

The Honorable Pedro J. Rossello
Governor of Puerto Rico
Governor's Office
P.O. Box 82
La Fortaleza, San Juan, PR 00901

Re: Centro de Reeduccion para Adultos in Bayamon, Centro de Servicios Multiples Rosario Bellber in Aibonito, Facilidad de Cuidado Intermedio in Cayey, Hogar de Grupo Las Mesas in Mayaguez, and Centro de Servicios Multiples de Camaseyes in Aguadilla

Dear Governor Rossello:

On June 11, 1997, we notified you, pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997, that we were initiating an investigation of conditions at the Centro de Reeduccion para Adultos in Bayamon ("Bayamon"), Centro de Servicios Multiples Rosario Bellber in Aibonito ("Aibonito"), Facilidad de Cuidado Intermedio in Cayey ("Cayey"), Hogar de Grupo Las Mesas in Mayaguez ("Mayaguez"), and Centro de Servicios Multiples de Camaseyes in Aguadilla ("Aguadilla"). From September 29 through October 2, 1997, we conducted an investigative tour of the facilities accompanied by an expert consultant in mental retardation and behavioral psychology. During our investigation, we toured each facility, interviewed Department of Health officials, facility administrators and staff, spoke with residents, and reviewed pertinent documents. As you may recall, earlier in the year, we completed our investigation of the Centro Servicios Integrales in Caimito, and we issued our findings regarding that facility on June 11, 1997.

The five mental retardation facilities in Bayamon, Cayey, Aibonito, Mayaguez and Aguadilla referenced above, are all state-operated residential facilities, and in total, they serve approximately 103 individuals with varying levels of mental retardation and other developmental disabilities. Most of the residents have mental illness and maladaptive behaviors and some have physical disabilities. Bayamon serves 24 adult clients (17 men and 7 women), ranging in age from 22 to 50; two-thirds of the clients have severe or profound retardation and one-third have mild or moderate retardation. The facility is located on one floor of an old building on a largely abandoned medical facility campus on the outskirts of San Juan. The Commonwealth is renovating another building on campus to house the clients that is scheduled to be finished next year. Cayey serves 15 adult male clients in a one-building facility that was renovated in 1990. The clients range in age from 23 to 61; facility records did not provide sufficient documentation of the functional levels of all the clients, but with a few notable exceptions, most appeared to be mildly or moderately retarded. Aibonito serves 24 children (14 boys and 10 girls) ranging in age from 6 to 20; all of the children have severe or profound retardation. The facility is located in the foothills of the mountainous region of the central part of the island near the local town. The facility's campus includes one building that serves as the residence with an anteroom kitchen and dining room, and an adjacent school with three distinct classrooms. Mayaguez serves 18 adult clients (10 women and 8 men) ranging in age from 24 to 58; virtually all of the clients are listed as having severe or profound retardation. The one-building facility is small and cramped, located just off a noisy, busy mountain road near town. The Commonwealth plans to move these clients to one floor of the local hospital in the near future. Aguadilla serves 22 clients (8 men, 6 boys, 4 women, and 4 girls) ranging in age from 6 to 28; approximately half of the clients are mildly or moderately retarded and the other half are severely or profoundly retarded. The campus compound is located on the outskirts of town and is surrounded by a high chain-link fence and barbed wire. There are two buildings housing clients and one large administration complex.

Consistent with our prior investigation of the facility in Caimito, in investigating the five additional mental retardation facilities, we evaluated whether residents were being afforded their constitutional and federal statutory rights. All residents of state-operated mental retardation facilities have a Fourteenth Amendment due process right to adequate food, clothing, shelter, medical care, reasonably safe conditions, and training. *Youngberg v. Romeo*, 457 U.S. 307 (1982). In addition, the Commonwealth must provide public services to individuals with disabilities that represent the most integrated setting appropriate to their needs. *See, e.g.*, Title II of the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12132 *et seq.*; 28 C.F.R. § 35.130(d); Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§ 794 *et seq.* and the regulations promulgated pursuant thereto; and the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. 1412(5)(B). Further, the Commonwealth must provide services and programs that are readily accessible to and usable by individuals with disabilities. *See* 28 C.F.R. § 35.150.

Consistent with statutory requirements, we are now writing to inform you of the findings of our investigation of the five mental retardation facilities. During our tour, we found numerous conditions that violate the constitutional and federal statutory rights of residents. A major cause of many of these deficiencies is that the Commonwealth has not devoted adequate resources to provide essential services and safe conditions to the residents. In particular, each facility has an insufficient number of adequately trained staff across all disciplines, including doctors, nurses, psychologists, psychiatrists, therapy and activity staff, and direct care staff to meet the needs of residents. The facts that support our findings of unlawful and unconstitutional conditions at each facility are set forth below along with the remedial actions that we believe are necessary to remedy these conditions.

I. THE COMMONWEALTH FAILS TO PROVIDE ADEQUATE SHELTER AND REASONABLE SAFETY TO RESIDENTS

Individuals residing in a state-operated institution have a fundamental Fourteenth Amendment due process right to adequate shelter and reasonably safe conditions of confinement. *Youngberg v. Romeo*, 457 U.S. 307 (1982). However, the Commonwealth fails to afford residents these rights.

To begin with, all of the facilities, with the exception of Aibonito, have structural and environmental deficiencies that pose serious risks of harm and do not provide adequate shelter to the individuals who live there. Many of the buildings are dilapidated, decaying, and lack adequate plumbing and lighting. For example, for years now, the facility at Bayamon has not had sufficient water pressure to provide adequate running water for the clients. As a result, the showers do not work, the faucets do not work, and the toilets do not flush properly. In order to bathe the clients, staff dump water from water tanks into large movable garbage cans from which the staff manually extract water using smaller buckets to pour it on the residents. The Commonwealth has been aware of this unacceptable condition for years but did not take any steps to remedy it until our recent tour when officials announced that they would move residents at some point next year to another building that was being renovated. In the interim, the lack of running water poses a host of health hazards. For example, many of the Bayamon clients require diapers and regular diaper changes by staff; without running water, the staff cannot wash their hands sufficiently to maintain aseptic conditions. In addition to the plumbing problems at Bayamon, the overall physical structure of the building is old and dilapidated. The bathrooms are mildewed with cracked and missing tiles and exposed pipes and metal objects.

The other facilities face similar problems. At Cayey, the roof leaks whenever it rains, creating large wet spots all over the facility floor and posing slippery, hazardous conditions for the residents who walk over the wet spots. This problem has persisted for many months without repair. In addition, one of the few toilets available to residents has not worked for a prolonged period of time, and the showers do not drain properly, creating additional slippery conditions. One client recently fractured his arm in a fall due to the water back-up. Mayaguez also has suffered from chronic and ongoing water pressure problems over the years and the roof leaks. In addition, the one-building facility at Mayaguez is physically too small to accommodate the number of clients it presently serves. In fact, it was designed to serve fewer than half the number of clients currently residing there. As a result, the bathroom and shower facilities are inadequate to meet the clients' needs and the bedroom areas are very cramped and overcrowded. At Aguadilla, one of the residential units is also seriously overcrowded, with about twice as many clients as it was designed to serve.

At all five facilities, the Commonwealth fails to provide sufficient direct care staff to protect clients from harm from self-injurious behavior or the aggression of other clients. Direct care staff absences are routine at every facility we visited and exacerbate the problem of inadequate staffing patterns. The staffing problems are particularly serious at Bayamon where there is sometimes only one direct care staff person on duty on a given shift. It is also common for Cayey to operate with only half its normal complement of workers on any given shift. In addition, a sizable number of clients at each facility require constant supervision due to their behaviors. When there are staff shortages, the clients who need direct attention suffer, or the rest of the client population suffers, or both. Each facility director showed us evidence of unmet, repeated requests they had made to the Department of Health and the Office of Mental Retardation for additional staff to meet the basic needs of clients. The one exception to these staffing shortages was at Aibonito where the children attend school in classrooms that are staffed with at least one teacher, one or two teacher's aides, and additional direct care staff for each group of seven or eight clients. However, as is the case with the other facilities, direct care staff absenteeism in the residential units is a problem at Aibonito, compromising client safety and services.

In sum, the facilities are generally unsafe environments for the individuals who live there. The Commonwealth has failed to provide adequate shelter and protect residents from harm, in violation of their constitutional rights.

II. THE COMMONWEALTH FAILS TO PROVIDE ITS RESIDENTS WITH ADEQUATE PSYCHOLOGICAL AND BEHAVIORAL SERVICES AND TRAINING PROGRAMS OR WITH PROPER PSYCHIATRIC CARE AND SERVICES

A. Psychological and Behavioral Services and Restraints

Individuals residing in a state-operated institution have a Fourteenth Amendment due process right to minimally adequate or reasonable training to ensure their safety and freedom from undue restraint, prevent regression, and improve their ability to exercise their liberty interests. Youngberg v. Romeo, 457 U.S. 307 (1982). The Commonwealth is denying residents in the five facilities their right to adequate and appropriate training and related psychological services.

Most of the clients have aberrant, maladaptive behaviors, such as self-injurious behavior or aggression,

that pose a risk of harm to themselves and other clients. The Commonwealth fails to provide these residents with professional services to abate or eliminate their maladaptive behaviors and replace them with appropriate, functional alternative behaviors. For example, none of the five facilities has a psychologist on staff or even provides contract psychology hours to address clients' maladaptive behaviors. Oscar Cruz, the psychologist within the Commonwealth's Mental Retardation Program, cited lack of funding, resources, and expertise for the Commonwealth's chronic failures.

As a result, clients do not receive psychological assessments or behavior programs to address their individualized needs. Moreover, the facilities do not monitor adequately the clients' progress by collecting appropriate client behavioral data, nor are the staff properly trained in how to respond to clients' behaviors to ensure clients' safety and the safety of others, and to teach them more appropriate behaviors. In many cases, this lack of proper intervention results in undue restraint of clients. As a result, the clients' maladaptive behaviors are not addressed properly, and the clients suffer from the negative effects of their behaviors.

Many clients have been harmed due to the Commonwealth's failures in this regard. At Cayey, Edwin R.O. is perhaps the most glaring example of the harm that has resulted from allowing a client with maladaptive behaviors to go untreated for prolonged periods of time. We first observed Edwin sitting on the floor of the Cayey day room moaning to himself. He was wearing a soft helmet that covered his entire head. We noticed a stream of blood trickling down his helmet. We were disturbed that none of the staff -- not even the direct care staff member that was charged with observing him on a one-to-one basis -- noticed this blood. We asked that the nurse immediately clean and dress his wound. When the nurse removed his helmet, we discovered that Edwin's head had been severely damaged due to years of self-abuse and head banging. Edwin had butted and rammed his head into walls and post corners so often that he had pushed back completely his hair and skin on the front half of his head. This hair and skin formed a marked ridge in the middle of his head. The bleeding we noticed seemed to come from this area.

Edwin had just arrived at Cayey in April 1997, after having lived at the Centro Servicios Integrales in Caimito (the facility we investigated earlier this year). In spite of his ongoing tendency to injure himself, the tangible injuries that have already stemmed from his self abuse, and the life-threatening nature of his current condition, the Commonwealth has failed to provide Edwin with professional psychological or behavioral services both at Caimito and Cayey. The Commonwealth has not provided him with a psychology consult, with a behavior program, or with staff properly trained in how to treat his destructive behaviors.

At Cayey, we also met Juan R.O., whose arms were marked with dozens of long, deep scars. We learned that over the years, Juan repeatedly had slit himself with razor blades during various suicide attempts. Juan also had been transferred recently to Cayey from the deficient conditions at Caimito. Juan is still at tremendous risk of harm due to self-injury, and he is in great need of ongoing, intensive professional help to address his maladaptive behaviors. Yet, as is the case with Edwin, the Commonwealth has failed to provide him with a psychology consult, with a behavior program, or with staff properly trained in how to treat his maladaptive behaviors.

At every facility we visited, we noticed a number of other individuals similarly in need of such intensive ongoing behavioral services for their maladaptive behaviors who, for years, had received inadequate services from the Commonwealth.

In addition, with the exception of Aibonito, the Commonwealth does not provide clients with sufficient daily training and activities that would prevent many such maladaptive behaviors from occurring in the first place. Daily, the clients are herded from one room to another by overextended, untrained staff, who focus on resident control rather than active treatment. None of the facilities provides adequate, ongoing active training and habilitation to clients to teach skills, enhance functioning, promote independence, and prevent client regression and deterioration. As a result, the clients remain idle all day long. According to our expert consultant, this lack of meaningful activity encourages maladaptive behaviors stemming from boredom and leads to regression and deterioration.

Less than a third of the male clients at Bayamon had been taught to bathe themselves and a large number of clients had not been trained to toilet themselves. Only three or four clients at Cayey have been taught to bathe themselves. Staff at Aguadilla told us that they do not even attempt to teach the clients to toilet themselves or feed or bathe themselves because they supposedly lack the potential to acquire this skill. This attitude runs counter to generally accepted practice in the field. Many clients who need speech therapy, like Jackeline F.S. at Bayamon, and Jose N. at Aguadilla, do not receive it.

Restraints are prevalent at many of the institutions we visited and are related to the lack of behavioral programming, training, and professional mental health intervention. At Mayaguez, a number of clients are restrained for much of the day because the staff do not know how to treat their behaviors properly. For example, staff use a bed sheet to tie client Rosa P.L.'s waist and torso to a bench and to one of the iron bars at the facility to keep her from walking around the building and engaging in aggressive, maladaptive behaviors such as biting and hitting other clients. Staff tie Nilsa R. up in four-point restraints to her bed for the entire time she is menstruating. The staff claimed that if they did not tie her up, she would deeply scratch her face and further injure herself. We noticed Nilsa in four-point restraints with additional restraints on both of her hands. Her face was marked with fresh, bloody scratches. While we were in the room with her, Nilsa was crying and moaning and pleading for help. Moreover, Mayaguez staff place virtually all the sleeping residents in restraints by keeping the bed rails up. We witnessed one client in a hazardous situation because she had caught her leg in-between the bed rails while trying to emerge from her bed after sleeping. In spite of the obvious potential danger to her limbs, the staff claimed this was her "normal" way of communicating to staff that she wanted to be let out of bed.

At Aguadilla, a number of clients are placed in restraints every day. For example, staff place Rene L. in hand restraints for at least six hours each day to prevent him from gnawing on his fingers and forcing himself to vomit. Staff restrain Jose N. in his bed behind bed rails for most of the day. Jose has cerebral palsy, a condition characterized by marked muscular incoordination and speech disturbance. However, the staff failed to realize that Jose is higher functioning than he appears. Not knowing what to do with him, the staff has denied him educational opportunities with his peers and left him to languish in his bed.

The physical environment of all of the facilities, with the exception of Aibonito, underscores the punitive nature of the facilities, is unduly restrictive, and not conducive to the habilitation of individuals with mental retardation. Most buildings are surrounded by high chain-link fences topped with barbed wire; the entrances and exits to the facilities are barred and locked with heavy metal gates; the interior corridors of the buildings are routinely cordoned off by other locked, heavy metal gates. At Aguadilla, the young men's ward was constructed originally as a juvenile detention facility with prison mirrors, iron bars on all the windows, iron gates separating the ward from the outside, and heavy metal doors on each client bedroom. Virtually nothing was done to normalize this setting to accommodate the individualized

needs of the clients with developmental disabilities. In contrast, the Aibonito residence is fully functional, clean and more homelike than any of the other institutions we visited. There is no high chain-link fence with barbed wire surrounding this facility.

In sum, the Commonwealth is not providing clients with minimally adequate behavior and training programs. Its failure to do so has resulted in undue restraint, regression, and injury.

B. Psychiatric Care and Services

The Commonwealth fails to provide residents in the five facilities with appropriate psychiatric care and services. Although the vast majority of clients have mental illness, they do not receive a proper psychiatric assessment and diagnosis and a treatment plan to address the clients' mental health needs. Moreover, there is no formal mechanism to monitor the clients' progress or the effect of psychotropic drugs.

Instead, the Commonwealth medicates most of the clients with psychotropic medications to control them and for staff convenience. This practice produces a host of dangers, including needlessly medicating the client where there is no professionally demonstrated need for the medication, needlessly subjecting the client to the risk of medication side effects and, in most cases, failing to treat the client's mental illness properly. As a result, the client's mental illness is left untreated, the behaviors continue unabated, and the client is unduly medicated with psychotropic drugs.

There is no staff psychiatrist or contract psychiatrist at any Commonwealth mental retardation facility. Instead, the Commonwealth retains psychiatrists in the community, who have little or no training in treating clients with mental retardation, on an emergency, ad hoc basis, to provide brief client review, often based upon nothing more than cursory, anecdotal information about the client from facility staff. This practice departs substantially from accepted professional standards of care and violates the clients' right to receive adequate and appropriate treatment for their mental illness.

III. THE COMMONWEALTH FAILS TO PROVIDE ITS RESIDENTS WITH ADEQUATE HEALTH CARE

All residents of state-operated institutional facilities have a Fourteenth Amendment due process right to adequate health care. Youngberg v. Romeo, 457 U.S. 307 (1982). Nonetheless, the facilities fail to provide residents with the health care and services they require.

None of the facilities we visited had a physician on staff or a contract physician to meet the health care needs of clients. Instead, the facilities are forced to rely on the ad hoc availability of doctors in the local community, usually at a local hospital, to treat the clients. This system has produced poor results in terms of meeting clients' health care needs. Some clients do not see a doctor every year for a routine checkup; other clients with more chronic health concerns like diabetes and epilepsy, do not see a doctor at appropriate intervals to monitor and treat these conditions. Very few clients with seizure disorders at Cayey actually get to see a neurologist as frequently as their medical conditions warrant.

Some facilities are well-staffed with nurses, while others are grossly understaffed. At Mayaguez -- which serves clients who are medically involved such as those with cancer, epilepsy, Hodgkin's disease, heart problems, and diabetes -- there are no nurses currently on staff. The Commonwealth's failure in this regard has placed these clients at great risk of harm.

There are residents who need wheelchairs at Aibonito, Mayaguez, and Aguadilla. Still, the Commonwealth fails to provide the facilities with funds to purchase and repair wheelchairs. As a result, when a chair needs to be bought or modified, the facility directors must ask for funds from parents,

family members, or the private community at large. This delays procuring the chairs or needed modifications and places the clients at risk of harm. Moreover, the Commonwealth fails to furnish the clients with professional assessments to determine if their wheelchairs are appropriate. As a result, the wheelchairs we observed did not fit most of the clients properly and caused them to slump down in their chairs, promoting scoliosis and contractures which compromise client breathing, digestion and overall health. In fact, we noticed three clients at Mayaguez whose wheelchairs were so inadequate, staff resorted to tying them in their chairs in order to keep them from sliding out.

The institutions also are in great need of physical therapists, occupational therapists, and speech therapists. This need was particularly acute at Bayamon, Aibonito, Mayaguez and Aguadilla. At Aibonito, there is a need for speech therapy, physical therapy and occupational therapy, and a need for additional nursing support.

Many facilities, notably Aguadilla, Mayaguez and Bayamon, reported deficiencies in providing dental care to the clients. We noticed many clients with missing teeth or poorly cared for teeth during our tours.

IV. THE COMMONWEALTH FAILS TO ENSURE THAT FACILITY RESIDENTS ARE BEING SERVED IN THE MOST INTEGRATED SETTING APPROPRIATE TO THEIR NEEDS

The Justice Department has promulgated regulations pursuant to the ADA that require public entities to serve individuals in the most integrated setting appropriate to their needs.

28 C.F.R. § 35.130(d). Section 504 of the Rehabilitation Act provides similar protections. Nonetheless, the Commonwealth has failed to assess each institutionalized client to determine whether the client is residing in the most integrated setting pursuant to the ADA and Section 504.

Commonwealth officials and the facility directors agreed that many of the clients currently residing in the institutions are capable of, and would benefit from, placement in a more integrated setting. Our expert consultant found that many of the clients are high-functioning and could move to the community immediately given the proper services and supports.

For example, at Aguadilla, Lecet M.G. is 25 years old, has mild retardation, and could function well in a community setting. She can speak both Spanish and English, she can write and draw, and she has the full use of her hands, limbs and body. She told us that she would like to live outside the institution because the Aguadilla staff punish her, often locking her up in her small room. While we were touring the facility, she expressed her dissatisfaction with her current situation by attempting to elope from the institution by climbing over the barbed wire fence. At Bayamon, Rafael M.V. spoke to us in both Spanish and English, and entertained us by singing a medley of songs that he had memorized and performed with perfect execution. Similarly, at Aguadilla, a young male client sang a song he had memorized and danced for us after plugging in his own tape player and inserting the tape. Our expert consultant found that these and other clients exhibited tremendous capacity and potential to function more independently in the community.

The Commonwealth has failed to develop sufficient community services and supports that would enable clients like these to transition into a more appropriate environment. The various Commonwealth departments -- Family, Social Services, Education, Housing, Mental Health, and Health -- have failed to coordinate efforts to make this a reality.

Again, in contrast to the other facilities, Aibonito stresses the importance of the clients' involvement with the community. This facility serves only children and provides residential and educational services for them during the week. Over the years, the director has stressed that the children remain connected with the community and with their families where possible. To that end, he has taken the positive step of insisting that each child return home to his or her family or to a foster family every weekend (from Friday afternoon until Sunday afternoon). Moreover, he has actively involved the families in the lives of their children even when they are residing at the facility. Largely as a result of this, the children we observed in school appeared happy and involved. Nonetheless, the clients are not furnished with an education in an inclusive setting, where appropriate, as required by the IDEA. The facility provides the children with inclusive activities only about once a month, and they are limited to recreational, extra-curricular activities. Moreover, transportation services are inadequate to drive the clients off-site, especially those clients with physical disabilities.

V. MINIMAL REMEDIAL MEASURES

In order to remedy these deficiencies and to protect the rights of the facility residents, the Commonwealth should implement promptly, at a minimum, the following measures:

1. Safety and Adequate Shelter

The Commonwealth must provide reasonable safety to all facility residents. The Commonwealth must ensure that residents are provided with sufficient professional and direct care staff and that the residents are protected from harm and receive adequate and appropriate services. Moreover, the Commonwealth must provide adequate shelter by ensuring that the physical buildings are properly maintained in good working order, including repairing plumbing systems and leaky roofs and ridding the facilities of other environmental hazards.

2. Psychological Services, Training Programs, and Restraints

The Commonwealth must provide adequate behavioral and training programs and needed psychological services. In addition, the Commonwealth should provide an adequate array of comprehensive individualized training programs for residents developed by qualified professionals consistent with accepted professional standards to reduce or eliminate risks to personal safety, unreasonable use of bodily restraints, prevent regression, and teach residents basic self-care skills. To this end, the Commonwealth should conduct a comprehensive interdisciplinary evaluation of each resident to determine the individual's need for training and psychological services; develop and implement a professionally based, individually appropriate data collection system to measure relevant information about maladaptive behaviors; have a qualified professional develop and monitor a professionally-based, individualized training program for each resident and teach direct care staff how to implement it; and provide each individual with adequate training. The Commonwealth should procure adequate psychology consult hours to meet the needs of the residents. Moreover, the Commonwealth should alter the environment of the facilities to make them less punitive and more conducive to habilitation.

In addition, the Commonwealth must ensure that the residents are not subjected to undue restraint. The Commonwealth should ensure that bodily restraints are used only pursuant to accepted professional standards, and that they are never used as punishment, in lieu of training programs, or for the convenience of staff.

3. Psychiatric Care

The Commonwealth must provide adequate and appropriate routine and emergency psychiatric and mental health services in accordance with accepted professional standards to residents who need such services. The Commonwealth should procure adequate psychiatric consult hours to meet the needs of the residents. Psychotropic medication should only be used in accordance with accepted professional standards and only where a psychiatric diagnosis supports the need for such medication. Psychotropic medication should not be used as punishment, in lieu of a training program or for the convenience of staff. The Commonwealth should conduct a comprehensive assessment of each resident with mental illness, develop an appropriate diagnosis and an overall mental health treatment plan for these residents, and provide ongoing monitoring of the treatment, including implementing an adequate system for detecting, reporting, and responding to any drug-induced side effects of psychotropic medication. The Commonwealth should document that, prior to using psychotropic medication for behavior modification, other, less restrictive techniques have been systematically tried as part of a training program and have been demonstrated to be ineffective.

4. Medical Care

The Commonwealth must ensure that its residents receive adequate preventive, chronic, and emergency medical care in accordance with generally accepted standards of care. To this end, the Commonwealth should provide for comprehensive evaluations of all residents, identify any needed medical services, and ensure that such services are timely obtained whenever necessary to evaluate or treat the individual's medical problems. In concert with the steps above, the Commonwealth should provide adequate and appropriate routine and emergency seizure management to all individuals with epilepsy in accordance

with accepted professional standards of care. The Commonwealth should provide the full range of therapy services to meet the clients' needs, including physical, occupational and speech therapy.

5. Nursing Care

The Commonwealth must ensure that its residents receive adequate nursing care. To this end, the Commonwealth should ensure that there are a sufficient number of nurses to perform their responsibilities in keeping with accepted professional standards of care by adequately identifying health care problems, notifying physicians of health care problems, monitoring and intervening to ameliorate such problems, and keeping appropriate records of residents' health care status.

6. Wheelchairs

The Commonwealth should provide the clients who need wheelchairs with appropriate wheelchairs that meet their individualized needs, as well as appropriate professional assessments and reassessments to ensure that the wheelchairs fit the clients properly.

7. Most Integrated Setting

Appropriate professionals should evaluate each resident to determine whether the resident is being served in the most integrated setting appropriate to the resident's needs. Where professionals determine that a resident should be served in a more integrated setting, the Commonwealth should identify appropriate services and take reasonable steps to reallocate resources to meet the resident's needs. The Commonwealth should develop appropriate time lines for placing these residents in the community and develop and implement an adequate system to monitor the adequacy of community placements.

8. Recordkeeping and Staffing

The Commonwealth should establish and maintain adequate client records to ensure adequate and appropriate care, services and quality assurance for each resident at the facility. The Commonwealth should ensure that a sufficient number of professional and non-professional staff, including outside consultants, are employed to meet the needs of the residents. The Commonwealth should ensure that the staff is adequately trained to perform its duties.

* * *

We hope to be able to resolve this matter amicably and cooperatively. Nonetheless, the Attorney

General may initiate a lawsuit pursuant to CRIPA to correct deficiencies at an institution or otherwise to protect the rights of its residents 49 days after receipt of this letter. 42 U.S.C. § 1997b(a)(1). Therefore, we will contact you soon to discuss any actions you may have taken or intend to take to address the deficiencies we have identified with respect to the five facilities referenced above and at the Centro Servicios Integrales pursuant to our letter of June 11, 1997. We would like to integrate the remedial steps needed for all six facilities into one agreement to provide system-wide relief at all of the Commonwealth's mental retardation facilities.

We look forward to working with you to resolve these matters in a reasonable and practical manner. If you or your staff has any questions, please contact Richard Farano at 202-307-3116.

Sincerely,

Isabelle Katz Pinzler
Acting Assistant Attorney General
Civil Rights Division

cc: The Honorable Pedro Pierluisi
Secretary
Puerto Rico Department of Justice

The Honorable Carmen Feliciano
Secretary
Puerto Rico Health Department

Ms. Mercedes Perez Rivera
Director, Centro de Reeduccion para Adultos

Ms. Ivette Fernandez
Director, Facilidad de Cuidado Intermedio

Mr. Francisco Espada Bernardi
Director, Centro de Servicios Multiples Rosario Bellber

Ms. Nilsa Curet
Director, Centro de Servicios Multiples de Camaseyes
Director, Hogar de Grupo Las Mesas

Guillermo Gil, Esquire
United States Attorney
District of Puerto Rico