

FROM THE CENTER OUT

An Operator-Dominated Commission

by Henry Wefing

Advocates of state regulation of day-care centers had to overcome strong resistance to gain passage of a day-care licensing law in 1971. Operators of private day-care facilities lobbied vigorously against regulation, and some legislators argued that regulating day-care centers was a step toward socialism and government control over families.

The 1971 law clearly represented a compromise. It set only minimal standards for the operation of day-care facilities, most of them having to do with basic health and safety considerations, and it provided that operators of day-care facilities would have seven of the 15 seats on the board set up to license day-care centers. "We couldn't have gotten any other bill through at the time," says Jane Patterson, who lobbied for a licensing law as a member of the Greensboro League of Women Voters and is now Assistant Secretary for Personnel and Programs in the state Department of Administration.

In terms of a compromise, the make-up of the licensing board (it became a commission after state government reorganization in 1975) appeared to be reasonable. Operators would have a strong voice, but they would not be a majority. The commission's minutes show, however, that operators have been a majority at seven of the last 13 meetings (since January, 1976) and half of the members present at three meetings. They have been a minority at only three of the meetings.

Besides the operators, five of whom must represent for-profit facilities and two of whom must represent non-profit facilities, the commission is composed of three citizens who are neither employed by nor have an interest in day-care facilities (two of them must be the parents of pre-school children at the time of their appointments) and five ex officio members—the Governor, the Commissioner of Insurance, the Superintendent of Public Instruction, the Secretary of Human Resources, and the Attorney General. (Before the reorganization of 1975, the ex officio members were the Commissioner of Insurance, the Superintendent of Public Instruction, the State Health Director, the Commissioner of Mental Health, and the Commissioner of Social Services.)

Even if the attendance of the other members were perfect, the operators would be able to exert strong influence because of their numbers and their common interest. Holding only three seats on the commission, the citizen members are not a powerful block. The representatives of several of the ex officio members, whose departments have little involvement with day-care, are not inclined to play strong roles on the commission.

One ex officio member of the commission, Mrs. Patterson, has played a strong role at recent meetings. She has two reasons for seeking to influence commission directions—she represents a governor who has expressed keen interest in day-care, and she speaks for her boss, Secretary of Administration Joseph W. Grimsley, whose department has jurisdiction over the licensing commission.

But the dominant role on the commission should be played neither by state officials nor by operators of private day-care centers. It should be played by citizen members with no financial interest in day-care facilities who are chosen to represent the interests of the public—particularly the interests of the more than 80,000 children served by day-care centers.

The existing operator-dominated commission has taken a passive approach to the task of regulating day-care centers. Prompted by a fire in a Winston-Salem nursery in December, 1975, which took the lives of two children, the 1977 General Assembly passed legislation that gave the commission power to seek injunctive relief (*continued on inside back cover*)

versation, according to Andrew Vanore. No memoranda have been prepared on the subject; Vanore had not even read the federal statute until after the appearance of the summer issue of *N. C. Insight*. Neither Vanore nor Carpenter mentioned the Attorney General's order to research the FOIA matter when they were interviewed in connection with the magazine article, though both interviews involved extensive discussions about citizen access to state government documents. Edmisten, who was not interviewed for the article, insisted that his interest in a state FOIA had predated the summer magazine, but did concede that the article had "intensified it."

Has the SBI become a State Bureau of Intrusion? Were state agents watching that day in 1966 when students and professors listened to a man banned from using public property to speak only because he had taken the Fifth Amendment before a congressional committee? It will be difficult to know, even if a state freedom of information act is passed by the upcoming General Assembly. Not only did the Attorney General reveal the previous existence of SBI files on campus protestors, he also disclosed that such files have been destroyed by agents in a systematic "housecleaning" operation.

Whose names appeared in these files?

What was said in them?

What use was made of these records?

To what other police agencies were they sent?

We may never find out—but the people of North Carolina should have the means to try.

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reliable information was also lacking on the logistics and costs of collecting waste oil and distributing re-refined oil.

Although it is apparent that these uncertainties still exist, there was no hint of them when the governor announced the purchase of the plant in August, 1977. At that time, the press release from his office flatly stated that "the quality of the recycled product is comparable to virgin oil" and that "in five years, the plant will have paid for itself." If those statements had been correct when they were made, there would be no reason to ask the federal government now for \$1.6 million to prove or disprove them.

All of this suggests that the state's \$1.4 million investment in the Phillips plant is a speculative venture. It may indeed pay off. But it ought to have been presented for what it was and not as a sure-fire solution to waste oil disposal problems.

—Mercer Doty

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that gave the commission power to seek injunctive relief to close down day-care centers where hazardous conditions exist. The campaign to secure passage of that legislation was led by The Children's 100, a statewide advocacy group, not by the licensing commission.

The commission has failed to lobby aggressively for increased funding for the Office of Child Day-Care Licensing. Lack of sufficient funds has prevented the office from issuing an AA license, a license designed to recognize day-care centers that offer quality programs and to encourage centers to upgrade programs, and from developing a comprehensive system for inspecting day-care centers. (As the result of a supplemental appropriation approved by the legislature last summer, seven years after the licensing law was passed, the office has been able to hire sufficient staff to make annual inspections possible.)

A move to increase consumer representation on the licensing commission will have strong support from within the Hunt administration. The Governor favors increasing the number of consumers, although he has not yet recommended a specific change in the make-up of the commission. The Governor's Advocacy Commission on Children and Youth has recommended that parents of preschool children and other citizens with no financial interests in day-care have at least eight seats, that operators have five seats, and that the remaining two seats be filled by representatives appointed by the Governor and the Secretary of Human Resources, "the two state officials with the greatest responsibilities for day-care."

The advocacy commission's recommendation is a good one. The composition it suggests would give citizens with no special interests the majority voice on the commission. At the same time, it would give operators of day-care facilities a strong voice. And it would result in removing from the commission representatives of state departments that have little to do with the operation of day-care facilities.

An effort to increase the number of citizen members and decrease the number of operators on the day-care licensing commission could be seen as part of a major thrust of the Hunt administration: to increase consumer representation on regulatory bodies. With strong backing from the governor, a bill to alter the composition of the commission would have a good chance of winning approval from the 1979 General Assembly. □

