



FOR IMMEDIATE RELEASE

**East Central Human Rights Authority
Report of Findings
Campion, Barrow & Associates
Case 10-060-9012**

The East Central Regional Human Rights Authority (HRA), a division of the Illinois Guardianship and Advocacy Commission, accepted for investigation the following allegation concerning psychological health services at Campion, Barrow & Associates located in Champaign, Illinois.

Complaints:

1. The agency denied an individual's right to a copy of his record.

Per the website Campion, Barrow and Associates (CBA), this agency is able to provide comprehensive psychological services to departments throughout the country; "...a highly trained team and a state of the art computer system enables accuracy and speed in scoring which gives our accounts rapid turn around and high volume capabilities."

COMPLAINANT'S STATEMENT

Per the complaint an individual with a disability submitted to a fitness for duty evaluation at Campion, Barrow and Associates, per orders of his employer. Despite several requests from the individual he was unable to obtain the agency's findings.

Findings

The HRA proceeded with the investigation having received written authorization to review the individual's record. To pursue the matter the HRA visited the facility where program representatives were interviewed. Relevant practices, policies and sections of an individual's record were reviewed.

When asked what types of services were provided by the CBA, the HRA was informed that employment assistance, assessments, treatment programs, fitness for duty exams for police departments and human service organizations, research for law enforcement, character based assessments recognized by the department of justice, and expert testimony were some examples. The CBA has conducted research projects for state and federal law enforcement and other agencies, fraternal organizations, human service agencies, and for state law enforcement training. They also provide faith based readiness assessments for clergy.

They have 2 interns, 2 psychologists, and legal and support staff to provide services. They serve all ages. They currently provide services in 11 states.

Per staff the individual was referred to the CBA for a second opinion regarding a fitness for duty evaluation. He had a prior evaluation and was determined not fit for duty by two other psychologists. On May 27 the individual completed his consent to be tested and to have the results of his testing reported to his employer. Then the following day he appeared to be tested but he withdrew his consent to have his results shared with his employer. This testing was not scored nor was a report completed.

Per the CBA the individual requested several times by email to have his records released. He then filed a complaint with the local police department that the CBA would not let him have his records. The psychologist that completed the test was out of town, but another psychologist did respond via email. The individual's records were provided on 06/24/09--seventeen days after his email request and the same day of his request in writing. Per the CBA his request was complicated by only sending an email to request mental health records. There was also the issue of him requesting the results of an evaluation that was not completed because of the individual revoking his consent. It was the CBA's representative's belief that raw testing data, also called "psychological test material" did not have to be disclosed under the Mental Health and Developmental Disabilities Confidentiality Act (740ILCS 110/3 (c)) which states "Psychological test material whose disclosure would compromise the objectivity or fairness of the testing process may not be disclosed to anyone including the subject of the test and is not subject to disclosure in any administrative, judicial or legislative proceeding. However, any recipient who has been the subject of the psychological test shall have the right to have all records relating to that test disclosed to any psychologist designated by the recipient. Requests for such disclosure shall be in writing and shall comply with the requirements of subsection (b) of Section 5 of this Act."

The HRA brought up a concern that \$80.50 seems like an extremely high price for copying records for someone who was unemployed. The CBA responded it was their understanding that the individual was on leave but still on full pay status from his employer. The CBA also provided evidence that what was charged was in keeping with statutory guidelines of the state of Illinois under state statute 735 ILCS 5/8-2006 regarding copying fees which states: "The new amount resulting from each annual adjustment shall be determined by the Comptroller and made available to the public via the Comptroller's official website by January 31 of every year." The link to this website is <http://www.ioc.state.il.us/office/fees.cfm>. The 2011 rate totals 93 cents per page for the first 25 pages, 62 cents per page for 26 to 50 pages and 31 cents per page for pages in excess of 50 pages; a handling charge of \$25.81 can be added and copies made from microfilm can result in a \$1.55 per page fee.

Records Reviews

The HRA was provided a copy of the release signed 6/24/09 and a copy of a document called exhibit A.

The time lines of events are as follows:

5/27/09 the individual gave his consent for the testing.

5/28/09 the individual withdrew his consent to release to a third party.

5/29/09 He elected to be tested but because he elected to not have his test results communicated to the police department, his psychological testing was not scored. There was no conclusion or a report to be generated.

6/08/09 the individual requested his records via email.

6/11/09 the individual requested again via email.

6/16/09 the recipient requested again via email.

6/17/09 the CBA office administrative assistant responded via email that the psychologist was unavailable.

6/17/09 the individual requested his records via email to the administrative assistant.

6/19/09 the individual made a complaint with ... Police dept.

6/22/09 the individual requested that a police report be filed.

6/23/09 another psychologist responded stating they had 30 days to respond to individual's request and they would release the information to him with a valid release and the cost of copying fees.

6/24/09 the individual requested again this time in writing and by signing a consent for release of information.

6/24/09 the records were released to the individual.

Per the CBA raw data testing material was not provided nor was the test scored. Per the CBA's attorney, under the authority of federal case law interpreting the Illinois statutes in conjunction with the Federal Rules of Civil Procedure and holding that raw test data is not confidential and privileged from disclosure in the Federal courts, this material was turned over to the individual's lawyers in the federal lawsuit.

Policy Reviews

In the lobby of the CBA there were several flyers one of them entitled, *HIPAA and Your Privacy Rights (No Date)*. It listed several rights regarding protected health information, one of which being the right to inspect and copy. Under this heading it stated "You have the right to inspect and copy your mental health information regarding decisions about your care; however, psychotherapy notes may not be inspected and copied. We may charge a fee for copying, mailing, and supplies. Under limited circumstance, your request may be denied; you may request review of denial by another licensed mental health professional chosen by Campion, Barrow & Associates. Campion, Barrow & Associates will comply with the outcome of the review."

CONCLUSIONS

Complaint: The agency denied an individual's right to a copy of his record. The Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110/4) states: "Persons entitled to inspect and copy recipient's record 4. (a) The following persons shall be entitled, upon request, to inspect and copy a recipient's record or any part thereof: (2) the recipient if he is 12 years of age or older." So clearly the recipient was entitled to receive a copy of his record.

Section 110/5 of the Act states: "The consent form shall be signed by the person entitled to give consent and the signature shall be witnessed by a person who can attest to the identity of the person so entitled. A copy of the consent and a notation as to any action taken thereon shall

be entered in the recipient's record.” It appears that the individual received a copy of his record upon his written request.

The CBA did not provide raw test material to the individual at his request but later provided this information to the individual’s attorney for a Federal court case. Pursuant to Chapter 740, Civil Liabilities 110/3.: “Records and communications; personal notes of therapist; psychological test material (c) Psychological test material whose disclosure would compromise the objectivity or fairness of the testing process may not be disclosed to anyone including the subject of the test and is not subject to disclosure in any administrative, judicial or legislative proceeding. However, any recipient who has been the subject of the psychological test shall have the right to have all records relating to that test disclosed to any psychologist designated by the recipient. Requests for such disclosure shall be in writing and shall comply with the requirements of subsection (b) of Section 5 of this Act.” It does not appear that raw testing material was required to be released under this statute. Based on the evidence that the individual received copies of his records the same day he signed a consent to release information, the complaint that **an agency denied a recipient's right to a copy of his record, is unsubstantiated.**

The HRA polled local providers in the vicinity of where the CBA provides services; the copying fees are comparable to other local providers. There were some private providers who did not charge for copies, however most of the providers of mental health including the largest charged the full statutory amount which was more than the CBA charged. Pursuant to 740 ILCS 110/4 (b) “A reasonable fee may be charged for duplication of a record. However, when requested to do so in writing by any indigent recipient, the custodian of the records shall provide at no charge to the recipient, or to the Guardianship and Advocacy Commission, the agency designated by the Governor under Section 1 of the Protection and Advocacy for Developmentally Disabled Persons Act or to any other not-for-profit agency whose primary purpose is to provide free legal services or advocacy for the indigent and who has received written authorization from the recipient under Section 5 of this Act to receive his records, one copy of any records in its possession whose disclosure is authorized under this Act.” The individual did receive copies of his records and paid a fee that was appropriate based on statutory guidelines.

The HRA acknowledges the full cooperation of Champion, Barrow & Associates during the course of its investigation.

SUGGESTION

The HRA would encourage any provider to provide at least the first copy of records free of charge. Even though it is not required by law it allows those with limited financial resources in a tough economy to have access to their mental health records.