

State Budget – Testimony

Norman Wengerd, CEO

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Mr. Chairman,

My name is Norm Wengerd and I serve as chief executive officer for GentleBrook. GentleBrook provides residential and vocational services to developmentally disabled individuals in Stark and Coshocton counties. We operate six residential facilities ranging in size from 32 to 7 beds. The residents of our homes represent a wide variety of skills and abilities, but they all have one thing in common – the facility in which they reside is home. Each individual lives with friends with whom they share a rich and vibrant life. The rhythm of each life is very much like that you and I experience. They cook their meals, prepare for work, and come home to watch their favorite television program. They move about the community shopping for clothes, going to the movie, and sharing a meal at local restaurants.

Our residential clients join with more than 100 community workers in our day services programs. This integrated program provides meaningful and productive work experiences. Our program is production oriented with the manufacture of furniture and home décor items. Our products are sold through three retail locations with sales of more than \$563,000 dollars in 2014. Along with a paycheck, the workers develop a sense of pride and accomplish.

The many proposals in active consideration are driven by the recently amended definition of community based services as promulgated by the Centers for Medicaid/Medicare Services. Additionally, those advocating the downsizing of ICFs and the elimination of facility based day service programs are relying on what many consider a misinterpretation of the Olmstead decision. We would proffer that the objective of legislation should never be to restrict needed services or eliminate choice. As a society, we

should not be about the business of denying developmentally disabled persons the supports they need to address their unique needs. Indeed, an unbiased reading of Olmstead makes the case for choice and a robust service delivery system. Likewise, The Americans with Disabilities Act, which is also used as justification for the Department's position, emphasizes choice and innovation in how needs are met.

Current Executive Budget Proposals will make it difficult for ICF's to cover costs and continue with operations thereby eliminating an essential option in the service delivery system. The current proposal also calls for the elimination of facility-based day services, sometimes labeled as workshops. When these essential choices disappear, many individuals will see the quality of their lives drastically altered. They will lose the security and supports of their current home, friends, and work. They will be deprived of important life choices.

Much is made of Ohio's institutional bias. It may be instructive to take a brief moment to consider where the dollars have trended since the 2005 Martin v. Taft decision. The dollars dedicated to the development of the waiver program have increased by 175% from 2005 to 2015. The increase anticipated in this biennium budget will bolster those funds by another 31%. Over this same period of time the number of ICF beds in Ohio has decreased and the percent of increase in funding for the ICF program has been a mere 2.6%. The numbers do not support the idea of an institutional bias, but rather evidences that Ohio has made strides toward developing a balanced approach to service delivery that includes a high quality ICF program.

While much has been made about the increase in waiver funding proposed in this budget, little has been said about the provisions in the budget that will serve to decimate the ICF program. When you consider the limited increase in ICF funding over the past several years and the fact that most providers are operating on very small margins, the proposals are clearly being considered as a means to drastically reduce if not eliminate the ICF program. At its core, the proposals seek to destroy the economies of

scale inherent in the ICF model. As our elected representatives, we would ask that you do everything in your power to assure that choice is not compromised. As you consider your legislative response to the Department's proposals regarding these services, we would request that you consider the following:

- **Do not remove the grandfather clause** regarding the number of residents per bedroom. This restriction will create tremendous financial hardship for the ICFs effected. Some of these facilities serve many of the most medically fragile individuals in the ICF system...residents for whom the ICF program was originally designed to serve.
- The elimination or **downsizing of services violates the spirit of choice** which should be protected by any legislation.
- We would ask that you **reject the notion that services designed to meet the specific needs of developmentally disabled persons serve to segregate or devalue those served.** Is an older adult living in an assisted living apartment devalued because he or she is living with others who need similar services?
- We would ask that you **oppose any language that would serve to "close the front door" of any ICF.** The ICF program is a vital part of the service system. The proposal as put forward by the Department would create financial hardship for current ICF providers by eliminating beds if someone leaves an ICF to accept a waiver placement. Additionally, it creates a protracted admissions process that is clearly in place to discourage ICF placements. The potential economic impact on an ICF as they wait through the process would be significant.
- **We would ask that any attempt to eliminate day services be vigorously opposed.** While the concept of community employment should be supported, there is a significant portion of the DD community that needs the supports and security offered by day service providers.
- We would ask that the legislature carefully consider the wider financial impact of the Department's recommendations. **The proposed "flat rate" for individuals deemed as having**

“less profound disabilities” will reduce reimbursement to ICF homes making it even more difficult to cover costs. By closing beds, flat rates, and diverting admissions, it appears the Department is attempting eliminate the ICF as a viable choice.

- Be aware that **these budget proposals compromise the health, safety, and personal care needs of individuals who need ICF services.** Medically fragile and behaviorally challenged individuals placed in small four bed homes will not have the same level of service possible in larger homes where more cost effective care can be provided.

GentleBrook recognizes and supports many aspects of the Department’s vision. Living in a small four bed group home for individuals with the skills and abilities to do so is positive. Working in the community for individuals with the skills and abilities to do so is positive. Choice of service delivery is positive. Forcing individuals into a service delivery system that does not meet their needs and eliminates choice is NOT positive. As several before me have shared, please be mindful of Justice Kennedy’s warning: *It is not the ADA’s mission to drive States to move institutionalized patients into an inappropriate setting...In light of these concerns, if the principle of liability announced by the Court is not applied with caution and circumspection, States may be pressured into attempting compliance on the cheap, placing **marginal patients** into **integrated settings devoid of the services and attention necessary for their condition.***