



FOR IMMEDIATE RELEASE

North Suburban Regional Human Rights Authority
Report of Findings
HRA #10-100-9019
Winfield Woods

Case Summary: the HRA did not substantiate the allegations presented. The HRA's public record on this case is recorded below.

In May 2010, the North Suburban Regional Human Rights Authority opened an investigation of possible rights violations within Winfield Woods. The complaint accepted for investigation was that a guardian is unable to carry-out the duties as a guardian because the facility does not provide proper notification about the resident to the guardian, and the facility fails to provide timely responses to the guardian.

Court adjudged persons with disabilities are protected by the Probate Act (755 ILCS 5). Residents receiving services at Winfield Woods are protected by the Nursing Home Care Act (210 ILCS 45/100 et seq.) and the Illinois Administrative Code (77 IL Adm. Code 300).

Woodfield Woods is a 138-bed intermediate care nursing facility located in Winfield. Many of its residents have mental illness.

Methods of Investigation

The HRA conducted an on-site visit in June 2010. While at the facility, the HRA discussed the allegation with the Administrator. The HRA reviewed facility policy specific to the allegation and reviewed portions of the resident's clinical record, with written consent. The HRA also reviewed three other clinical records, with guardian consent.

Findings

It was reported to the HRA that the facility does not provide proper notification to the guardian, which makes it difficult for the guardian to carry-out his duties. As an example, it was stated that the facility does not notify the guardian about any of the resident's behavioral problems except to say that he needs medication. Although medication has not been ordered without guardian consent, the physician will speak to the resident about medication modifications before speaking to the guardian. Another example was that the guardian gave the facility some insurance forms to be completed by a specific time and the paperwork was not completed in a timely manner. It was further reported that facility personnel do not respond to the guardian's telephone calls in a timely manner.

A review of the resident's record showed that from January 2010 until June 2010 the resident's mood was stable and there were no medication modifications; guardian notification was not needed. In November 2009, the resident was observed being rude and aggressive to a peer. The day after the incident, a PRSC (Psychiatric Rehabilitation Services Coordinator) wrote that he met with the resident about the incident and during that meeting, the PRSC and the resident called the

resident's guardian and it was determined that per a signed behavioral agreement, the resident would lose a pass privilege.

In March 2010, progress notes documented that the guardian was contacted about the resident's request for an increase in his pass level. It was documented that the guardian had no objection to the resident having an independent town pass. On April 28, 2010, progress notes documented that the resident's insurance forms were completed and faxed. The note does not say when the forms were obtained for completion.

The HRA reviewed the resident's Care Plans (conducted every three months) from 2007 through 2010; the guardian attended each meeting with the exception of one. The HRA noted that the first page of the resident's chart contained the following statement: *"I have a legal guardian. You must inform my guardian (phone call and chart on it) before any medications are changed, added, tests done, etc. Don't forget!"*

At the site visit, the Administrator stated that all guardians received notification about the events relating to the resident. It was stated that the guardian identified in this case is contacted on a consistent basis and she as well as the Executive Director speak to him on a regular basis. She stated that phone calls are returned to him within reason (one to two days) but he wants the calls returned within the day that it was made to the facility. Regarding the allegation that the insurance paperwork was not returned in a timely manner, it was stated that the forms were obtained about a week before they were completed by the physician. She stated the physician is at the facility once a week; he did not complete the form during a visit due to its length (multiple pages), but instead took it with him and returned the completed form the following week. It was also stated that this resident does not have many issues that need attention-behavior included, thus there is no need to contact the guardian. When an issue arises, such as the behavior incident described above, the guardian is contacted.

Regarding the matter that the physician speaks to the resident about medication before or instead of taking this matter up with the guardian, the Administrator stated that the physician will discuss medication options with the resident but medication is not given until consent is obtained by the guardian. It was offered that nursing personnel obtain the consent before any medication and/or medical tests are administered. It was stated that it is only natural that the physician would discuss medication side effects/benefits with the resident during the course of an examination.

Facility policy states that, "In order to meet the needs of any resident, unable to make and communicate responsible decisions regarding his/her personal care due to mental, physical, or developmental disability, the facility staff will work to coordinate all medical treatment and residential placement matters, with an appointed guardian or designated decision-maker." The policy goes on to state that the resident's representative and/or guardian will receive notification of anything relating to the resident. Including to but not limited to: medication changes, room changes, medical procedures, incidents/accidents, acute behavioral issues, changes in condition, etc.

A review of the other clinical records showed that each resident also had the page which notified staff members that the resident has a guardian and that the guardian needed to be notified of medication changes, tests, etc. One of the resident's needed a few medical tests, and the chart showed that the guardian was notified of each proposed test. A review of the second record showed that this resident displayed a few behavioral problems, and the guardian was notified of the incidents and when PRN (as needed) medication was required, it was documented that the guardian was notified of the administration of the medication. This chart also showed that the guardian was notified when the resident was sent to the hospital for behavioral health services and the guardian was notified upon the resident's return. A review of the third record did not show guardian notification, as none was needed. The HRA interviewed this guardian and he relayed that he has no concerns regarding this matter.

Conclusion

The Probate Act states that "To the extent ordered by the court and under the direction of the court, the guardian of the person shall have custody of the ward and the ward's minor and adult dependent children and shall procure for them and shall make provision for their support, care, comfort, health, education and maintenance, and professional services as are appropriate, but the ward's spouse may not be deprived of the custody and education of the ward's minor and adult dependent children, without the consent of the spouse, unless the court finds that the spouse is not a fit and competent person to have that custody and education. The guardian shall assist the ward in the development of maximum self-reliance and independence... e) Decisions made by a guardian on behalf of a ward shall be made in accordance with the following standards for decision making. Decisions made by a guardian on behalf of a ward may be made by conforming as closely as possible to what the ward, if competent, would have done or intended under the circumstances, taking into account evidence that includes, but is not limited to, the ward's personal, philosophical, religious and moral beliefs, and ethical values relative to the decision to be made by the guardian. Where possible, the guardian shall determine how the ward would have made a decision based on the ward's previously expressed preferences, and make decisions in accordance with the preferences of the ward."

Pursuant to the Nursing Home Care Act, Section 2-106.1, "Psychotropic medication shall not be prescribed without the informed consent of the resident, the resident's guardian, or other authorized representative." "Psychotropic medication" means medication that is used for or listed as used for antipsychotic, antidepressant, antimanic, or antianxiety behavior modification or behavior management purposes in the latest editions of the AMA Drug Evaluations or the Physician's Desk Reference."

Pursuant to the Administration Code, Section 300.686 "Psychotropic medication shall not be prescribed or administered without the informed consent of the resident, the resident's guardian, or other authorized representative. (Section 2-106.1(b) of the Act) Additional informed consent is not required for reductions in dosage level or deletion of a specific medication. The informed consent may provide for a medication administration program of sequentially increased doses or a combination of medications to establish the lowest effective dose that will achieve the desired therapeutic outcome. Side effects of the medications shall be described."

Based on the information received, the HRA concludes that the facility provides proper guardian notification; the allegation is unsubstantiated.