FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY-NORTH SUBURBAN REGION

REPORT 23-100-9008
LINDEN OAKS BEHAVIORAL HEALTH

The North Suburban Regional Human Rights Authority (HRA) reviewed complaints regarding the treatment of an adult patient at Linden Oaks Behavioral Health in Naperville. Allegations were that the provider violated recipient rights in the areas of intake and discharge, medication administration and visitation, and failed to administer the recipient's active psychotropic medication for the duration of his stay in the hospital. Substantiated findings would violate protections under the Mental Health and Developmental Disabilities Code (405 ILCS 5).

Part of Edward-Elmhurst Health, Linden Oaks is a 108-bed inpatient facility that provides mental health and addiction treatment to adolescents and adults, including those aged sixty and older. The HRA discussed the matter with treatment, administrative and legal representatives from the hospital. Relevant policies were reviewed as were sections of the patient's record with authorization.

FINDINGS

Intake and discharge-

This complaint alleges specifically that the patient was coerced into signing a voluntary admission application. The staff reportedly threatened him with court if he did not sign himself in and failed to explain resulting involuntary admission rights. It was also suggested that as a voluntary patient, he was not advised of his right to request discharge in writing and that his verbal requests for discharge were ignored.

According to the record, the patient was admitted to Linden Oaks on the night of October 13th with severe major depression. A social worker completed a crisis evaluation and upon physician consultation recommended inpatient acute care with close observation. A voluntary application along with rights forms were subsequently signed. The application from the record included the patient's and the social worker's signatures, and it verified the patient's suitability for the admission, his capacity to consent to the admission, his understanding that he could request

discharge in writing at any time and that the facility would discharge him within five business days or initiate commitment proceedings.

The same social worker noted during the intake session that the patient expressed reluctance to staying for treatment but then agreed. There were no indications from the documentation that he finally objected to the voluntary route or was unwilling to sign the application an hour later. A nurse's admission summary referenced the patient's cooperation shortly thereafter and quoted him to say that the reason for admission was that he had crippling anxiety and struggled with suicidal thoughts and finding purpose in life.

The social worker remembered the patient and explained that as in this case, she always covers the voluntary application and other rights related forms top to bottom, including discharge rights, and ensures the patient understands the five-day rule. She verifies capacity to consent by assessing orientation to time and date as well as the ability to grasp the discharge process. She would never ask a patient to sign a voluntary application if he or she lacked capacity and always gives opportunities for questions. The social worker said she had no written record of the physician wanting a petition completed although the involuntary subject may have been presented in explanation of the admission options. At no time did she coerce the patient into signing the voluntary or threaten him with going to court if he refused.

There were three instances when the patient requested discharge as documented in the record. The first on the 14th where he was at the nurses' station demanding to see his doctor and raising his voice, "I don't fucking belong here". The next two on the 15th when in the morning a nurse noted the patient to be "…hyper focused on discharge", and he approached her "…demanding a new psychiatrist and discharge." Then, later that afternoon per a psychiatry note, "He feels bad because he 'gives the nurses a hard time' and he has been irritable, raised his voice…swearing because he is not being discharged. …. He is angry that he cannot leave the hospital…." The record does not indicate whether the patient was offered discharge request forms until later that night when police arrived after a call from the patient's mother claiming he was being held against his will. A nurse explained the situation to the policemen and then offered the patient a discharge request form which he declined to sign, saying instead that he would stay but wanted discharged as soon as possible. He was discharged to his parents' home on the 16th, three days after admission.

We spoke with the psychiatrist who agreed that these examples constituted discharge requests. She explained that any clinical staff can offer patients to sign a five-day (discharge request) form upon request. She would be notified of any completed forms at which time she begins to evaluate for safety. The petitioning, involuntary process might be initiated if the patient is not ready. Patients who have completed five-day forms are otherwise discharged at the earliest appropriate times, within five business days. Regarding the two nurses' entries, the hospital reported on follow up that the nurses had no recollection of this patient and the circumstances. Both stated that if he did request discharge, it would have been their custom and practice to offer the patient the 5-day discharge documents, and they would have reviewed and signed the documents if he indeed wanted to be discharged.

CONCLUSION

Linden Oaks' voluntary admission policy (LOH-CLIN 093) states that an adult with capacity to consent may voluntarily admit him/herself by completing an application, if suitable for the admission. Upon admission, staff will inform the patient of their rights and give copies of the application and rights of individuals receiving services. It defines a patient's capacity as understanding they are in a mental health facility and may request discharge at any time, in writing, and that discharge is not automatic. The policy lines up with the Mental Health Code which adds that the application shall contain a statement in bold-faced type that a recipient may be discharged at the earliest appropriate time not to exceed five days, excluding Saturdays, Sundays and holidays after giving written notice of his desire to be discharged. A petition and two certificates are to be court-filed if the recipient is not discharged. This right must be communicated orally to the recipient and a copy given to the recipient and to anyone who accompanied the recipient to the facility. (405 ILCS 5/3-401; 5/3-403).

> *"No physician, qualified examiner, or clinical psychologist shall state to any person that involuntary admission may result if such person does not voluntarily admit himself to a mental health facility unless a physician, qualified examiner, or clinical psychologist who has examined the person is prepared to execute a certificate under Section 3-602 and the person is advised that if he is admitted upon certification, he will be entitled to a court hearing with counsel appointed to represent him at which the State will have to prove that he is subject to involuntary admission."* (405 ILCS 5/3-402).

Under the Code, the adult patient seeks a voluntary admission and is approved if determined suitable and to have consent capacity, meaning he understands the unique discharge process, which, by documentation and staff statements, was achieved in this case without evidence of coercion or threat of court action. There is also no evidence that an involuntary admission was even proposed or that advising of those related rights was therefore necessary. That part of the complaint is <u>unsubstantiated</u>. However, the patient clearly expressed his desire to be discharged on at least three occasions before his chance to complete a written request was offered according to the documentation, and a rights violation is <u>substantiated</u>.

RECOMMENDATIONS

-Require all appropriate staff to follow through with offering discharge request forms whenever a patient makes a verbal request to be discharged. (405 ILCS 5/3-401; 3-403). Consider training on what constitutes a discharge request.

-Document all offers and outcomes.

Medication administration and the patient's active (home) medications-

This part of the complaint states that education and a capacity determination for consent to administer psychotropic medications were not completed and that the patient was not given the psychotropic medications he was taking at home.

Medication administration records showed that Lorazepam, Haldol, and Trazodone as needed and Vilazodone daily were ordered on the patient's first night there, shortly after admission, and doses of Lorazepam and Trazodone were given at that time. A "New Psychotropic Medication Knowledgement [sic] Document" listed the four medications and included the patient's and a nurse's signatures from that night as well. The form did not indicate whether verbal or written education had been provided or whether the patient had decisional capacity to consent to them, although a care plan goal verified that a nurse met with him to discuss purpose, dose, frequency, side effects and benefits of all four medications, however no mention of that being done in writing.

The psychiatrist's clinical notes referenced her visit with the patient and their discussion of various treatments on the morning following admission. Multiple options were presented such as augmenting Vilazodone with a trial of Abilify to which the patient agreed. The psychiatrist proceeded to order Abilify and promptly covered risks and benefits and the need to check baseline labs. Abilify was added to the new psychotropic medication form along with signatures and was started the next day. There were no capacity statements or verification that written education was provided according to the record.

Vilazodone was listed as a home medication. It was reordered at Linden Oaks shortly after admission but held and not started until the 15th. Entries on the medication administration record in the meantime noted the Vilazodone to be "patient supplied". A prescription for Vilazodone was included among his discharge orders.

The psychiatrist explained that she covers psychotropic medication risks, benefits, side effects and alternatives for those proposed and then documents if the patient agrees with taking them. Written information on the medications can be provided if patients request, but she offers the information whenever they have a lot of questions. She will comment in the record when patients do not have decisional capacity. Regarding this patient's home psychotropic, Vilazodone was continued but delayed because it was not on the hospital's pharmaceutical formulary and the family supplied the medication until Linden Oaks could provide it on the 15th.

CONCLUSION

The hospital's Informed Consent for Psychotropic Medication policy (LOH- CLIN 108) states that the physician obtains and documents informed consent for all psychotropic medications and the nurse provides written educational materials and documents receipt. The policy defines "decision capacity" but does not include the Code's requirement for physicians to enter capacity statements. On admission, nurses are to inquire about any current medications a patient is taking, which a physician may continue in the hospital.

The Code requires a recipient to be provided adequate and humane care and services pursuant to an individual services plan. (405 ILCS 5/2-102a). And,

> *"If the services include the administration of electroconvulsive therapy or psychotropic medication, the physician or the physician's designee shall advise the*

recipient, in writing, of the side effects, risks, and benefits of the treatment, as well as alternatives to the proposed treatment, to the extent such advice is consistent with the recipient's ability to understand the information communicated. The physician shall determine and state in writing whether the recipient has the capacity to make a reasoned decision about the treatment. The physician or the physician's designee shall provide to the recipient's substitute decision maker, if any, the same written information that is required to be presented to the recipient in writing. If the recipient lacks the capacity to make a reasoned decision about the treatment, the treatment may be administered only (i) pursuant to the provisions of Section 2-107 or 2-107.1 [emergency or court order]…." (405 ILCS 5/2-102a-5).

This record demonstrates that education was partly achieved via oral discussion on each psychotropic medication proposed and prescribed, but the hospital failed to ensure, at least by documentation, that they followed up with policy and Code-required written drug information. The psychiatrist reported that written materials are provided on patient request. A violation of Linden Oaks' policy and the Mental Health Code is substantiated. The record also failed to show evidence of any physicians' written capacity statements as required under the Code's informed consent process, which the psychiatrist reported only to be done when capacity is lacking. A violation of the Mental Health Code is substantiated. The patient was never denied his home psychotropic medication which was continued during his stay in the hospital. He was allowed to take his own supply until the hospital's pharmacy approved and received it- an adequate and humane response to the delay. A rights violation is unsubstantiated.

RECOMMENDATIONS

-Retrain physician and nursing staff on the hospital's policy and the Code's informed consent processes, stressing patient receipt of written psychotropic medication information and completed decisional capacity statements. (LOH- CLIN 108 and 405 ILCS 5/2-102a-5).

-Revise policy to include the Code's decisional capacity statement (LOH- CLIN 108 and 405 ILCS 5/2-102a-5).

SUGGESTION

-the "New Psychotropic Medication Knowledgement Document" can be revised to a consent form that verifies written drug education and decisional capacity.

Visits-

This complaint alleges that policy limiting visits to one hour per week restricts patient rights.

A nursing note referred to an encounter with the patient's family member who complained of the short visiting time, which the nurse confirmed was on Tuesdays from 18:30 to 19:30. The staff we interviewed said that Covid restrictions were in place at that time which entailed various

safety precautions including visitor screenings and number control in consideration of the 108-bed facility. Previous visiting hours were for an hour on most units, an additional half hour on some units, but with options for several days per week. They were looking to expand visit times as a pilot run on several units at the end of 2022, and presently hope to implement an appointment-based one hour, two times per week arrangement. Scheduling would allow for controlling large crowds. They expect this to be in place hospital-wide by August 20, 2023, the time of this writing. The HRA followed up with the facility to see if this was accomplished. We were told that as of August 21, all units went to visiting by appointment, with four to six-day options per week. Visiting hours are scheduled around non-group times and the hospital allows for special requests as needed. We were provided a copy of the new schedule, which verified what was described.

CONCLUSION

Linden Oaks' Visiting policy (LOH- CLIN 092) states that visiting hours are scheduled by each program, but the hours are not listed. Additional hours may be arranged through a physician. Any restriction to visiting is based on the patient's clinical needs, unit policy and hospital visiting practices. Mental Health Code-required written notices for restricted visits are not mentioned in the policy.

Pursuant to the Code,

> *"…a recipient who resides in a mental health…facility shall be permitted unimpeded, private, and uncensored communication with persons of his choice by mail, telephone and visitation.*
> ***(a)** The facility director shall ensure that correspondence can be conveniently received and mailed, that telephones are reasonably accessible, and that space for visits is available. ….*
> ***(b)** Reasonable times and places for the use of telephones and for visits may be established in writing by the facility director.*
> ***(c)** Unimpeded, private and uncensored communication by mail, telephone, and visitation may be reasonably restricted by the facility director only in order to protect the recipient or others from harm, harassment or intimidation, provided that notice of such restriction shall be given to all recipients upon admission."* (405 ILCS 5/2-103).

> "*Whenever any rights of a recipient of services that are specified in this Chapter are restricted, the professional responsible for overseeing the implementation of the recipient's services plan shall be responsible for promptly giving notice of the restriction or use of restraint or seclusion and the reason therefor to:*
> ***(1)** the recipient and, if such recipient is a minor or under guardianship, his parent or guardian;*
> ***(2)** a person designated under subsection (b) of Section 2-200 [405 ILCS 5/2-200] upon commencement of services or at any later time to receive such notice;*
> ***(3)** the facility director;*
> ***(4)** the Guardianship and Advocacy Commission, or the agency designated under "An Act in relation to the protection and advocacy of the rights of persons with*

developmental disabilities, and amending Acts therein named", approved September 20, 1985 [405 ILCS 40/0.01 et seq.], if either is so designated; and
***(5)** the recipient's substitute decision maker, if any.*
The professional shall also be responsible for promptly recording such restriction or use of restraint or seclusion and the reason therefor in the recipient's record." (405 ILCS 5/2-201).

"The Secretary of Human Services and the facility director of each service provider shall adopt in writing such policies and procedures as are necessary to implement this Chapter. Such policies and procedures may amplify or expand, but shall not restrict or limit, the rights guaranteed to recipients by this Chapter." (405 ILCS 5/2-202).

Hours were necessarily limited to once per week for Covid precautions at the time of this hospitalization, which was an obvious effort to protect, not restrict patients. Although current visiting hours are limited to one hour, Linden Oaks has expanded the options to several days which can be scheduled for added visiting opportunities. A rights violation is unsubstantiated.

SUGGESTIONS

-Consider expanding visit times to 1.5 to 2 hrs. at least on weekends given the policy of having to fill out confidentiality waivers, get a visitor's sticker, put all belongings in lobby lockers, be screened and pass through metal detectors before any visit occurs.

-Be sure to inform families and other potential visitors about the new hours, the need to schedule visits and that additional times may be arranged upon request.

-Linden Oaks' policy allows visits to be restricted for clinical needs while the Code states only to prevent harm, harassment or intimidation. (405 ILCS 5/2-103). The policy language should be clarified as clinical condition on its own may not meet the Code's standard.

-The newly established visiting schedule should be set to written policy. (405 ILCS 5/2-103; 5/2-202).

-Restriction notice requirements should be added to visits and phone use policies. (405 ILCS 5/2-201).

NorthShore | Edward-Elmhurst HEALTH

November 17, 2023

VIA CERTIFIED MAIL AND EMAIL
Teri Steinberg, Chair
Human Rights Authority of the Illinois Guardianship and Advocacy Commission
North Suburban Region
9511 Harrison Avenue, W-335
Des Plaines, IL 60016

Re: **Linden Oaks Behavioral Hospital's Response to HRA 23-100-9008**

Dear Ms. Steinberg:

Please accept this letter as Linden Oaks Behavioral Health's ("Linden Oaks") response to Human Rights Authority-North Suburban Region ("HRA") Report #23-100-9008 ("Report"). Linden Oaks appreciates the opportunity to review this matter and respond to the Report by identifying where Linden Oaks is making improvements to its polices and processes per HRA's recommendations and suggestions.

I. Policy & Process Improvements

A. In its Report, the HRA provided the following recommendations:

1. Require all appropriate staff to follow through with offering discharge request forms whenever a patient makes a verbal request to be discharged. (**405 ILCS 5/3-401; 3-403**).
    a. Consider training on what constitutes a discharge request.
    b. Document all offers and outcomes.

2. Retrain physician and nursing staff on the hospital's policy and the Code's informed consent processes, stressing patient receipt of written psychotropic medication information and completed decisional capacity statements. (*LOH-CLIN 108* and **405 ILCS 5/2-102a-5**).

3. Revise policy to include the Code's decisional capacity statement *(LOH-CLIN 108* and **405 ILCS 5/2-102a-5**).

B. In response to the above recommendations in the Report, Linden Oaks's corrective action plan includes the following:

1. Linden Oaks has developed and is in the process of implementing additional training for all appropriate staff regarding offering the discharge request form when a patient verbally requests discharge. Further, training will also include ensuring that all offers and outcomes related to such a request are properly documented. All training accurately aligns with **405 ILCS 5/3-401; 3-403**.

2. Linden Oaks previously revised policy, processes, and staff training to accurately align with **405 ILCS 5/2-102 (a-5)** and responded to the HRA with such revisions, which the HRA accepted.

3. Linden Oaks previously revised policy to accurately align with **405 ILCS 5/2-102a-5** and responded to the HRA with such revisions, which the HRA accepted.

II. HRA Suggestions

In its Report, the HRA made several suggestions related to Linden Oak's visiting policy and processes. All suggestions will be reviewed and considered to improve patient and visitor experience, and to ensure continued alignment with the mental health code.

In conclusion, Linden Oaks Behavioral Health understands the importance and seriousness of providing quality mental health services to its patients, in addition to providing a positive experience to the patient's support persons. Linden Oaks Behavioral Health appreciates the opportunity to discuss these issues with the HRA and to use the information learned from the Report to improve hospital policies and processes, to ensure continued quality care for its patients, and to continue compliance with Illinois law. Linden Oaks Behavioral Health will continue to train, monitor, and review its policies, practices, and procedures to provide the highest level of care.

Sincerely,

Gina Sharp

Gina Sharp
President, Linden Oaks Hospital

NORTH SUBURBAN REGIONAL HUMAN RIGHTS AUTHORITY

HRA CASE NO. #23-100-9008

PROVIDER: NORTHSHORE - EDWARD-ELMHURST HEALTHCARE

Pursuant to Section 23 of the Guardianship and Advocacy Act (20 ILCS 3955/1 *et seq.*), we have received the Human Rights Authority report of findings.

IMPORTANT NOTE

Human Rights Authority reports may be made a part of the public record. Reports voted public, along with any response you have provided and indicated you wish to be included in a public document, will be posted on the Illinois Guardianship and Advocacy Commission Web Site. (Due to technical requirements, your response may be in a verbatim retyped format.) Reports are also provided to complainants and may be forwarded to regulatory agencies for their review.

We ask that the following action be taken:

__X__ We request that our response to any recommendation/s, plus any comments and/or objections be included as part of the public record.

_____ We do not wish to include our response in the public record.

_____ No response is included.

Gina Sharp

Gina Sharp

President, Linden Oaks Hospital

11/17/2023

November 17, 2023