

Developmental Disabilities Coalition

Supporting people with developmental disabilities in their communities throughout Maryland

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October 6, 2006

Honorable Robert L. Ehrlich, Jr.
Governor of Maryland
Maryland State House
100 State Circle
Annapolis, Maryland 21401-1925

Honorable S. Anthony McCann
Secretary
Department of Health and Mental Hygiene
201 West Preston Street
Baltimore, Maryland 21201

Re: DD Coalition Request for Transfer of Residents and Closure of Rosewood

Dear Governor Ehrlich and Secretary McCann:

The Developmental Disabilities Coalition (DD Coalition) is a statewide network advocating for the rights of people with developmental disabilities. We write to demand the creation and implementation of a plan to transition all Rosewood State Residential Center (Rosewood) residents into quality, safe, community-based programs and close this dangerous, outmoded facility once and for all.

The *New Freedom Initiative* for Maryland promised four years ago to close state institutions and meet goals to provide appropriate services to individuals, regardless of their disability, in community settings. Notably, it states:

It is time to develop a concrete plan to start closing state institutions that warehouse people, rob them of their freedom, and waste state taxpayer dollars. Not only is moving to community-based care the right thing to do, but it is fiscally-responsible. Maryland cannot afford fully funding both institutional care and community-based services for people with disabilities. Despite the *Olmstead* decision, Maryland currently funds resource-draining institutions, limiting resources from the community-based services system that benefits the majority of people with disabilities. Bob Ehrlich recognizes that people deserve the respect and freedom to live in the community.

Given the Office of Health Care Quality's (OHCQ) September 26, 2006 Notice of Immediate Jeopardy (IJ) to residents of Rosewood the time is now for Maryland to keep its promise to citizens with disabilities.

The September 26, 2006 IJ makes crystal clear that Rosewood operates in violation of state and federal law. Rosewood has failed to protect individuals from abuse, neglect and mistreatment. Rosewood residents are in immediate jeopardy and live in unconstitutional conditions, confined and isolated from the rest of society. The undersigned individuals and organizations hereby request that the Administration create a formal plan to transfer Rosewood's residents to appropriate community settings and to close the facility.

The organizations signing in support of this letter have extensive knowledge and expertise in working with persons with developmental disabilities and the civil rights of persons with disabilities. We were actively involved with the comprehensive planning and implementation required for the responsible closure of Great Oaks Center and fully expect the formulation of an equally comprehensive plan for the closure of Rosewood. We do not believe this broken facility can be "fixed." We urge the following steps be taken to facilitate the closure process and keep current residents safe until the time at which they are transferred.

1. Immediate Review of the Health and Safety of All Residents

The OHCQ report found conditions at Rosewood pose an immediate jeopardy to individuals. The state report documents that people have been beaten, resulting in broken ribs, nosebleeds, and swollen faces. It was determined that staff failed to intervene to protect individuals. OHCQ based this conclusion on review of only a sampling of individual records and interviews. Rosewood must ensure the safety of all individuals and must protect them from physical, verbal, sexual, and psychological abuse or punishment. *See MD. CODE ANN., [HEALTH-GEN. I] § 7-1002.* OHCQ documented examples where the facility failed to properly investigate incidents and failed to prevent and protect individuals from harm. Therefore, we call for the immediate and comprehensive review of the health and safety of each resident of Rosewood, including those committed to Rosewood by the courts.

2. Commit to Close Rosewood

In view of documented abuses and mistreatments at Rosewood, the State's commitment to serve individuals in the community and civil rights mandates, we call on the State to close Rosewood Center. The problematic history of Rosewood and its current deficiencies extend far beyond the current findings of immediate jeopardy. Some of this history was documented in the enclosed September 29, 2006 letter written by Maryland Disability Law Center (MDLC). Consistent with State law and policy, including the *New Freedom Initiative*, the State already serves the overwhelming majority of individuals with disabilities in their communities instead of institutions like Rosewood. In *Olmstead v. L.C. and E.W.*, 119 S.Ct. 2176 (1999), the Supreme Court stated that the unnecessary segregation and confinement of individuals with disabilities constitutes discrimination.

Clearly, with the required mandates and exposed abuses it is time to finally eliminate this unnecessary confinement.

3. A Plan for Closure

We expect a plan for the closure of Rosewood to be completed by December 31, 2006, with closure over the next two years and no later than December 2008. The plan should be based on a comprehensive, individual review of each resident, including those individuals committed to Rosewood by the courts. The plan should include adequate funding for the transition of each individual into an appropriate community program, and must include a review and revamp of the mission and services for those persons committed by the courts. The plan should also ensure that individuals are not transferred to other state residential centers in violation of their right to receive services in the most integrated setting. Under no circumstances should the movement of residents into appropriate community settings extend beyond December 31, 2008. The DD Coalition wishes to be actively involved in the development of such a plan.

4. Independent Consultant(s)

We recommend that an independent consultant(s) who reports directly to the Secretary of the Department of Health and Mental Hygiene (DHMH) be retained to review and ensure the health and safety of individuals at Rosewood and design and facilitate the responsible transition of residents to appropriate and quality community programs. We envision the role of the independent consultant(s) to include three main functions:

- Coordinate with the Developmental Disabilities Administration (DDA) a comprehensive review of each individual, including individuals committed to Rosewood by the courts. This will include an evaluation of individual and behavior plans and how they are implemented, an assessment of how abuse, neglect and rights violations are investigated, and the development of effective preventative measures to protect individuals from harm and protect their health and safety;
- Provide technical assistance to DDA on the development of transition plans for all residents of Rosewood to the most integrated setting appropriate to meet each individual's needs; and
- Work with DDA to identify and overcome the systemic and funding barriers for movement of people into the community.

The consultant(s) must be truly independent from DDA and DHMH, with solid experience and expertise in the outlined responsibilities. The DD Coalition offers our assistance in identifying consultants with the needed expertise and would like to assist in selection of a consultant(s).

5. Selection Criterion for New Facility Director

We understand that the facility director of Rosewood resigned. The DD Coalition would like to play a meaningful role in determining the selection criterion for the potential

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candidates for this position. It is critical to the interests of people with disabilities that the new director is committed to the principle that individuals receive services in the most integrated setting and has knowledge of such practices and services, rather than institutional care.

The DD Coalition insists that the State end the continued confinement and unjustified isolation of Rosewood residents in an unsafe environment and move forward with an adequately funded, appropriate plan to transfer them into quality community placements, and close this facility.

This Administration has pledged its commitment to the civil rights of all persons with disabilities. We expect serious consideration of our recommendations and requests. We extend the offer to work with you and share our resources. Please respond with all possible haste to Rachel London, staff attorney at MDLC. Ms. London can be reached at (410) 727-6352 ext. 266.

Sincerely,



Brian Cox

Executive Director

Developmental Disabilities Council

Chair, Developmental Disabilities Coalition



Ken Capone

Public Policy Coordinator

People on the Go of Maryland



Laura Howell

Executive Director

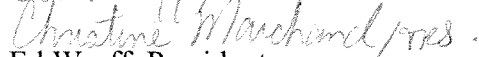
Maryland Association of Community Services



Rachel London

Staff Attorney

Maryland Disability Law Center



Ed Worff, President

Cristine Marchand, Executive Director

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