FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY-NORTHWEST REGION

REPORT 08-080-9002
ROCKFORD VETERANS AFFAIRS PRIMARY CARE CLINIC

Case Summary: The Authority did not substantiate the complaint as presented; the public record on this case is found below. A response is not included.

INTRODUCTION

The Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving complaints of a possible rights violation at the U.S. Department of Veterans Affairs Primary Care Clinic in Rockford. It was alleged that the facility initiated a mental health recipient's involuntary detention without cause and authority.

If substantiated, the allegation would be a violation of the recipient's right to adequate and humane care and services, which are protected under the Mental Health and Developmental Disabilities Code (405 ILCS 5).

The clinic provides comprehensive medical and behavioral care to veterans in northern Illinois and southern Wisconsin. It is one of the area's largest mental health providers with approximately 2,000 active clients. The William S. Middleton Memorial Veterans Hospital in Madison, Wisconsin is the clinic's parent facility.

To pursue the matter we visited the clinic and interviewed social work staff as well as local and regional administrators. Program policy relevant to the issue was reviewed, and sections of the recipient's record were reviewed upon written authorization.

COMPLAINT SUMMARY

It was alleged that the recipient was forced from her home and taken to a hospital because her social worker at the clinic lied to police officers and told them she had a gun. The complaint states that instead, the recipient had called the social worker earlier that day to talk about her frustration with services and asked her what she would do if "down the road I got a gun and killed myself"; carrying out a wellbeing check was reportedly unnecessary and embarrassing.

FINDINGS

The social worker named in the complaint stated during our visit that she received two

voicemails from the recipient on May 22, 2007. She called her back not knowing exactly what her concerns were and left a message to return the call. She said that the recipient left some troubling statements on another voicemail later that day, something to the effect that the only way she would get some attention is to hurt herself. She added that the recipient could often be angry and frustrated, but this was the first time she heard threatening statements from her.

An administrator told us that the social worker approached her with her concerns and played back the voicemail recordings. They both believed it was necessary to check on her given that she was not returning calls. According to another administrator at our meeting, she heard the recordings too and said that she would have made the same decision.

We learned that the recordings were no longer stored after some time had passed, so we refer to the clinic's documentation to support these accounts. The social worker's entry on the morning in question stated that she received two calls from the recipient on voicemail; she had an angry tone and was upset over something. She noted her attempt to reach the recipient, and left word to recontact her. An entry from that afternoon stated that there was another voicemail from the recipient in which she described how she felt that no one cared about her. "She discussed how she will end it all by either buying an illegal gun or purchasing illegal drugs from Mexico on the internet. ... I tried to call her back and got a strange voicemail message about that she was on the internet and only an idiot would leave a message for her. I called the...Police...and asked for a wellbeing visit...." The day's notes concluded by stating that the police followed up with the clinic and reported that the recipient was taken to a hospital for evaluation.

We also reviewed the petition for involuntary admission from the hospital record. It was completed by a police officer who stated that the clinic called and told them the recipient was going to kill herself with a gun and drugs and that when the officers arrived at her home, she said life was not worth living and that she wanted to kill herself. We followed up with the petitioning officer and he verified the events as described on the petition.

CONCLUSION

The clinic's privacy policy states that it may disclose identifiable information, excluding health information, to law enforcement agencies in order to report a serious threat to the health and safety of an individual or the public if the law enforcement agency is reasonably able to prevent or lessen the threat (#1605.1). We note here that specific to mental health recipients in Illinois, the same communications can be made when, on the sole discretion of a therapist, it is necessary to protect a recipient or others from serious risk of imminent danger or death per the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110/11). The Act includes social workers in its definition of therapists (740 ILCS 110/2).

Under the Mental Health Code,

> *A recipient of services shall be provided with adequate and humane care and services in the least restrictive environment....* (405 ILCS 5/2-102 a).

It defines adequate and humane care and services as,

> *...services reasonably calculated to prevent further decline in the clinical condition of a recipient of services so that he or she does not present an imminent danger to self or others.* (405 ILCS 5/1-101.2).

In this case the recipient's social worker heard disturbing messages from her client that she believed were potentially harmful. She consulted with an administrator and they agreed to place a wellbeing check for the recipient's safety, which would seem to be in line with providing adequate and humane care. Based on their statements and on supportive documentation, the complaint that the facility initiated an involuntary detention without cause and authority is <u>not substantiated</u>.

<u>SUGGESTIONS</u>

We think that covering a potentially dangerous situation with a superior before placing a wellbeing check, if possible, is excellent practice as was done here. It may be a good idea for that to be documented in the record whenever it occurs.

Since the clinic is a federal facility, hold periodic training on rights and due process under the Mental Health Code to ensure that all clinic staff members are familiar with Illinois' unique requirements. Review Chapter II (405 ILCS 5/2-100 et seq.; 5/2-200 et seq.) and Chapter III (5/3-100 et seq.) for requirements on service delivery, treatment, rights admonishments and admissions. Although the clinic is an outpatient facility, familiarizing with the admission process would benefit everyone involved should the need to seek admission for a client arise or to understand what faces a client during admission.

Be sure to post conspicuously a summary of recipient rights under Chapter II that are relevant to the services being provided (405 ILCS 5/2-200). Review these rights with recipients on a periodic basis.

If there is a rare need to restrict any guaranteed right, the clinic must follow documentation and notification procedures pursuant to Section 5/2-201.

Clinic representatives said that they have five employed psychiatrists and one contracted. Review how psychotropic medications are prescribed and ensure that the Code's standards are always followed. There must be an oral and written exchange of drug particulars at the time they are proposed, and there must be a physician's written determination of the recipient's decisional capacity before consent is accepted. Not only do recipients have the right to refuse medications, even if consented to by substitute decision makers, they also have the right to refuse mental health services (405 ILCS 5/2-102 a-5 and 5/2-107).

The clinic does not use service plan documents but refers to record notations as the service plan instead. Consider the need to develop and use actual service plan forms since, under the Code, all services are to be provided pursuant to an individual services plan. The plan should

demonstrate recipient participation in its formulation and periodic review, any substitute decision maker's participation, and any designated support person's participation (405 ILCS 5/2-102 a).

We suggest that policies be developed to carry out the Code's requirements (405 ILCS 5/2-200).