

## Editorial page

### Our opinion

# Who guards the guardians?

Should an agency that has custodial care of a human being also have more sweeping control over the individual's life?

The United Cerebral Palsy (UCP) Associations of New York State, which provide care for 450 patients at the Staten Island Developmental Center and for hundreds more elsewhere, seems to believe the answer is yes. Over the past year, UCP has gone into court and obtained full legal guardianship of 47 of its Staten Island patients.

But UCP's action raises profound legal and moral questions — questions that in some cases appear not to have been considered and in other cases apparently were sidestepped as the agency requested and was granted full parental authority over those placed in its care.

From a legal standpoint, it certainly is desirable that individuals whose parents and other immediate family members are deceased or not traceable have court-appointed guardians. That's especially important in the case of retarded individuals and others unable to make competent decisions for themselves.

There are, however, serious concerns as to whether an agency responsible for providing custodial care — in this case UCP — could be trusted or even expected to exercise full parental authority with the patient's best interests in mind. As one attorney for the New York Civil Liberties Union has observed, there's the danger an organization given full control over its charges' lives might make decisions that favored its own interests over those of its patients.

Important as such concerns are, they apparently were not considered in the course of judicial review of the guardianship applications brought by UCP over the past year. Indeed, neither the Mental Health Information Service nor the Consumer Advisory Board — a

watchdog group established under the Willowbrook Consent Decree — was informed by UCP of its efforts to be declared the legal guardian of some patients.

The fact that UCP notified neither group of its action even though it was required to do so by law would seem to raise significant doubts about both UCP's motives for desiring parental authority over its patients and the legality of the guardianships that have been approved.

Moreover, questions have been raised as to the adequacy of UCP's attempts to locate the parents of some of its patients before initiating legal action to be appointed guardian of those individuals. Performance of a thorough search by UCP was particularly important since, by all appearances, the Surrogate's Court made no attempt to verify any information provided by the organization.

Some of the important issues not previously considered in the course of UCP's guardianship bids will be taken up at a special court hearing later this month. It is essential that the full implications of the matter be thoroughly explored and that new procedures be implemented to guarantee that corners no longer can be cut by organizations or individuals seeking guardianship powers.

UCP may have been acting with the utmost sincerity in seeking parental authority over its patients. Its efforts have, however, highlighted the fact that some steps in the guardianship process are subject to circumvention, if not outright abuse.

In the matter of an individual's rights, there is no room for abuse. If necessary, the Legislature should step in to make certain that the guardianship process truly serves those who need guidance and direction, and that assignment of responsibility for an individual's life be regarded as the grave affair it is.