



FOR IMMEDIATE RELEASE

North Suburban Regional Human Rights Authority
Draft Report of Findings
HRA #09-100-9010
Concepts Plus, Incorporated

Case Summary: the HRA did substantiate the allegation presented. The HRA's public record on this case is recorded below.

Introduction

The North Suburban Regional Human Rights Authority (HRA) has completed its investigation into an alleged rights violation at Concepts Plus, Incorporated. The issue accepted for investigation was that agency policy does not afford some residents the opportunity to exercise their right regarding off-campus activities/visits. If substantiated, the allegation would violate the Intermediate Care for the Developmental Disabilities Facilities Code (77 Ill. Adm. Code 350.3210, 350.3250), the Nursing Home Care Act (210 ILCS 45/2-108), and Centers for Medicare/Medicaid Conditions of Participation (42 C.F.R. 483).

Background

Concepts Plus Incorporated is a residential program that serves adults with developmental disabilities. The focus of this investigation centered on Pine Terrace, which is a 16-bed intermediate care facility owned by Concepts Plus and located in Waukegan.

Methodology

To investigate the allegation, the HRA requested and received the facility's policy relevant to the allegation. The HRA conducted an on-site visit and discussed the matter with the Executive

Director, an Administrator and a Regional Trainer. At a subsequent visit the HRA met with and interviewed residents regarding their visitation rights, and redacted records concerning the residents' off-site activities/visits were reviewed by the HRA.

Findings

A review of the agency's "Resident Leave of Absence" policy states that the facility shall provide an opportunity for individuals to leave the facility with parents, guardians, or interested parties, for therapeutic purposes. The policy states that an "individual may leave the facility in the company of an adult other than facility staff person only when such a leave has been specifically approved by the QMRP or his/her designee, the individual, or guardian or responsible party has signed a Release of Responsibility and Medications form for that specific leave of absence; if the individual has a guardian, the guardian agrees." The policy goes on to state that when a resident leaves the site for all non-overnight visits, the "individual, guardian or responsible party shall sign a Release of Responsibility and Medications form each time an individual leaves the facility in the company of an adult other than a facility employee or registered volunteer." The form states that the responsible party is charged with the individual's care and is responsible for the concerns and medications of this individual during the time of the visit.

The Resident "Absence For Out of Facility Activities and Off Site Visits" policy states that while every resident has the right to leave the facility, this decision can only be exercised by the resident if the resident is deemed competent or the resident's legal decision maker, if the resident is not deemed competent.

At the time of admission, residents are asked to sign an "Acknowledgement of Responsibility for Leave From the Facility and/or Leave From the Facility Against Medical Advice With the Knowledge of the Resident's Decision Maker" form. This form includes language which states, "...the Resident may be injured, experience a decline in health and/or may experience other

significant negative outcomes including death". The HRA noted that agency policy documented that should a resident or a resident's legal decision maker refuse or fail to execute this form, the resident might be discharged from the facility. Also at the time of admission, the resident and/or guardian is asked to complete an approved visitor list.

At the site visit, the HRA asked agency personnel to describe the off-site procedure, as it is currently practiced, when a resident (or a resident's guardian) requests to visit with family, guardian or another interested party. The HRA was told that the staff will review the request to ensure that the person(s) the resident is going to visit is on the approved list of visitors. According to agency personnel, the resident or guardian can add persons to the list at any time and it is updated yearly. If the party is on the list and there are no therapeutic contraindications, the request is granted. The person collecting the resident at the time of the visit signs a Release of Responsibility & Medications form.

Agency personnel stated that in practice, all the residents are allowed to visit with persons of their choice. They stated that residents who retain their own rights seldom request to leave with persons who are not on the approved list. When asked, the agency knew of no situation in which an off-site visit was denied to a resident. When asked, they confirmed that visits are only allowed if the resident, guardian, or other interested party signs the Release of Responsibility & Medications form. Agency personnel noted that this form would cover residents who are leaving Against Medical Advice (AMA) as well as residents who are leaving with medical approval. No distinction is made between these two classes in the acceptance of responsibility.

The HRA interviewed facility residents regarding their off grounds visits. Those interviewed stated that they were allowed to go on visits with anyone they had on their list. They stated that they left the facility with family: mothers, fathers, aunts, uncles and a cousin. Although one resident said they could leave with friends, the resident did not say that he/she had ever left with a friend. The

interviewees appeared to be very happy with their pass situation and they did not state that they had ever requested a pass that was denied for any reason.

The HRA also reviewed a three month sample of 6 masked records of residents' visits in the community with family and friends. These records showed activities such as visits to the library and park, shopping, restaurants, banking, visits to nursing homes, miniature golf and concerts in the park. Also, the HRA reviewed the Activity Logs, or Social Service forms for three months. These records list the phone calls, letters and visits of the residents by their family and friends. Additionally, the HRA reviewed three months of QMRP (Qualified Mental Retardation Professional) reports which show the progress of the residents toward their short term and long term objectives. Overall, the records indicate that residents are given their passes and that they leave the facility frequently on therapeutic passes in the community.

Conclusion

Pursuant to Section 350.3210 of the Intermediate Care for the Developmental Disabilities Facilities Code (Code), no resident shall be deprived of any rights, benefits, or privileges guaranteed by law based on their status as a resident of a facility. Additionally, pursuant to Section 350.3250 of the Code, every resident shall be permitted unimpeded, private and uncensored communication of his choice by mail, public telephone or visitation. The Nursing Home Care Act (210 ILCS 45/2-108) also mandates unimpeded, private and uncensored communication by mail, public telephone or visitation. Additionally, the Centers for Medicare/Medicaid Conditions of Participation (42 C.F.R. 483) allows for residents' personal privacy in their accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings with family.

As per the record review and interviews of facility staff and residents, the HRA finds that the residents of Pine Terrace appear to be able to exercise their communication and visitation rights.

The problem resides with the agency policies and forms. The form that is completed at the time of admission ("Acknowledgement of Responsibility for Leave from the Facility and/or Leave From the Facility Against Medical Advice With the Knowledge of the Resident's Decision Maker") includes very intimidating language that could be viewed as an impediment to visitation, such as "...the Resident may be injured, experience a decline in health and/or may experience other significant negative outcomes including death" as a result of their visitation. Adding to this restrictive language is the additional threat of discharge for those who do not comply, which places conditions on exercising the right not provided for in the law. Therefore, the HRA substantiates the complaint that agency policy does not afford some residents the opportunity to exercise their rights regarding off-campus activities/visits.

Recommendations

1. Revise the restrictive language on the form "Acknowledgment of Responsibility for Leave From the Facility and/or Leave From the Facility Against Medical Advice With Knowledge of the Resident's Decision Maker."

Suggestions

1. The HRA suggests that the wording in the Resident Leave of Absence Policy also be reviewed for inconsistencies. For example, #2(i) says that the GP-64a must be "completed by the party with whom the resident is leaving the facility". Elsewhere in the policy, it is required that "The individual, guardian, or responsible party shall sign" this form. And, in #2(c) it is noted that while the resident is away from the facility, the agency will provide any pertinent data concerning the individual which may assist the family in continuing any program - when in fact the resident may not be visiting with the family, but with friends or another interested party.