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SPRINGFIELD REGIONAL HUMAN RIGHTS AUTHORITY

REPORT OF FINDINGS

HRA CASE # 08-050-9006

ANDREW MCFARLAND MENTAL HEALTH CENTER

April 29, 2008

Case summary: The HRA substantiated the allegation that Andrew McFarland Health Center did not notify the guardian regarding treatment planning and review. Part II of the allegation is not substantiated. The HRA's public record on this case is provided below. The provider's response immediately follows the report.

INTRODUCTION

The Springfield Regional Human Rights Authority (HRA) has completed its investigation of complaints at Andrew McFarland Mental Health Center (Center), a state-operated mental health facility that has 125 inpatient beds in Springfield. The allegations being investigated are that the Center did not include a guardian in treatment and discharge planning and that the Center may have violated the consumer's confidentiality.

If substantiated, the allegations would be violations of the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102 a. and 5/2-200), the Probate Act of 1975 (755 ILCS 5/11a-23), the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110), and Center Procedures.

Specifically, the allegations state that the Center did not notify and include a consumer's guardian in a treatment team meeting that included discussion regarding the administration of medication, visitation, and discharge. Part 2 states that the Center may have violated the consumer's confidentiality when it allowed a person, who was not a Center employee, to speak with and influence the consumer.

METHODOLOGY

To pursue the investigation, an HRA team visited the Center and interviewed the Health Information Management Director (HIMD) and the Social Worker who serves as the consumer's Treatment Plan Coordinator (Coordinator) and with consent, reviewed sections of the consumer's record. The HRA reviewed correspondence from the

consumer's guardian. The Administrative Assistant provided portions of the Center's policies that apply to this investigation.

MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE

Pursuant to the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102):

> (a) A recipient of services shall be provided with adequate and humane care and services in the least restrictive environment, pursuant to an individual services plan. The plan shall be formulated and periodically reviewed with the participation of the recipient to the extent feasible and the recipient's guardian…. In determining whether care and services are being provided in the least restrictive environment, the facility shall consider the views of the recipient, if any, concerning the treatment being provided.

PROBATE ACT

> Pursuant to the Illinois Probate Act, the personal guardian shall procure and make provision for the ward's support, care, comfort, health and maintenance. (755 ILCS 5/11a-17). In doing so, "Every health care provider…has the right to rely on any decision or direction made by the guardian…that is not clearly contrary to the law, to the same extent and with the same effect as though the decision or direction had been made or given by the ward. (755 ILCS 5/11a-23 b).

ANDREW MCFARLAND PROCEDURAL GUIDE

According to the Principles and Requirements of Treatment Planning:

> The treatment coordinator assigned to the patient is responsible for:
>
> A. Assuring that the plan is comprehensive and individualized based upon the assessment of the patient's clinical needs, strengths and disabilities.
>
> B. Ensuring that the contents of the plan reflect current treatment.
>
> C. Discussing treatment issues and plan development with the patient throughout the hospitalization.
>
> D. Providing notice of treatment planning meeting and any other important treatment issues to the guardian, community mental health center, and others as requested by the patient.
>
> 3. The community mental health center is responsible for aftercare. The patient, family and, if applicable, the guardian shall be active participants

in the discharge planning process and treatment planning process.

4. Patients are encouraged to involve their family or support system to participate in treatment planning. Other parties/social service agencies may also be involved in the treatment planning process with the consent of the patient.

PART 1 FINDINGS

Part 1 of the allegations states that the Center did not notify a guardian regarding a planned treatment team meeting and treatment plan review and that the staff are reluctant to communicate with the guardian when she requests information such as the results of blood work.

The guardian said that the Center plans and conducts treatment plan meetings and plan update meetings without offering appropriate notification or encouraging her and the consumer to participate in the planning. According to the guardian, there have been some improvements with recent communications; however, she was advised by a mental health technician that a meeting was scheduled for Thursday, and as of 5 o'clock on Monday, she had not received notification from Center staff.

According to the HIMD, it is the Center's policy to notify guardians regarding planned treatment meetings.

The Coordinator stated that she began working with the consumer in July 2007 and since that time, based on her recollection; the guardian has attended two or three treatment plan reviews. She explained that she attempts to keep the lines of communication with the guardian open and that she (the guardian) has received appropriate notification of each Treatment Plan Review. According to the Coordinator, she makes handwritten notes during treatment plan meetings and those notes are typed by secretarial staff and returned to her for review and placement in consumer's records. The Coordinator said that when she receives the typed treatment plan reviews, if the guardian had attended the meeting, she must make arrangements to have that person sign the plan update.

Regarding the Center providing blood work and other medical testing results, the Coordinator stated that when she receives information she shares it with the guardian.

The Progress Note Section states:

> 08/16/07: [Social work note] Message left for [the guardian] regarding the Treatment Plan Review on Tuesday 08/21/07 at 9:30 a.m.

The Treatment Plan dated November 5, 2007 states:

> The guardian is active in treatment with identification of treatment needs and purpose of treatment planning. [The guardian is not listed as a

participant and did not sign the Plan.]

The HRA reviewed Monthly Treatment Plan Reviews:

> 05/24/07: The guardian is not mentioned in the review or listed as a participant; however, she signed the document on June 7, 2007.
>
> 06/21/07: [The consumer]'s guardian was involved in treatment plan via teleconference along with [a community provider]. Discussed current level of functioning with increased ability noted in verbalization of his thoughts. His is able to state what he needs without getting lost in thought… The Clinical Nursing Manager was able to answer questions posed by the guardian concerning medications and lab tests.

Review of the Treatment plan reviews for 07/19/07, 08/16/07 and 09/13/07 reveals that the guardian was not listed as a participant, nor did she sign the updated reviews. The record did not contain information verifying if the guardian was invited to the meeting.

PART 1 CONCLUSION

Pursuant to the Andrew McFarland Mental Health Center's Policy, the treatment Coordinator assigned to the patient is responsible for providing notice of treatment planning meeting and any other important treatment issues to the guardian, community mental health center, and others as requested by the patient. Four of five treatment plan reviews were conducted without noting the guardian's notification and participation. The allegation that the Center did not notify the guardian regarding treatment planning and review is substantiated.

PART 1 RECOMMENDATION

To ensure compliance with Mental Health Code requirements for guardian inclusion and policy requirements for guardian notification, the HRA recommends that the Center provide consumers and their guardians or designated others with documented notification of planned meetings.

Review treatment plans with guardians who are unable to attend planning meetings and ask for their signatures to verify they have reviewed.

PART 1 SUGGESTION

The HRA suggests that the Center document on the treatment plan update whether guardian or others were notified but failed or declined to attend.

PART 2 FINDINGS

Part 2 states that the Center violated the consumer's confidentiality when it allowed a person, who was not a Center staff person, to speak with and influence the consumer.

A Center staff person allegedly told the guardian that in June 2007 a nurse, possibly from a local hospital, visited the Center and was in a meeting with the consumer without the guardian's knowledge. The guardian said that she believed that person told the consumer that he should not take Clozaril and, instead he should take Depakote. Since that time, the consumer was questioned and put under unnecessary stress. He has refused Clozaril and has had escalated inappropriate behaviors. According to the guardian, the consumer is impressionable and he may be easily influenced by someone who showed interest in him.

The HIMD stated that student nurses participated in educational "floor" training during June 2007; however, discussing medication with patients is not a part of the instruction regimen. She said that the students are constantly in the presence of staff, and that any unusual or inappropriate communications would be reported in the progress notes. The HIMD noted that student nurses are trained prior to any patient contact regarding confidentiality. The HIMD concluded that any discussion between a patient and nursing students does not violate the patient's confidentiality.

The Coordinator stated that the consumer modulates from demonstrating appropriate behavior and cooperating with treatment to episodes of agitation and hostile behavior during which he refuses cooperate with treatment.

The Coordinator stated that at the end of August the consumer asked to have his medication changed from Clozaril to Depakote.

The Progress Notes state:

> 08/15/07: [The consumer] is exhibiting bizarre behavior and refused all a.m. meds [medication] except Depakote which he took with much bizarre comments…. the consumer demonstrated inappropriate behavior.
>
> 08/16/07: Psychiatric Note: The patient is seen. He refused to take his Clozaril today. He is agitated. Stating he has been on this medication for a long time. He states he feels he could not talk when he is on Clozaril. He does not want [to] talk about other things than his meds. I agree that if he continues to refuse Clozaril I will slightly decrease his Clozaril. The patient states that it is 'ok' with him.

The HRA notes that inappropriate and "bizarre" behaviors are documented through and including January 2008.

Monthly Individual Treatment Plan Reviews state:

> 09/13/07: …. [The consumer] requested [the Physician] to decrease his Clozaril and had requested that the medication is discontinued. [The consumer] had refused his Clozaril on at least two occasions since his last

> review. He eventually agreed to having the Clozaril lowered incrementally rather than discontinuing it altogether. He insists that the only medication that is beneficial to him is the Depakote. It has been noted since the last review, that [the consumer] has demonstrated some signs of decomposition. His speech has become more pressured, thoughts are more disorganized and he clearly becomes agitated quickly due to refusing some of his doses of Clozaril. He has been stomping his feet, walking closely next to peers in what appears to be disregard for appropriate space/boundaries…. [The consumer] also had a home visit prior to his request to decrease or discontinue Clozaril. Although his passes with his family have been unremarkable for incidents of aggression, it is noted that he returned from his visit and was in an agitated state, taking some days to his base line functioning.

According to the Review Signature sheet, the guardian was not present at this meeting.

There was no documentation in the record that the consumer had conversations with a nurse who is not a Center employee or that any conversation influenced his decisions to refuse medication.

STATUTES AND RULES

Pursuant to the Mental Health and Developmental Disabilities Confidentiality Act:

> (a) All records and communications shall be confidential and shall not be disclosed except as provided in this Act. (740 ILCS 110/3).

Pursuant to hospital licensing standards under the Illinois Compiled Statutes:

> (a) Every hospital licensed under this Act shall develop a medical record for each of its patients as required by the Department by rule.
>
> (b) All information regarding a hospital patient gathered by the hospital's medical staff and its agents and employees shall be the property and responsibility of the hospital and must be protected from inappropriate disclosure as provided in this Section. (210 ILCS 85/6.17)

PART 2, CONCLUSION

Based on the documentation and statements obtained, the allegation that the Center violated the consumer's confidentiality is not substantiated. That is, there is no evidence that the consumer was influenced by a conversation with a person who is not a Center employee.

RESPONSE

Notice: The following page(s) contain the provider response. Due to technical requirements, some provider responses appear verbatim in retyped format.

- The box on the treatment plan that indicates involvement by the guardian will be made more specific so that it will indicate if the guardian was invited but unable to attend, if the guardian was able to review the plan and sign at a different time, or if the guardian was present for the meeting.

- A general training session concerning guardianship, importance of involvement of guardians in all aspects of treatment, and completeness of documentation is currently being scheduled for all social workers.

- The Treatment Services Administrator met with all Clinical Directors of each unit to review the importance of guardianship involvement, the need to have frequent and regular contact with guardians and the importance of documenting any and all guardian involvement in the medical record.

Again, thank you for your continued efforts to assist McFarland Mental Health Center in providing the best services possible.

Sincerely,

Karen Schweighart
Hospital Administrator