FOR IMMEDIATE RELEASE

REPORT OF FINDINGS
TRINITY SERVICES INCORPORATED– 10-040-9014
HUMAN RIGHTS AUTHORITY- South Suburban Region

[Case Summary— The Authority made corrective recommendations regarding one of two allegations that were accepted by the service provider. The public record on this case is recorded below; the provider's response immediately follows the report.]

INTRODUCTION

The Human Rights Authority has completed its investigation into allegations concerning Trinity Services Incorporated. The complaint alleged that recipients in the agency's Behavioral Health Program were being administered psychotropic medication without informed consent. It was also reported that a recipient requires an inhaler, but the medication is not taken to the day treatment program. If substantiated, these allegations would violate the Mental Health and Developmental Disabilities Code (the Code) (405 ILCS 5/2-102) and the Illinois Probate Act (755 ILCS 5/11a-23).

Trinity Services Inc., serves more than 1400 children and adults with developmental disabilities and behavioral health needs in Peoria, the south and northeast suburban regions of Chicago, South Central Illinois near Mascoutah, as well as northern Nevada. Its Behavioral Health program located in Lockport serves about 120 clients. This agency also provides employment, counseling and respite services.

METHODOLOGY

To pursue the investigation, the Director of Behavioral Health, the Deputy Director of Behavioral Health and a Registered Nurse were interviewed. Sections of four recipients' records were reviewed with written consent. All four recipients attend the agency's Behavioral Health Program and receive residential services. The complaint was discussed with the recipients' guardian. The recipient involved in the second complaint was interviewed. Relevant agency policies were also reviewed.

FINIDINGS
<u>Information from the record, interviews and program policies</u>

The HRA reviewed Medication Administration Records (MARs) regarding four recipients who were allegedly given psychotropic medications without informed consent. Recipient A's record indicated that she was diagnosed with Obsessive-Compulsive Disorder, Psychotic Disorder, Mild Mental Retardation, Diabetes II, Colitis and Obesity. Wellbutrin 100 mg and Seroquel 200 mg daily, and Prozac 20 mg twice daily for her mental health needs and other medications for her physical problems were ordered for 2009. According to the resident's treatment plan dated August 12th, 2009, she sometimes requested medication changes without her guardian's approval. On that next month Seroquel was reduced to 100 mg daily, but there was no clear indication that the recipient had requested the medication change.

According to Recipient B's record, his diagnoses included Psychotic Disorder, Depressive Disorder, Mild Mental Retardation, Asthma, Sleep Apnea, Seizures and Hypertension. Zoloft 100 mg, Risperdal 3 mg and Trazodone 100 mg daily for his mental health needs were prescribed for 2009. Additionally, a Continuous Positive Airway Pressure (C-PAP), Dilantin 700 mg, Advair 1 puff, Flovent 3 puffs daily, Albuterol via Nebulizer three times daily, Albuterol every four to six hours as needed including other medications for his physical problems were ordered. On February 24th, 2009, the psychiatrist recorded that the recipient was non-complaint with using the C-PAP device and was aware of the risks. Advair and Flovent were discontinued on October 14th, 2009.

The second complaint specifically stated that Recipient B had an asthma attack while attending his day training program, but his record does not support this. During the investigation, the recipient told the HRA that the incident did occur and that his asthma inhalers were not available as reported in the complaint. He further alleged that his breathing improved after drinking some water as directed by the agency's nurse. According to the recipient, his asthma inhalers are now being kept at his day training program. His treatment plan dated July 17th, 2009 listed a goal to self-administer medication and objectives to achieve this task.

Recipient C's record indicated that he was diagnosed with Psychotic Disorder, Mild Mental Retardation and Seizure Disorder. Abilify 20 mg, Trazodone 100 mg, Benztropine 2 mg and Doxepin 50 mg daily and Clozapine 25 mg twice daily and 150 mg nightly, and Depakote 750 mg and Phenobarbital 90 mg twice daily for his mental health needs were ordered for 2009. Additionally, medications for his physical needs were prescribed.

According to Recipient D's record, he was diagnosed with Psychosis and Mild Mental Retardation. Zyprexa 17.5 mg was initially prescribed for his psychosis in 2009, and the medication was increased to 20 mg daily during that same year. Medications for minor medical problems were also ordered. During the records review, the HRA noticed that all four recipients were administered psychotropic medications as ordered, but evidence of the recipients' and their guardian's informed consent for the medications was not found in their records.

When the complaint was discussed with the agency's staff, they acknowledged that the recipients were administered psychotropic medication without the guardian's informed consent. They explained that the clerical staff was previously responsible for faxing the consent form to the guardian. The nurse is now responsible for making sure that consent is received prior to medication administration. The investigation team was informed that signed medication consent

forms are kept in a separate chart in the staff's office. According to the Director of Behavioral Health, recipients determined to have decisional capacity are informed about the risks and benefits of psychotropic medication if prescribed. This information is reportedly documented in recipients' charts by the agency's psychiatrist upon the initiation of psychotropic medication and change in dosages. It is unclear whether written materials regarding the proposed medication are shared with recipients and guardians.

In regard to the second complaint, the investigation team was informed that the agency has a nurse at the day training program in question. The Deputy Director of Behavioral Health said that Resident B never needed his asthma inhalers while attending his day training program. The agency has a nurse at this location. She said that the resident lives about 100 feet from his day training program, but the complaint alleged that he lived at a different home when the incident occurred. She said that an incident report would have been completed if the resident had an asthma attack, and his medications were not available. Although the resident's medical insurance reportedly will pay for only one asthma inhaler of the same kind each month, the agency has purchased a second inhaler that will be kept at his day training program as a precautionary measure. The HRA offers a suggestion at the end of the report because the recipient's treatment plan dated July 2009 was written before this medical intervention was taken.

According to Trinity Services "Psychotropic Medication" policy, each individual has the right to receive appropriate treatment in the most self-determining environment possible. The Interdisciplinary or Community Support Team is required to document baseline data concerning the targeted behaviors for at least fifteen days prior to the initiation of psychotropic medication. The policy directs that less restrictive alternatives must be attempted first. The medication potential benefits and risks must be discussed with parents and guardians, but the policy does not mention recipients pursuant to Section 5/2-102 (a-5) of the Code. Written consent must be obtained from the recipient or guardian if appropriate upon the initiation of psychotropic medication and then annually.

The agency's "Medication Administration and Storage" policy states that all medication shall be stored and disposed of under safe conditions and according to legal and medical standards.

CONCLUSION

Section 5/2-102 of the Code states that,

> (a) A recipient of services shall be provided with adequate and humane care and services in the least restrictive environment, pursuant to individual services plans. The plan shall be formulated and periodically reviewed with the participation of the recipient to the extent feasible and the recipient's guardian, the recipient's substitute decision maker, if any, or any other individual designated in writing by the recipient….

> (a-5) If the services include the administration of psychotropic medication and electroconvulsive therapy, 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 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….

According to the Illinois Probate Act Section 5/11a-23,

> Every health care provider and other person (reliant) has the right to rely on any decision or direction made by the guardian… as though the decision or direction had been made or given by the ward.

Based on the records reviewed for 2009, all four recipients were administered psychotropic medication without their legal guardian's informed consent for twelve months. The HRA was informed that the agency has obtained consent now. According to the staff interviewed, the agency now has a new process for obtaining medication consent. The Authority substantiates that recipients in the agency's Behavioral Health Program were administered psychotropic medication without informed consent. This violates Section 5/2-102 (a-5) of the Code, the Illinois Probate Act Section 5/11a-23 and program policy.

Although the Authority does not discredit Recipient B's version of the alleged incident, there was no documentation that he had an asthma attack or that he required asthma medication while attending his day training program. According to the recipient and agency's staff, the recipient's asthma inhaler is presently being kept at his home and his day training program. The Authority cannot substantiate the complaint that the recipient requires an inhaler, but the medication is not taken to the day treatment program. No violations of Section 5/2-102 of the Code were found.

RECOMMENDATIONS

1. Trinity Services shall ensure that informed consent for psychotropic medication is obtained pursuant to Section 5/2-102 (a-5) of the Code, the Illinois Probate Act Section 5/11a-23 and the agency's policy.

2. The agency shall revise its "Psychotropic Medication" policy to include procedures for the consent process to be periodically reviewed by the agency's Utilization Review Committee.

3. The agency shall revise its medication policy to include recipients in discussions regarding medication potential benefits and risks.

SUGGESTIONS

1. Be certain that recipients and decision makers are provided with written information about proposed psychotropic medications in order to ensure informed consent is obtained.

2. Ensure that written drug information is provided to recipients and guardians.

3. Be certain that Recipient B's most recent treatment plan states that an asthma inhaler will also be kept at his day program.

RESPONSE

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

TRINITY Services, Inc.

100 N. Gougar Rd • Joliet, IL 60432 • P 815-485-6197 • F 815-485-5975

www.trinity-services.org

January 13, 2011

Guardianship and Advocacy Commission
Human Rights Authority
West Suburban Regional Office
P.O. Box 7009
Hines, IL 60141-7009

Re: HRA NO. 10-040-9014

To Whom It May Concern:

This letter constitutes the response of Trinity Services, Inc. to the recommendations made in correspondence dated December 13, 2010.

We wish to highlight that the alleged concerns were isolated to a single residential program within Trinity Services, Inc.

Trinity Services, Inc. has revised its existing policy regarding the use of Psychotropic Medications to further clarify issues of consent. Clarifications were made in the following areas:

- An individual's Support Team is responsible for helping him/her evaluate the use of psychotropic medications, including the risks, benefits, and potential side effects, at least annually.
- Written consent will be obtained from the person and his/her guardian (if applicable) for the use of any psychotropic medication at least annually. Verbal consent for changes in dosage will be documented and followed up with written consent as soon as possible following any change.
- The consent process outlined in this policy will be reviewed annually for continued appropriateness by the agency's Human Rights Committee.

If there are any additional questions, please contact me at 815-717-1700.

Sincerely,

Thane Dykstra