal care homes, and family care homes. Services of the state LTCO are coordinated through the Cabinet for Health and Family Services, Department for Aging and Independent Living, and Office of the State Long-Term Care Ombudsman. The LTCO program is responsible for identifying, investigating, and resolving complaints made by or on behalf of resident and providing information to residents about long-term care services.

Breckinridge Manor is a one-story facility with the residents' bedrooms in three areas of the building: two halls and off of the day room. During visits made to the facility, P&A staff observed staff spending the majority of their time either in the administrator's office or the medication counter across from the administrator's office. It would be impossible for the staff to adequately observe the residents, especially during times when the residents are sleeping. The bedrooms are not within a line of sight from the medication counter and the administrator's office.

Another complaint residents shared was the condition of the facility. Several residents took P&A staff to their rooms to point out the poor condition of their rooms. Other residents pointed out areas of the bathrooms that needed repair. Several residents stated they did not want to take showers in the bathrooms because of the condition of them.

Administration of Medications

All residents interviewed indicate they take their medications at the same time. These times are listed on a sheet of paper behind the medication counter. One individual interviewed stated, "they holler at us to come and take our meds." P&A observed residents going to the medication counter at the same time and standing in line to take their medications. Residents can refuse to take their medications. When asked what

would happen if they did refuse, residents stated staff told them they may have to go to the hospital. Some residents stated staff encourages them to take their medications.

Schedule when medication is administered and smoke breaks

Rights of Residents

- ***Access to the Telephone***

There is one phone for residents to use at the facility. It is a cordless phone and is located on the medication counter across from the administrator's office. Several residents stated it was difficult to have a private conversation. Residents report they can answer the phone after three rings because staff also uses this phone.

Resident Phone

- ***Meals***

When asked if they do not like what is being served, residents stated they could receive a substitute. This is usually a bologna, cheese, or peanut butter sandwich. Residents rarely have green vegetables to eat and would like more fresh vegetables and fruit. If a resident is not hungry at the time the meal is served, they will not get anything to eat until the next meal. Snacks are offered three times a day. During one visit in 2011, P&A observed three animal crackers and water served during snack time.
Although not required by regulation, residents stated they would like to have access to coffee more than one time a day. The Long Term Care Ombudsman reported to P&A that he/she offered to buy a coffee maker and coffee for the residents but the administrator declined the offer, stating that it was "too messy".

Several residents complained they do not get enough food to eat. The same meal plan is followed every month.

- ***Activities***

P&A did not observe residents engaged in an organized activity during any of their visits to the facility. According to residents and staff, the daily activity is scheduled for 6 p.m. each evening. On March 21, 2013, P&A noticed the current activity calendar was yet to be posted for the month. During that visit, staff filled out the activities calendar for March. Some of the offered activities were board games and coloring, and take place in the day room. Residents also stated other activities offered are hole-in-one, bingo, balloon pop, and rolling the dice. One of the biggest complaints from residents was there was nothing for them to do during the day and particularly on weekends. Several residents attend the Illness Management Recovery Group offered by Communicare in Hardinsburg. Other residents walk to town. The majority of the residents spend their time either sitting in the day room, sleeping in their bedrooms, or sitting outside on the porch or in the smoking area in the back of the building.

Residents indicated they do not have a designated time to go to bed, however, they are not allowed in other residents' rooms after 9 p.m. and not allowed in the halls after 11 p.m., but they can go outside to smoke. The televisions are also turned off at 11p.m.

Community Integration

Very few of the residents of Breckinridge Manor have family or friends who live near Cloverport. Only two residents reported they have had visits from family or friends during the last 30 days, with the majority reporting they never have had a visit from family or friends while living at Breckinridge Manor. Some stated their families do not have the resources to travel to Cloverport. Others stated they have lost contact with their families over the years due to moving from facility to facility. The facility does not provide transportation and there is not public transportation available in the community. When the residents leave the facility to walk to town, they are required to use a sign out sheet located at the medication counter. Residents stated they must be back at the facility before dinner is served. The majority of the residents also stated they rarely receive any mail. When asked if they have ever lived independently, all but one answered "yes." Ten out of the 11 residents interviewed stated they wanted to live independently and not in a personal care home.

Most residents reported the treatment team at a psychiatric hospital placed them at Breckinridge Manor. There is not anyone available to assist them with accessing community supports because most of the residents do not attend the Illness Management Recovery Program offered by Communicare in Hardinsburg. Several residents stated they were not aware of this program.

INTERVIEWS CONDUCTED WITH STAFF

During some visits to the facility, P&A interviewed five staff for this report: the administrator, assistant administrator, a personal care aide, one housekeeping staff and one staff who works in the kitchen. The administrator has worked for Breckinridge Manor since 1989. The assistant administrator also acts as activity director and administers medications. She has worked for the facility for over 20 years. Staff was asked questions regarding the protocol for reporting abuse and neglect(including how emergencies are handled and in-service trainings the staff receive by the facility for reporting abuse and neglect), resident grievances, and activities offered by the facility.

The staff interviewed has worked at the facility between six and twenty-four years. There are three staffed shifts: four staff work on first shift (7:00 a.m.- 3:00 p.m.), two staff work during second shift (3:00 p.m. – 11:00 p.m.) with one staff leaving at 6:30 p.m. after the evening meal served, and one staff works on third shift (11:00 p.m. - 7:00 a.m.).

Abuse and Neglect

The staff interviewed described the protocol for reporting abuse and neglect. All staff stated they would report the allegation to the administrator or staff in charge and an incident report is completed. It is the responsibility of the administrator or staff in charge

to report the incident to the Department of Community Based Services (DCBS) and to the Office of Inspector General (OIG). When asked about what safeguards were utilized to protect the residents after an allegation had been made, staff stated they would provide added supervision, including 15-minute checks.

Resident Grievances

Staff interviewed stated complaints from residents regarding staff, other residents or any other concerns are reported directly to the administrator or assistant administrator. The administrator and assistant administrator stated they talk to each resident involved and seek out any witnesses involved in the incident. Physical altercations are reported to the Department for Community Based Services and to the guardian, if there is one. They may also call the psychiatrist to seek a medication change for the resident.

Activities for Residents

Staff was asked what the residents do during the day. They responded by saying: residents watch TV, play games, walk to town, sit in their rooms, smoke, and talk. Four residents attend the IMR Program offered by Communicare in Hardinsburg. An activity calendar is posted by the day room offering a daily activity.

CONCLUSION

In the case of *Olmstead v. L.C.* , the United States Supreme Court ruled that "[u]njustified isolation . . . is properly regarded as discrimination based on disability", echoing Congress in enacting on the Americans with Disabilities Act (ADA) in 1990.[6] ADA regulations require services to be administered "in the most integrated setting."[7]

An integrated setting under the ADA and *Olmstead* is defined as **"'**a setting that enables individuals with disabilities to interact with non-disabled persons to the fullest extent possible.' Integrated settings are those that provide individuals with disabilities opportunities to live, work, and receive services in the greater community, like individuals without disabilities." [8]

Personal Care Homes are congregate settings that unjustifiably isolate persons with disabilities from the community. Personal Care Homes are not the most integrated settings.

While some residents may choose not to live anywhere else, there are many who state they would like to live independently. The majority of residents interviewed stated the treatment team from a psychiatric hospital chose for them to live at a personal care home. The residents do not know what living independently would resemble because

[6] *Olmstead v. L.C. ex rel. Zimring* 527 U.S. 581, 597, 119 S.Ct. 2176, 2185 (U.S.Ga.,1999).
[7] 28 CFR 35.130(d)
[8] www.ada.gov/olmstead/q&a_olmstead.htm#_ftn11

many have lived in a PCH for longer than 10 years. They do not have assistance with accessing community supports to live independently. Residents spend their time sitting, smoking, walking the halls, and watching TV because there is nothing offered in its place. Breckinridge Manor offers a daily activity of board games, bingo, rolling the dice, hole-in-one, balloon pop or art time (coloring) to adults living at the facility. This facility receives the Mental Health/Intellectual Disability supplement. One requirement of this supplement is to provide group and individual activities to meet the needs of the residents; however, the activities offered do not do much to promote the development of skills to meet the needs of persons with a mental illness or intellectual disability. There are not any activities organized by the facility that access the community.

The facility is located one mile from the center of town. The location of Breckinridge Manor restricts residents from accessing the community. In some instances, this may not be considered a long distance to walk, however, on days when it is rainy, hot and humid, or the temperatures fall below freezing, it is too far to walk. When residents were asked if they had any complaints about living in Breckinridge Manor, they stated other residents steal from them, the facility and the bathrooms are in disrepair, there is no have access to transportation, there is little or no contact with family and friends, and there is nothing to for them to do. As previously stated in the report, the only outside activity the residents can attend is the Illness Management Recovery Program in Hardinsburg at which there is limited enrollment. This one activity does not afford an individual with a disability the opportunity to interact with non-disabled persons.

Living in a congregate setting with 24 other individuals diminishes individual choice and personal privacy. It segregates the individual from the rest of the community thus eliminating the choice of:

- with whom you live
- with whom you share a bathroom
- when to leave and return to the facility
- when to eat a meal
- what to eat
- when to receive visitors
- when to watch TV
- when to take medications

Breckinridge Manor, based on observations made and interviews conducted with residents and staff, is not an integrated setting as prescribed by the ADA and the *Olmstead* decision. There are not opportunities for residents of Breckinridge Manor to engage in meaningful activities in the community and with people who do not have a disability, keeping residents separate and alone, and limiting family relations and social contacts.

View from the back of Breckinridge Manor

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