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HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case # 11-090-9008
Trinity Services

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation of possible rights violations at Trinity Services. Complaints alleged the following:

1. There is an inadequate staff to consumer ratio.
2. Staff training and policy regarding consumer care are inadequate.
3. There was an inappropriate admission of a consumer with a history of aggression that the facility was unable to handle.

If found substantiated, the allegations would violate Community Integrated Living Arrangement (CILA) Regulations (59 Illinois Administrative Code 115), Regulations for Day Programs (59 Il Admin Code 119) and the Mental Health and Developmental Disabilities Code (405 ILCS 5/1-100).

To investigate the allegations, HRA team members met and interviewed Trinity staff in the Peoria office, and examined documents and records regarding the case. The HRA reviewed masked documents and records obtained with a guardian's written consent.

COMPLAINT STATEMENT

This complaint stems from an incident in which a CILA house member died after being beaten by another house member at Trinity's day program site. The incident was reported in a newspaper article. The complaint questions whether the staff to consumer ratio is adequate for the day program and if trainings and policies adequately address consumer supervision since consumers were reportedly left alone for extended periods. The complaint also suggests that the facility inappropriately admitted a consumer with a history of aggression that the facility was unable to handle which put other consumers in danger.

FINDINGS

Staff Interviews (1/4/2011)

The Trinity staff began by explaining that most of the agency is not in Peoria. Trinity Services started in Joliet as a school in 1950. In 1987 the current CEO began employment at Trinity and the organization started expanding into Community Integrate Living Arrangements (CILAs). This action was taken because parents were not happy and wanted a group home for their children. Now Trinity Services is the largest CILA provider in the state of Illinois. The staff explained that they grow to meet the community's needs and they are invited into communities. The staff began explaining that 50% of the consumers at Trinity are dually diagnosed with a developmental disability and a mental illness and 50% have strictly mental health diagnoses. The staff said that Trinity has merged with smaller agencies in the state and that they do not just merge with an agency to expand the company. Trinity began in Peoria because a consumer was having behavioral problems and was discharged by another provider. The individual's parent approached the CEO of Trinity and asked if they would open a place for him, which Trinity obliged.

The staff said that they are known for working with consumers with challenging behavior. They stated that they have the expertise to deal with challenging behaviors. The Trinity staff said that they inherited another provider's houses in Peoria when the provider could no longer maintain the houses and a couple of the individuals from those houses have challenging behavior. They adopted a total of 3 houses in Peoria. The staff explained that Trinity did not want to start a day program, but a couple of individuals were discharged from their current day program so they had no choice. They currently have 6 total houses in Peoria, two of which are empty.

The staff said they will move consumers to Joliet if they have excessively challenging behavior that puts them or others in danger or that would possibly get the consumer incarcerated. They will move individuals to Joliet if the individuals are acting out in public or are under public scrutiny. The staff explained that they have houses in rural settings so people are not tempted to walk to a gas station, etc. The staff also stated that the Joliet program is easier to run because of the psychologist in the area and they have trouble in Peoria with the triage for moving a consumer into a hospital. The staff stated that if they thought someone was at risk to go to jail, they would move them to Joliet because the local Peoria hospital would not take them for mental health evaluation. The staff stated that in Peoria, there are fewer degrees of freedom.

The Trinity staff explained that they have 5 consumers in one of their Peoria locations, but it can hold 8. They have 6 consumers at another location and 6 at their third location. The staff said none of the houses have been at full capacity. One location is a duplex and the house is divided. The staff stated that everyone in the Peoria houses originate from Peoria. Trinity Services as an organization has been in Peoria for 5 or 6 years.

The staff explained to the HRA that if they have a new consumer, they base admitting criteria on activity level, age, and behaviors. They try to match them with compatible house mates. For example, no consumers with behavioral problems are placed with people that they could be aggressive towards. They also base decisions on other factors, like if someone may need their own bathroom. The staff said that they look at admission closely. They do not mix

genders at the houses, except the duplex location, where one side is for males and the other side is for females. They also match people who share similar interests and similar personalities. They never know who is going to get along right away. One consumer did not do well in loud environments and loudness would set off behaviors. They moved this consumer to the quietest house.

The staff stated that they hired Behavior Analysts to consult for the houses. The Trinity staff explained that they hire the Analysts on occasion but they do not have one on their full-time staff. They stated that the direct care staff at Trinity receives 40 hours of class training and 80 hours of on the job training (OJT). Class training is taught by a director and OJT is supervised by the house manager. The house manager typically runs two houses.

When Trinity came to Peoria, the consumers were attending external day programs except for one consumer who had a one-on-one aide. Because consumers were discharged from an outside day program, they had to start one internally for 6 people. Staff running the program consisted of a supervisor and 2 other direct care staff members, unless one of the consumers had an appointment, then the staff would take them leaving one less direct care staff member and consumer. They stated that on the day of the incident which initiated the investigation, there were 2 staff members for 6 residents, and other staff had taken the remaining consumers to a day camp.

The staff explained that they bring in extra staff when they have community outings. The outings consist of trips to Great America, Camp Big Sky, etc. Extra staff are available if someone does not want to go or if someone gets sick. They explained it is more difficult to staff in a small program because there are less staff members in general. The Trinity staff stated that their schedules are 2 staff for the 3-11pm shift and the midnight shift generally only has 1 staff person, but sometimes there are 2 staff. The duplex location is staffed separately with a staff person assigned to each half of the duplex. stated that there is an 8-4 pm shift. They said that there is always 1 day program staff person and the rest of the staffing depends on job functions and needs. The QMRP runs the day program and one or two staff members are taking people to appointments during the day. The staff have to communicate with each other. If the consumers are having a difficult day, they communicate to each other and more staff will stay around. They said that staff will know when they can not be alone with the consumers and tell other staff members.

The Trinity Services staff state that they do not like having a day program. They also do not want people to live at the house and then go to day program at the same house. Currently, Trinity purchased a different building so that they could have day program at a different site. At the time of the interview, the consumers have not moved to that building but they are having the day program at a different CILA house location. The program was at the duplex but they are no longer having the day program there.

The Trinity Services staff explained that the Qualified Support Professional (QSP) writes the consumers' service plans and trains the direct care staff on them. They also stated that they have a registered nurse on staff who is certified with a specialization in developmentally disabilities. Peoria has two house managers who supervise two houses each. They also have two

QSPs, who have bachelor's degrees, and each of them account for consumers in two houses. Both QSPs work in a house one night a week. There are between 28 and 32 individuals employed as direct care staff. Each house has 8 slots for direct care staff.

The RN trains direct care staff to administer medications. The RN also provides some of the required 40 hours in-service training required of direct care staff when hired. There are also 2 psychiatrists in Peoria that they use but sometimes the doctor will not work with the patients so they take them to Joliet.

There is someone in the house at all times and the residents are never left alone. In some of the Joliet houses, there are individuals who can be left alone but not in Peoria. When the incident occurred, all the consumers were occupied and then one of the consumers ran up to the staff member and told them that one of the consumers had hit another consumer. The staff explained that there was an open door in between the staff member and the consumers, which the staff member could have seen through, but they were not sure if the staff member was looking. They also explained that if the staff needed help from the main office, it would take 15 or 20 minutes for the staff to get there.

The staff explained that they do keep track of the consumer deficits per the Department of Human Services Rule 119 and these deficits are in the consumer's behavioral plans. On the day the incident occurred, there were two staff members with six consumers but then one staff member left with one consumer, so the ratio was one to five.

The Trinity Service staff stated that direct care staff training varies per site. They said that staff goes to Crisis Prevention Institute (CPI) training for de-escalation skills. They are now removing the CPI and adopting a more sophisticated training called Safety Care. They stated that when training, getting staff on board is a process and sometimes the staff are against it. They said that the supervisor will watch the direct care staff through observance, coach them, and give feedback. The staff explained there are no training sessions other than the initial training and CPI refreshers. They stated that they have had an in-service on a specific client's autism. The classroom training is a weeklong training that covers the topics of abuse, neglect, and harassment, etc. The direct care staff are trained to tell other staff members not to go if they do not feel comfortable being left alone. They said that the turnover is high in Peoria. It was under 25% for the first year when they inherited the other facility. They stated that the staff that they inherited was bonus driven, but Trinity could not pay the staff bonuses. They stated that turnover last year was 36%. Trinity also stated that managing from a distance is hard for them. They have a part-time director in Peoria. The Director is there Monday through Wednesday every week but the goal is to make her available on a full-time basis. When the Director is not there, the RN is the facility supervisor and is in Peoria on a daily basis.

The Trinity Services staff stated that their day program has activities like card making, arts and crafts, and they will also have activities like taking the consumers bowling. The curriculum is provided from the main offices in Joliet. Some consumers will work on math, on Tuesdays they will cook together with the consumers, they will watch a hot and cold video, take them to the park, and sometimes take them to church.

The Trinity Services staff stated that they screened the consumer who struck the peer and knew he had incidents of physical aggression but nothing that indicated that someone would be hurt. They stated that his aggression was decreasing and he was not even on their radar as a problem client. They had put out the question whether he should be moved to Joliet and they decided that they should keep him in Peoria where he got better. The staff considered the incident that occurred as a fluke. They stated that the consumer was doing well when the incident occurred.

The staff said that they only have certified sex offenders as an exclusion policy but if they have any reason to expect someone would be especially challenging, they would tell the CEO. In the case of the consumer who struck the peer, the state had contacted Trinity about the consumer. The staff also said that the individuals who referred the consumer to Trinity would have told them if the situation was difficult. The staff explained that they serve consumers with challenging behaviors but they do pass on consumers. They are not at capacity because they do not accept everyone into their facilities. In Joliet, Trinity does serve as provider of last resort at times, but that does not occur in Peoria. Trinity has not discharged anyone that they inherited in Peoria from the previous provider and most of the consumers have been inherited except for two. They also stated that when another facility ran into problems, they took two of the people from that facility. One of the individuals had to be moved to Joliet but both consumers improved. They were confident that they could support them.

The Trinity staff stated that everyone they have served has improved if you look at the data. They also stated that, as an agency, they have been putting together a 12 page risk assessment document to collect data on consumer aggression. They stated that when they decide who to admit, diagnosis is a big deal. If a consumer has a personality disorder with aggressive behavior, they usually will not admit that person. An individual with Borderline Personality Disorder may not be admitted if aggressive. They also may not take an individual with a Traumatic Brain Injury if they are aggressive. If the consumer used weapons in the past and had problems with the law, they may not accept them into the program. Other aspects on whether they will admit a consumer is if the staff agree that the person is appropriate for admission or if the staff are afraid of the person. They will ask the referring staff if they were afraid also. They will also talk to the referring QSP, direct care staff, and observe and interact with the consumer. They also stated that parental support is a huge factor in accepting a new consumer. They stated that the more involved the better. They also stated that there are no criteria in writing for their admission standards.

The Trinity staff talked to the HRA about care plans. They explained that the QSP is involved in creating the plan, as well as the person receiving services, family, nurses, and someone from the day program if they use an outside program. They stated that the psychiatrist does not play a big role. They meet for the care plans every 6 months. The QSP generates monthly data collections and the house managers collect data also. The Trinity staff explained that Peoria is good at collecting data. The staff said they collect data on problem behavior and how that is being addressed, as well as the ISP goals. Behavior data is tracked through incident reports. Trinity stated that it is mandatory that staff collect this data and they will be disciplined if the data is not collected.

The Trinity staff stated that once every 3 weeks they would have an unusual incident during the day program. They stated that the consumers will cycle and sometimes get worse. Consumers have contacted outside of the house before via telephone. Numbers of contacts are posted on the refrigerator. They will call the administrators even if they have complaints. They will call the Trinity office. The consumers will also call the Office of Inspector General and Peoria has the most reports to the Office of Inspector General.

DISCUSSION WITH STAFF AT BOARD MEETING

A Trinity staff member was present at the June 15th, 2011 HRA Board meeting. The staff member stated that some of the requested documents that are part of the admitting practice are documents that the HRA already has; such as the psych report, ICAP, service plan, and treatment plan. The staff member said there is no set admitting policy or practice that is documented; they just make sure they are able to meet consumer needs. She stated that someone from Trinity leadership will meet the consumer. They will bring them into the house for dinner, and then there will be an overnight visit. If the first overnight is successful, there will be another overnight visit and then the consumer will be admitted. She said that documents the HRA received are what they review and if they have any medical needs then they also need to know about those. She reiterated that Trinity has chosen not to serve people because they cannot meet their challenges and they do not have room for them at the Joliet facility. They said that they receive numerous referrals, often from PAS agents, DHS, families, etc. She stated that the person named in the complaint was doing quite well until the incident. He had a history of aggression like everyone else. She also stated that they do not have respite homes where they can move people. The staff member also stated that she does not feel like the agency has a problem with aggressive consumers. She said that the agency takes many actions to protect consumers and make life better for them.

TOUR OF FACILITY

The HRA toured the duplex location. The house is a duplex with men on one side and women on the other side of the duplex. There is a door between the two houses that connect. The HRA saw the distance and line of vision between the kitchen on one side of the duplex and the living room on the other side of the facility. Depending on where the staff member was at, they could see the consumers but, if they were concentrating on cleaning parts of the kitchen, their line of vision may be obstructed. The distance between the living room and the kitchen is not that far, possibly 15 to 20 feet away. Both houses did have phones in a central area and did have information posted that the consumers could call.

UNANNOUNCED DAY PROGRAM VISIT

The HRA conducted an unannounced visit at the facility's day program. At the visit, the HRA was told by staff that there were 5 staff members to 7 consumers but the HRA counted at least 11 consumers in the house where the day program was being held. The staff also pointed out all the staff members and there were 5 individuals. The CILA house had a living room, dining room, and kitchen and then a second living room occupied by consumers. All the consumers in those areas were with staff. The consumers seemed to be in sight of the staff at all

times. There were bedrooms in the back and there were no consumers occupying these rooms. The staff were preparing to take consumers outside to throw water balloons and play on a slip and slide.

RECORD REVIEW

The HRA reviewed documents pertinent to the complaints in the case. Regarding the first complaint that there is an inadequate staff to consumer ratio, the HRA saw no evidence that the facility was maintaining ratios based on the Department of Human Service standards (59 II Admin Code 119.215). This lack of maintaining ratios was also verified in the staff interviews.

The second complaint in the report states that staff training and policy regarding consumer care are inadequate. The HRA reviewed a document titled "Staff Development" which is part of the Trinity Services policies and procedures. The document reads that "The staff development program at Trinity Services shall be implemented through all following interdependent components: Pre-Service orientation, on-the-job training, in-service training, workshop and seminar attendance, and access to the necessary learning resources." The document proceeds to list the different training areas and what the areas entail. The Pre-Service training lists areas about which new employees will be trained. The areas include consumer rights in accordance with the Mental Health and Developmental Disabilities Code, maintaining confidentiality in accordance with the Confidentiality Act, CPR and First Aid, behavior management, and abuse prevention, handling and reporting. The staff development document states, under the heading "Length of Training" that "Annually, on a Calendar Year basis, each employee will participate in 80 hours of continuing education, defined as either in-service training or attendance at workshops or seminars." The HRA was also provided a screen print of two employee's training summaries. One employee's summary indicates that they completed their pre-service on 10/30/2009, On the Job Training checklist on 10/22/2009 and Medical Administration Class on 10/21/2009. The next training occurred on 2/3/2010 and then 6/15/2010 which totaled 14 ~~total~~ hours. The screen print was taken on 5/4/2011. A second staff's screen print indicated they completed all the initial training on 8/27/2009 and then the next two classes were on 2/3/2010 and 6/15/2010. Both classes added up to 8 hours. The print screen was done on 5/4/2011 as well. Both indicated that the facility policy of 80 hours continuing education was not being followed.

The HRA also reviewed a "Pre-Service Schedule" that was provided by Trinity Services. The titles of the different training sessions range from "Experience the Difference," "Preventing Abuse and Neglect," "CPR/First Aid," "Medication Administration" (which is taught by a nurse) and "Basic Health and Safety." The HRA did not see any evidence of an integrated service plan training in the schedule. The HRA was also provided with an in-service form on abuse and neglect which was attended by 21 employees on February 3, 2010 and a learning activity titled "DHS Refresher" which was attended by 5 employees on June 15th, 2010.

The HRA reviewed facility policies regarding consumer care. The Trinity Services statement of rights states that if you are a person who attends programs offered by Trinity Services, then you have a right to "personal safety and freedom from harm." The rights

document also states that you have "The right to be free from abuse, neglect, exploitation, corporal punishment, or seclusion."

In reviewing the Trinity discharge policy, it states that Trinity may discharge a consumer enrolled in a program operated by the Agency for the following reasons "that this Agency is no longer able to meet the medical or behavioral needs of the individual, that the consumer chooses to move to another geographical location, the consumer decides to transfer to a program administered by another Agency, the consumer no longer benefits from the services provided by the community living program, or a consumer is absent from the program (at least 60 days) and this absence is expected to continue indefinitely."

The HRA also reviewed day program schedules from October through December. The schedules are filled with daily activities, with sections such as "Kitchen Safety," "Bird Migration," "Fire Safety," "Marsupials; Kangaroos," and "Halloween Traditions/Folklore." All times are accounted for with an activity that seem to range from educational to learning daily living tasks.

The HRA reviewed the records for the third complaint, dealing with the inappropriate admission of a consumer with a history of aggression that the facility was unable to handle. The HRA reviewed records for 8 different consumers who participate in the Trinity day program. The HRA had releases to review the documentation for 2 of the consumers (who will be identified as consumer #1 and consumer #2) and masked records for the remaining consumers (consumers #3 - #8). The HRA began the review with incident reports concerning the 8 consumers. Consumer #2 had the most infractions of the group. These incidents occurred at the day program and a CILA. According to the incident report forms, between the dates of 1/4/10 - 8/12/10 consumer #2 had 56 violent incidents. The incidents were towards staff and consumers and consisted of actions such as punching, kicking, spitting, and cursing. Three of the 56 incidents dealt with the consumer causing harm only to himself. Some of the entries were as basic as stating that the consumer hit a staff member and others had more detailed information. An example of a documented incident (dated 3/2/10) reads "He was hitting [staff/ consumer] although I didn't observe that part. I was sweeping the garage out and I heard [male consumer] yelling and come in the house. It took [staff/consumer] and myself to keep him from harming himself and others. He was yelling and cursing, hitting pinching and kicking at staff." Another incident report (dated 3/20/210) reads "[Consumer] told [consumer/staff] he was gonna hit her and ran over and hit her in her chest then hit her again and grabbed her. She tried to calm him down but it didn't work. [Consumer] was hitting with both hands and trying to bite. He was pinching [consumer/staff]. He was spitting blood at staff. He was kicking and yelling." A third example reads "Told [consumer] it was time to start putting away the bingo so we could have fun bowling. He said to shut up, he wasn't going anywhere. He got up from the table and hit my arm, then quickly grabbed hold of my side like he was trying to hug me. When staff tried to loosen his hold he pushed back into my body pinning me against counter. I got him turned facing away from me but he kept his back pressed into me and then tried to head butt me with back of his head. I braced his head still and managed to step away. He then turned on another staff. During the whole time [consumer] was verbally abusive."

In reviewing consumer #2's residential progress notes, from September 2009 through September 2010, the staff had been tracking his physical aggression at the consumer's CILA, and over that year span, the consumer had 450 incidents of physical aggression towards himself or others. The facility only started differentiating between physical aggression towards self and aggression towards others in February 2010, so it is unknown if the four prior months were towards other consumers or towards himself. Since the facility began tracking them separately in February 2010, the consumer had 216 instances in which there was physical aggression towards others and 150 towards self (84 did not differentiate between the two). January 2010 was the month where the incidents jumped from 3 in December 2009 to 59 in January 2010. In May 2010, the consumer had physical aggression towards others 58 times and towards himself 21 times. In June 2010, it dropped to aggression towards others 16 times and towards himself 10 times. The numbers stayed relatively low until September 2010 when it rose to 21 incidents against others and 18 against self.

The HRA also reviewed consumer #2's behavior plans, which outlines strategy for the behaviors like prevention, intervention, schedule or reinforcement, medication, objectives, etc. One behavior plan was dated 11/5/09 and the second was dated 8/5/10. In the plan dated 11/5/09, it was recorded that in August and December of 2009, the consumer had 7 incidents per month. There was also a goal to decrease the physical aggression to 0 incidents per month for three months by 12/2010. In the 8/5/10 behavior plan, the incidents had increased to 34 per month for December through June and the goal was changed to physical aggression 10 times per month for 3 consecutive months by 8/2011.

The Behavior plan has a section for prevention which outlines that the staff should give the consumer appropriate physical and verbal contact "at least once per hour." It also states that the consumer should be engaged in activities he enjoys throughout the day such as listening to music and painting. It reads that staff should provide the consumer with an explanation of expected behavior before the activity starts. The plan also has an alternative behavior training portion which mostly involves the consumer picking activities throughout the day. There is also reinforcement built into the training when the consumer finishes a step of the activity schedule.

If the consumer becomes physically aggressive, it is written into the behavior plan that the safety of other clients must be secured. It also states that staff should give the consumer ample space, move away from the consumer's attempts to hit, and not make eye contact or provide the consumer with a verbal response. It is written that if the consumer continues to be aggressive, a Crisis Prevention Institute (CPI) hold should be utilized by trained staff.

Overall, the behavior plans are very detailed and deal with the behaviors of the consumer.

The individual's progress notes, which are called the Daily Observation Monthly Summary, were reviewed for a year from September 2009 until 2010. In the notes, the staff tracked the individual's aggressive behaviors from September 2009 until January 2010. In February 2010, it reads that "[consumer] had several medication changes this month in an effort to lessen his behavioral issues." The medical changes are illustrated in the document. It also states that "We are attempting to have [consumer] follow an activity schedule to decrease some

of the behaviors. [consumer] was able to achieve this at 92% this month." The behavior plans continue to monitor how often the activity schedule is followed.

The progress notes also state that on August 10th, the consumer went to a prompt care for a possible broken elbow which "occurred due to self injurious behaviors" and on August 12th, the consumer was taken to a hospital for a psychological admission evaluation. The notes state that "It was determined that he was having an anxiety disorder/panic attack and was discharged with recommendation to follow up with this medical provider as well as his psychiatrist." On September 20th, the consumer went back to the hospital due to severe aggression towards others as well as to himself. He was discharged with the statement that he was having an Aggression Anxiety Attack.

The HRA also reviewed consumer #2's consumer service plan. The newest service plan, dated 8/4/2010, reads "When [consumer] is frustrated he becomes very obsessive asking the same questions over and over again till he starts demanding that the favored activity occur now not later. This will often lead to physical and verbal aggression. This leads to staff intervention until he is able to calm himself." The ISP proceeds to explain some interventions used by the staff and some situations where the consumer gets frustrated.

The HRA also reviewed other incident reports regarding consumer #1 - 8. The facility provided masked reports in 6 different date ranges (which indicate 6 different consumers). The HRA had releases for consumer #1 and consumer #2. Consumer #1 (of which there were incidents from the day program and residential) did not have an incident in which he was aggressive but had two incidents between 4/2/10 and 8/2/10 where a consumer was aggressive towards him. One incident was described as "[consumer] then shoved [consumer #1] to the ground very hard. When [consumer #1] landed he was on his right side and hit his head and cut open his right eyebrow. He hit his head on the corner of the counter when he went down." The other incident read "[consumer] walked up behind [consumer #1] and tackled him to the floor."

According to the incident reports, consumer #3 had 11 aggressive behaviors between 1/4/10 and 7/10/10, 2 of which were self-aggressive behaviors and the other incidents were towards staff and other consumers. Consumer #4 had 18 aggressive behaviors between 2/9/10 and 7/7/10 which mostly dealt with hurting himself and kicking and punching items in the house. Some dealt with aggression towards other consumers. Consumer #4 also had incidents that involved threats of suicide. Between 2/26/10 and 7/17/10 consumer #5 had 10 aggressive incidents towards other consumers, dealing with punching other consumers, throwing items and verbal threats. Consumer #6 had 9 incident reports between the dates of 6/28/10 and 8/4/10, which ranged from hitting other consumers, kicking furniture, and yelling and swearing. Consumer #7 had only 2 incidents on 2/9/10 and 3/23/10, one of which he became agitated and hit himself and the other where he stripped and, in the process of dealing with the situation, a staff member noticed that he had scratches on his body. Consumer #8 had 14 incident reports between 1/25/10 and 8/9/10 in which he hit other consumers, was aggressive towards staff and hurt himself. One incident of hurting himself ended with the consumer being taken to the hospital. Consumer #8 also attempted to hit a person in the crowd while at a public event and succeeded in hitting another person in the crowd at that same event. This consumer also had incident reports written for setting off the fire alarm.

The HRA reviewed masked behavioral plans and ISPs of consumers who attend the day program at Trinity. The remaining behavior plans are much like consumer #1's behavior plan in that they include detailed outlines of preventions, alternative behavior training, and reinforcement among other things. In one behavior plan, dated 4/15/2009, it states that a consumer had 195 occurrences of biting between April 2005 and October 2005. 90 occurrences in the AM and 105 in the PM. The consumer had 20 occurrences of self-injurious behavior during that time frame, 10 in the AM and 10 in the PM. The consumer had 375 instances of physical aggression during that time frame, 250 in the AM and 125 in the PM. The plan defines the physical aggression as "[consumer] will scratching, pinch, grab, squeeze, or slap someone with enough intensity to cause bleeding, bruising, or red marks." In the prevention area of the plan, it states "Staff will provide [consumer] with 1:1 high-quality attention for at least 20 minutes out of every hour before his roommates return home. Staff will provide [consumer] with at least 10 minutes of 1:1 high-quality attention in the afternoon/evening when other residents are present in the house." Another part of the plan is that the staff will take him on 2 daily van rides if possible and based on good behavior.

In another consumer's behavior plan, it states that "Throughout the day staff should offer [consumer] with the opportunity to have one on one time, ask how he is doing or ask him to help with chores." The plan also has many other details involved in helping the consumer's behavior such as staff engaging the consumer in conversations throughout the day such as asking him how his day went, keeping him engaged in activities, alternative behavior training for the consumer two times a week, and staff reminding the consumer of evening routine or outings in advance. The plan illustrates that the consumer has verbal outbursts 5 times per month, property destruction 4 times per month, threats or physical aggression occurs 5 times per month, elopement or threats of elopement occurs 60 times per month, stealing occurs 25 times, lying occurs 60 times and threats of false accusations of physical harm from others occur on the average of 4 times per month. The consumer's ISP, signed by the consumer on 6/9/2010 indicates that the consumer was living at the same location as his day program.

Another behavior plan states that a consumer was verbally aggressive 40 times in the month of August. The plan defines verbal aggression as "When [consumer] will instigate behaviors from others by cussing and name calling clients [expletive names]". The prevention method states each half hour the staff should engage the consumer in conversation for 5 minutes. There is also an alternative behavior training that should occur in five trial blocks at three times per week in the consumer's home.

For another individual, the HRA reviewed two behavioral plans. Although the plans were masked, one was presented to the HRA stapled to an ISP and the behavioral plan had a similar birthday to another behavioral plan. They also matched in behaviors. One plan, dated 5/19/2009 stated that an consumer was pulling the fire alarm 15 times a month and the objective was to decrease the pulling of the fire alarm to 0 times per month for 2 consecutive months by February 2010. The next plan, dated 8/4/10 states that the consumer was pulling the fire alarm 15 times a month and the goal was to decrease the fire alarm being pulled to 0 times a month for 6 months. This indicates that over a year's time, the behaviors had not changed.

The HRA also saw that for the behavior plans reviewed, the consumer's deficit level was tracked on the behavior plan in the second Axis of a Diagnostic and Statistical Manual of Mental Disorders (DSM-IV). The second Axis of the DSM-IV provides information about personality disorders and mental retardation. The HRA reviewed 7 behavior plans (one behavior plan was not provided) and 3 individuals had ~~were~~ moderate cognitive impairments, 3 had profound cognitive impairments, and one had a ~~was~~ mild cognitive impairment.

The HRA also saw that, in the grouped date ranges for masked incident reports, they received 6 separate date ranges which indicate 6 separate consumers. Of those 6, 5 had incidents of physical aggression. The HRA also received 6 masked behavior plans. Of those 6 behavior plans, 3 of them had physical aggression listed as a behavior of concern, 1 had only verbal aggression as a concern, and 2 did not have physical aggression listed. This indicates that of 5 individuals who have had incident reports of physical aggression, only 3 receive behavioral programming for physical aggression.

In the behavior plans and ISPs, the HRA did not see any indication where the facility was tracking a percentage of maladaptive behavior for the day.

In another incident service form, (dated 7/1/10) the description of the incident reads "I [staff] was sitting on girl's side when [female consumer] called me over because [male consumer] started calling her names and threatening to hit her and [2nd female consumer] because he wanted more food. So when I made it over on the other side he was already getting in her face and then he started to spit and hit so we moved everyone to other side." The passage indicates that the staff member was in a different area and not supervising the consumers when trouble occurred and a consumer had to come get the staff member when trouble began. This also happened in another incident that the HRA reviewed. The incident reads "While staff was outside on the back patio preparing dinner, I walked in the kitchen to find [consumer] on the floor and [consumer] on top of him screaming in his face." In a description of the incident, it states that the consumer had the other consumer pinned down screaming at him while the other consumer showed no force. The incident description proceeds to read "Less than 1 minute later staff heard [victim] crying. I asked [the report has unknown initials here] what happened. He said [aggressor] had punched [victim] in the face. [Aggressor] denied hitting [victim]."

MANDATES

The HRA reviewed mandates and regulations related to the complaints in this case. In regard to the complaint there is an inadequate staff to consumer ratio, the HRA reviewed the Department of Human Services Rule 119, which are the rules that regulate day programs. Part of Rule 119 states "1) The provider shall maintain staff ratios that will meet the individual's program needs. The Department's calculation of provider cost is based on the following ratios, but the provider will be given flexibility in grouping individuals to meet the individual's needs." The regulation proceeds to explain that individuals with mild deficits in adaptive behavior should maintain on-duty trainers and instructors at a 1:10 ratio, those with moderate deficits should have a ratio of 1:8, and those with severe or profound deficits should have a ratio of 1:5. The regulation proceeds to say "D) The provider may request additional staff for individuals whom the team has assessed and who require and who are receiving specialized services stated in one

of the following levels . . ." and the regulation proceeds to illustrate various scenarios where facility can request additional staffing. Of the three levels that are mentioned, they all have an aspects of level of maladaptive behavior in which additional staffing can be requested (59 Il Admin Code 119.215).

In regard to the complaint that staff training and policy regarding consumer care are inadequate, the DHS Rule 119 lists training areas for direct care and professional staff such as behavior management, safety, fire and disaster preparedness plans, abuse, and consumer rights to name a few (59 Il Admin Code 119.260). All twelve training areas are covered in the Staff Development policy document reviewed in the records section of this report. The HRA found no evidence that employees of day training programs must receive continued training in accordance with the regulations.

The DHS Rule 115, which regulates CILA programs, also provides a list of topics about which employees must be trained as a part of their orientation which also includes items such as safety, fire, and disaster procedures, concepts of treatment, screening for tardive dyskinesia, as well as many parts of Rule 119. There are three sections which are not covered in the Trinity staff development plan; "F) The nature and structure of the consumer integrated services plan; ... I) Development and implementation of an consumer integrated services plan; J) Formal assessment instruments used and their role in the development of the services plan; ... [and] L) Other training which relates specifically to the type of disability or treatment and intervention techniques being used specific to consumer living in CILAs geared toward assisting employees to execute objectives obtained in the services plans" The Rule proceeds to state "2) After completion of training specified in subsection (d)(1) of this Section, each direct service employee shall participate in ongoing employee development activities as outlined in the agency's employee development plan" (59 Il Admin Code 115.320).

Concerning complaint #3, which states that there was inappropriate admission of an consumer with a history of aggression that the facility was unable to handle, DHS Rule 115, states "5) Admission to programming ... B) Admission policies and procedures shall be set forth in writing and be available for review" (59 Il Admin Code 115.320). The DHS Rule 119 states "1) The program shall have written policies which shall be reviewed annually, revised as necessary and approved by the governing body or advisory board and shall describe: . . . ii) The methods used to perform initial screening and assessment of individuals" (59 Il Admin Code 119.260).

The DHS rule 119 explains that part of the exit criteria for a day program entails that a consumer shall not engage in maladaptive behavior for more than 5 percent of a developmental training program. The rule proceeds to read "c) Individuals who meet or exceed the exit criteria shall not enter or remain in the program unless the program can document that alternative resources in the individual's community do not exist to meet the service needs. Examples of documentation include denials of admission to other programs because of lack of capacity or the information that no other program exists in the individual's community" (59 Il Admin Code 119.205). Although it was stated in the staff interview that the consumers had been removed from all outside day programs and had no alternatives, the HRA saw no documentation of this and saw no documentation that a percentage of maladaptive behavior is being kept.

Rule 119 also states that the individual's rights are protected by the Mental Health and Developmental Disabilities Code (59 Il Admin Code 119.235). Rule 115, also states that it follows the Code (59 Il Admin Code 115.250). The Code states that "Every recipient of services in a mental health or developmental disability facility shall be free from abuse and neglect" (405 ILCS 5/2-112).

The Code also reads "When an investigation of a report of suspected abuse of a recipient of services indicates, based upon credible evidence, that another recipient of services in a mental health or developmental disability facility is the perpetrator of the abuse, the condition of the recipient suspected of being the perpetrator shall be immediately evaluated to determine the most suitable therapy and placement, considering the safety of that recipient as well as the safety of other recipients of services and employees of the facility" (405 ILCS 5/3-211).

Rule 115 also illustrates that "The community support team shall consider recommending termination of services to a consumer only if . . ." and then provides reasoning. One of the reasons state "2) The behavior of a consumer places the consumer or others in serious danger" (59 Il Admin Code 115.215). Rule 119 states that exclusion, suspension or discharge of a consumer may occur due to "4) Maladaptive behavior that places the consumer or others in serious danger" (59 Il Admin Code 119.210).

The DHS Rule 119 reads "e) Programs shall not be located in buildings where individuals reside" (59 Il Admin Code 119.200). The DHS Rule 115 states that "a) CILA sites shall be located to enable individuals to participate in and be integrated into their community and neighborhood" (59 Il Admin Code 115.310).

CONCLUSION

Complaint #1 - There is an inadequate staff to consumer ratio

The complaint states that there is an inadequate staff to consumer ratio in the day-training facility. The facility staff stated that there is always 1 available day staff person and the rest of the staffing depends on job functions and needs. They stated that 1 or 2 staff members are often taking people on appointments and, if it is a challenging day at the facility, the staff communicate to each other and more staff will be present at the day program. They stated that on the day of the incident that resulted in a consumer's death, the staff to consumer ratio was 2 to 6 but one staff person left to take a consumer on an errand, leaving the staff member alone. The HRA conducted an unannounced site visit to the facility's day program and saw that there were 5 staff members for at least 11 consumers, which appears to be a reasonable staffing situation given the amount of aggressive behaviors that occur within the facility. The HRA reviewed 7 behavior plans and consumer deficits/needs in association with the DSM-IV. The consumers' cognitive impairments ranged from mild and moderate to profound. The DHS Rule 119 states that the provider shall maintain staff ratios that will meet the individual needs and that provider cost is based on the DHS ratios but the provider will be given flexibility based on meeting the individual needs. The regulation proceeds to illustrate consumer levels and the number of required staff (59 Il Admin Code 119.215). Due to the fact that there seems to be no evidence

indicating that the facility is not following the DHS Rule 119 for staffing, the HRA finds this complaint **unsubstantiated** and offers the follow **suggestions**:

- Even though the facility seems to be following the DHS guidelines, based on the number and nature of violent incidents, the HRA has concerns regarding the safety of the consumers attending the day program and living in the CILAs. The Mental Health and Developmental Disability Code states that "Every recipient of services in a mental health or development disability shall be free from abuse and neglect" (405 ILCS 5/2-122) and the facility's own policies not only echo that statement, but also state that consumers have a right to "personal safety and freedom from harm." The HRA believes that the living arrangement and day training program jeopardize the safety and health of consumers and the consumer-on-consumer aggression borders on abuse. The HRA strongly suggests that the facility look at its staffing practices and make changes to ensure that these consumers are living a healthy and safe lifestyle that protects their rights to not be abused and to actively integrate into the community.
- In reviewing the behavior plans, it is written in several that consumers periodically need certain amounts of on-on-one time with the staff. If the staffing level is low, the HRA has concerns that these behavior plans cannot be followed adequately. The HRA suggests that the facility review the behavior plans and assure that they are adequately staffed to ensure that the preventions and actions on the behavior plans can be followed.
- The HRA reviewed two instances in which the behaviors did not improve from one plan to another. The HRA suggests that if preventions and actions taken by the staff are not working in the plans, then the plans be reviewed and new avenues be taken in an attempt to improve behaviors.

Complaint #2 - Staff training and policy regarding consumer care are inadequate

The complaint states that staff training and policy regarding consumer care are inadequate. The staff said in the interview that direct care staff training varies per site. They said the staff were receiving CPI training for de-escalation skills but, other than that, the staff only gets initial trainings and some refresher courses. The facility's staff development document follows Rule 119 in the areas in which staff are to be trained (59 Il Admin Code119.260), but Rule 115, which relates to CILA programs, is not followed by the staff development plan and excludes important areas of staff training regarding integrated services plans (59 Il Admin Code115.320). Rule 115 also states "... employee shall participate in ongoing employee development activities as outlined in the agency's employee development plan" (59 Il Admin Code 115.320). The Trinity staff development document calls for 80 hours of continuing education, which, after reviewing a print screen of two job training checklists, were not completed by the employees. The HRA also reviewed the day program schedule in their investigation; the HRA saw that the consumer's day is full and activities take place throughout the day without downtime.

Because the staff training did not follow the DHS regulations for CILA mandates, nor did the training follow the policy created by the facility, the HRA **substantiates** this complaint and makes the following **recommendations**:

- Change policy and procedure to educate staff in integrated service plans per Rule 115 (59 Il Admin Code 115.320).
- Educate current staff in integrated service plans per Rule 115 (59 Il Admin Code 115.320).
- Assure that staff receive continued education and training that equal 80 hours each calendar year per facility policy.

The HRA offers the following **suggestions**:

- Two incident reports indicate that staff were out of the room when incidents occurred, which shows that some incidents may have been preventable had staff been in the area. The HRA suggests that the facility review these incidents to see if there is a need for more staff or if staff need to always be in the staff line of sight.
- On the training print out page, the dates for the training seem to be out of order, for example an employee was receiving on the job training on 10/22 and then pre-service training on 10/30. In reviewing the trainings, it seems to the HRA that the employee should not be receiving on the job training until the pre-service has been completed. The HRA is concerned about the safety of the consumers in this scenario because the staff is receiving on the job training without having the background and knowledge of the pre-service training. The HRA suggests that the facility review training timelines to assure that staff if being trained in the proper order and that the staff is prepared to deal with consumers before they start hands on training.

Complaint #3 -Inappropriate admission of a consumer with a history of aggression that the facility was unable to handle.

The complaint states that there was an inappropriate admission of a consumer with a history of aggression that the facility was unable to handle. During the interview, the staff explained that they take the admission process very seriously and look at many different aspects of the consumers before they are admitted, including their diagnosis, and what other staff and the referring agency feels about the individual's appropriateness for admission. They did state that they have no criteria in writing for their admission standards and this was reiterated in the discussion Trinity staff had with the HRA at the June 15th Board meeting. Rule 115 states that "Admission policies and procedures shall be set forth in writing and be available for review (59 Il Admin Code 115.320) and Rule 119 reads that a program shall have written policies which will be reviewed by the governing body or board these policies shall describe "The methods used to perform initial screening and assessment of individuals" (59 Il Admin Code 119.260).

The HRA also saw that the facility was not tracking the percentage of maladaptive behavior which would show if they are exceeding the exit criteria written in Rule 119 (59 Il Admin Code 119.205). The HRA also did not review any documents stating that alternative resources do not exist in the community.

The HRA reviewed two separate individuals' behavior plans for two consecutive years. One was consumer #2's behavior plans, which had a goal of 0 incidents per month for 3 months with 7 incidents occurring between August and December of 2009. In the next behavior plan, the

incidents increased to 34 per month for December to June and the goal was changed to physical aggression being lowered to 10 times per month for 3 consecutive months. Also, there was documentation that consumer #2's behavior improved in progress notes but then the behavior increased again at the end of the progress notes. This occurred in another plan where a consumer was pulling a fire extinguisher; the fire alarm was being pulled 15 times a month for two consecutive behavioral plans with no progress being made. The increased incidents suggest the behavior plans need to be reviewed and possibly revised.

Due to the fact that the facility did not have required admission policies the HRA **substantiates** the complaint and offers the following **recommendations**:

- Create written policy and procedure concerning admission standards in CILA and Day Programs per Rule 115 (59 II Admin Code115.320) and Rule 119 (59 II Admin Code119.260).
- Educate all staff involved in admission regarding the policies and procedures. Create policy and procedure for monitoring maladaptive behavior in day programs and monitor consumers in accordance with the procedure as per 59 II Admin Code 119.205.
- Create policy and procedure to evaluate consumers with repeated and significant aggressive behaviors as possible perpetrators of abuse per Mental Health Code 405 ILCS 5/3-211.

The HRA also offers the following **suggestions** regarding observations made during the investigation:

- The reviewed behavior plans and progress notes indicate that some of the consumers are not improving while at the facility. The HRA suggests that the facility review why these consumers are not improving and develop new behavior plans, with differing goals, that can help change the consumers' behavior patterns rather than continuing to follow goals on behavior plans that the consumer is not able to meet.
- The HRA reviewed considerable documentation that indicated the consumers are living in an unsafe environment with excessive amounts of physical violence and aggression between consumers and towards staff. The Trinity discharge policy does not indicate a consumer creating an unsafe environment towards himself or other consumers as a viable reason for discharge, but Rule 119 (59 II Admin Code119.210) and Rule 115 (59 II Admin Code115.215) state that if a consumer puts himself or other individuals in serious danger it could be grounds for discharge. The HRA suggests that the facility update their policy to adhere to Rule 115 and 119 and educate staff on these regulations.
- In reviewing behavior plans, there were no plans indicating consumers that need one-on-one supervision but the HRA reviewed two situations in the incident reports (see record review above) in which aggressive behavior occurred while staff was out of the room and had to be told about the incident or another consumer had retrieve a staff member. The HRA suggests that the facility re-evaluate the consumers in the CILA and day programs need for one-on-one supervision.
- A consumer's ISP (see record review) indicated that the consumer lives in the same location where the day program is being held which is a violation of Rule 119 (59 II Admin Code 119.200). The HRA suggests that the facility adhere to this rule and

conduct the day program in a location that differs from the exact living area of the consumers.

- In the interview, staff stated that they put houses in rural areas so that the consumers are not tempted to walk to gas stations, etc. but the DHS Rule 119 states that the locations should be in places where consumers can be integrated into their communities (59 IL Admin Code 115.310). From that statement, the HRA is somewhat concerned about Trinity CILA locations where the consumers cannot integrate into a community setting and suggests, when choosing these settings, that the facility ensures they are following the regulations in Rule 115.

RESPONSE

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

December 12, 2011

Guardianship and Advocacy Commission
Human Rights Authority – Peoria Region
401 Main Street, Suite 620
Peoria, IL 61602
Case #11-090-9008

To Whom It May Concern:

Trinity Services, Inc. is submitting this response to the findings report for case #11-090-9008. Many discrepancies were found throughout the report and are addressed in this submission. We welcome the opportunity to clarify the points outlined in the document and invite you to request more information or a meeting to review the issues, documentation, and policies in question.

Of major concern is how the behavioral data and incident reports were reviewed and reflected in this report. As stated within the response, it is our position that the data is not accurately represented and incidents have been taken out of context. With the required permission from guardians and the people we serve, you are encouraged to review the data and charts with a member of the Trinity staff present to help you interpret the information correctly.

Please let us know how we can be of assistance as you review this response.

Thank you,



Thane Dykstra, PhD
Director, Behavioral Health Services
1005 Laraway Rd, Suite 230
New Lenox, IL 60451
815/717-1717

December 12, 2011

To: Human Rights Authority – Peoria Region

RE: Report of Findings - Case #11-090-9008

From: Trinity Services, Inc.

Trinity Services, Inc. respectfully responds to the issues highlighted in the above referenced report as follows:

Page 2: "50% of the consumers at Trinity are dually diagnosed with a developmental disability and a mental illness and 50% have strictly mental health diagnosis."

This statement is incorrect. The Peoria program is a part of the Behavioral Health network at Trinity. Within the *Behavioral Health network*, approximately 60% of the 125 people served are dually diagnosed with an intellectual disability and a mental illness. 40% of the 125 people have only a mental health diagnosis. Agency-wide, Trinity serves over 600 people. All people served in other programs and networks have an intellectual and/or developmental disability.

Page 3: "When Trinity came to Peoria, the consumers were attending external day programs except for one consumer who had a one-on-one aide."

This is incorrect. When Trinity first began providing services in Peoria, one person was being served. This young man had been discharged from the residential and day program services of a provider in the Peoria area. A one-on-one aide was provided by the school district per his IEP. When Trinity assumed responsibility for the Mosaic program, Mosaic was providing at-home day program services to those in need of that level of support. Trinity continued the at-home day program to provide continuity of care.

Page 3: "...Trinity purchased a different building so that they could have day program at a different site. At the time of the interview, the consumers have not moved to that building but they are having the day program at a different CILA house location."

A building was purchased for office space, and does have room for a future day program. However, substantial improvements are necessary to meet the requirements of Rule 119 to put a day program in the existing building. With the current economic status of social services, delay in payments by the state, and uncertainty regarding funding and rate cuts, Trinity is getting bids and estimates to determine if the cost of this project will be feasible.

Page 3: "They also have two QSP's, who have bachelor's degrees"

The Trinity Peoria program employs three QSP's, two of whom are responsible for the people served in the CILA homes, and one QSP dedicated to the at-home day program. Two of the QSP's have bachelor's degrees and one QSP has a master's degree.

Page 4: "They stated the staff that they inherited was bonus driven, but Trinity could not pay the staff bonuses. They stated that turnover last year was 36%. Trinity also stated that managing from a distance is hard for them. They have a part-time director in Peoria. The Director is there Monday through Wednesday every week but the goal is to make her available on a full-time basis. When the Director is not there, the RN is the facility director and is in Peoria on a daily basis."

The commentary that is included on bonuses is not pertinent to any issue, nor is it accurate. The majority of staff members have been hired since the time of the transition and do receive bonuses primarily related to attendance (TAB – Trinity Attendance Bonus). A 36% turnover rate is below the average rate often reported in social service agencies. Trinity strives to maintain a turnover rate of 25% agency wide.

It would be optimal to manage any program while being on site. However, it is a rare occurrence in any program that leadership staff share office space with the programs for which they have oversight. The same challenges of managing from a distance exist if a program is five miles from the main office or 120 miles from the main office. This was simply an observation that was shared with the HRA during the interview.

The Peoria program had a full-time director until November 2010. When the director's position became vacant in November 2010, Andrew Long assumed the responsibilities of the interim director. A new full-time director, Lynn Fingerhut, was hired in June of 2011. Andrew Long continues to provide supervision and guidance to the director and staff. The RN, Deb Davis, served as the "point person" for the program on the days that the interim director was not on-site.

Page 5: "In the case of the consumer who struck the peer, the state had contacted Trinity about the consumer."

"The state" and DHS did NOT contact Trinity about serving the person. The agency who served the person as an adolescent contacted Trinity.

Page 5: "...most of the consumers have been inherited except for two."

Trinity was providing residential services to 3 people in Peoria prior to the expansion in 2007. Of the 24 people currently receiving residential services in Peoria, 10 were served by Mosaic. Since the expansion, many of the people now receiving services were previously served at state operated developmental centers, other provider agencies, adolescent services as they aged into adult services, or their families of origin.

Page 5: "They stated that when they decide who to admit, diagnosis is a big deal."

Diagnosis is NOT is a major influence on decisions regarding admission. The needs of the person, the level of support and services they will require, and if they would benefit from the environment in which the vacancy is available are the first considerations for admission. Trinity evaluates if the person would have others to interact with in the home, people who share similar interests, the level of activity, noise, and stimulation in the home, and preference of the person and guardian.

Page 5: "They also stated that there are not criteria in writing for their admission standards."

Please refer to Trinity Services Policy #2-001 CILA – Admission and Policy #2-001AS Adult Services (Day Programs). All policies and procedures have been approved and meet the criteria set by Department of Human Services – Division of Developmental Disabilities as evidenced by their acceptance during BALC and BQM surveys.

Page 5: "Behavior data is tracked through incident reports."

Behavioral data is tracked on monthly data sheets that correspond to the person's Behavior Management Plan. Incident reports are used to document unusual incidents. They are NOT used to track data.

Page 6: Unannounced day program visit:

"...but the HRA counted at least 11 consumers in the house where the day program was being held."

The report does not state what time of day or day of the week the visit occurred. There could be numerous reasons why there were 11 consumers in the home. They may have been waiting for a ride to work, they may have chose to stay home that day, there may have been no work available at their day program, etc.

Page 8: "These incidents occurred at the day program and a CILA. According to the incident report forms, between the dates of 1/4/10 – 8/12/10 consumer #2 had 56 violent incidents."

Trinity Services strongly objects to the use of the "violent incidents". As defined in *Webster's Dictionary of the English Language* violence is "intense physical force that causes or is intended to cause injury or destruction." "Consumer #2" is a young man who is dually diagnosed with an intellectual disability and a mental illness. His behavioral repertoire is similar to hundreds of people served through out the state with challenging behavior. With consent decrees such as Ligas and Olmstead, and the lack of resources available in state operated developmental centers, people with similar behavioral challenges are being served in community settings across the state. To use the word "violent" to describe a person with a dual diagnosis stigmatizes people with challenging behavior and perpetuates the fear that society has of people with intellectual disabilities and mental illness.

Page 8: "Since the facility began tracking them separately in February 2010, the consumer had 216 instances in which there was physical aggression towards others and 150 towards self (84 did not differentiate between the two).

The report does not accurately reflect the data for the consumers cited in the document. One of the consumers for whom there was a release of information is not served at the at-home day program. The HRA requested masked documents of people receiving services in the at-home day program. These people are receiving services in the at-home day program BECAUSE of their challenging behavior. Therefore, it is expected that their behavior plans will target more challenging behaviors than others who are served in the program, and the frequency of the occurrence of challenging behavior will be greater than others not served in the at-home day program. It is inflammatory to cite excerpts from the behavior plans, unusual incident reports, and monthly data without an understanding of the person's history, the context in which the behavioral issues occur, and an analysis of data for more than the snap shot that was presented to determine if progress has occurred or not.

Page 12: "In the behavior plans and ISP's, the HRA did not see any indication where the facility was tracking a percentage of maladaptive behaviors for the day."

Data is collected on a daily basis and tracked for monthly reporting per DHS-DDD regulations.

Page 13: "The HRA found no evidence that employees of day training programs must receive continued training in accordance with the regulations."

The employees of day training programs are direct service personnel and receive the same training as all employees at Trinity Services, which meet the requirements set forth by DHS-DDD and reviewed by BALC and BQM.

Page 13: "There are three sections which are not covered in the Trinity staff development plan: "F) the nature and structure of the consumer integrated services plan;...I) development and implementation of a consumer integrated services plan; J) Formal assessment instruments used and their role in the development of the services plan:...[and] L) other training which relates specifically to the type of disability or treatment and intervention techniques being used specific to consumer living in CILA's geared toward assisting employees to executive objectives obtained in the service plans." The Rule proceeds to state "2) After completion of training specified in subsection (d)(1) of this section, each direct service employee shall participate in ongoing employee development activities as outlined in the agency's employee development plan" (59 II Admin Code 115.320).

Trinity's staff development and training requirements meet the standards and requirements of DHS-DDD. Please refer to the letters from DHS included in this submission that indicate approval of DSP training program from 11/2009-11/2011 and 11/2011-11/2013. A copy of the Pre-Service Certificate given to staff after the completion of training that cites the topics and applied areas included in the training is included in the attachments.

Page 13: "...DHS Rule 115 , states "5) Admission to programming ...B) Admission policies and procedures shall be set forth in writing and be available for review" (59 II Admin Code 115.320). The DHS Rule 119 states "1) The program shall have written policies which shall be reviewed annually, revised as necessary

and approved by the governing body or advisory board and shall describe:...ii) The methods used to perform initial screening and assessment of individuals” (59 II Admin Code 119.260).

All polices and procedures have met the requirements of DHS-DDD Rule 115 and Rule 119 and have been reviewed in BALC and BQM surveys. Please refer to Trinity Services Policy #2-001 CILA – Admission; Policy #2-001AS – Admission to Adult Services Programs; Policy #2-002 CILA – Discharge; and Policy #2-002AS – Discharge; copies are included in this submission.

Page 13: “The DHS rule 119 explains that part of the exit criteria for a day program entails that a consumer shall not engage in maladaptive behavior for more than 5 percent of a developmental training program.” “...the HRA saw no documentation of this and saw no documentation that a percentage of maladaptive behavior is being kept.”

The people receiving services in the at-home day program are there because of the frequency of their challenging behavior. That is why they were approved for 37U funding. The data to determine this percentage could be collected by recording the length of time of incidents. However, if they are discharged from At-Home Day Program, where would they receive services? What would they do during the day?

Conclusion:

Complaint #1:

Page 14: “...based on the number and nature of violent incidents, the HRA has concerns regarding the safety of the consumers attending the day program and living in the CILA’s.”

Trinity is committed to ensuring the safety of the consumers attending the day program and living in the CILA’s as evidenced by both policy and procedure. At the same time, Trinity is committed to serving people in the least restrictive environment and honoring their human right to live in the community. All possible services and supports are provided to a person with challenging behavior to prevent aggression.

Page 15: “The HRA believes that the living arrangement and day training program jeopardize the safety and health of consumers and the consumer-on-consumer aggression borders on abuse.”

Trinity Services finds this statement to be inflammatory and requests clarification on this point.

Page 15: The HRA suggests that the facility review the behavior plans and assure that they are adequately staffed to ensure that the prevention actions on the behavior plans can be followed.

Please refer to Policy #4-002AW – Individualized Behavioral Supports and Approved Techniques and Policy #3-002AW – Individual Supports Committee included in this submission. Staffing patterns are determined by funding provided by DHS-DDD. As stated earlier, behavior plans are reviewed by the Individual Support Committee and would not be approved if unable to be implemented.

Page 15: The HRA suggests that if preventions and actions taken by the staff are not working in the plans, then the plans be reviewed and new avenues be taken in an attempt to improve behaviors.

Per Trinity policy and Rule 115 and Rule 119, all behavior plans are reviewed at the semi-annual and annual staffing. In addition, any changes to functioning level or goal attainment is reviewed and the behavior plan is modified if necessary. Please refer to Policy #4-002AW – Individualized Behavioral Supports and Approved Techniques and Policy #3-002AW – Individual Supports Committee included in this submission.

Complaint #2:

- Change policy and procedure to educate staff in integrated service plans per Rule 115 (59 II Admin Code 115.320).
- Educate current staff in integrated services plans per Rule 115 (59 II Admin Code 115.320).
- Assure that staff receive continued education and training that equal 80 hours each calendar year per facility policy.

As stated above: Trinity’s staff development and training requirements meet the standards and requirements of DHS-DDD. Please refer to the letters from DHS included in this submission that indicate approval of DSP training program from 11/2009-11/2011 and 11/2011-11/2013. A copy of the Pre-Service Certificate given to staff after the completion of training that cites the topics and applied areas included in the training is included in the attachments. The requirement of 80 hours of continued education and training is tracked by each individual staff person with their supervisor. The staff members are encouraged to participate in numerous activities to meet the goal of 80 hours. It is the responsibility of the individual staff person to engage in Personal Growth, but is not mandated by DHS-DDD.

- The HRA suggests that the facility review these incidents to see if there is a need for more staff or if staff need to always be in the staff line of sight.

Please refer to Policy #4-013AW – Residential Presence Observations and Policy #4-012AW Individualized Supervision Policy included in this submission. When Trinity Services finds it necessary to provide enhanced supervision, an application for 53 funding is submitted to the Illinois Department of Human Services. This funding is provided on a limited basis. Trinity has utilized this funding when necessary. To protect the human rights of the person receiving services, the least restrictive means of supervision is maintained.

- The HRA suggests that the facility review training timelines to assure that staff is being trained in the proper order and that the staff is prepared to deal with consumers before they start hands on training.

As stated above: Trinity’s staff development and training requirements meet the standards and requirements of DHS-DDD. Please refer to the letters from DHS included in this submission that

indicate approval of DSP training program from 11/2009-11/2011 and 11/2011-11/2013. A copy of the Pre-Service Certificate given to staff after the completion of training is included and cites the topics and applied areas included in the training. The sequence of training curriculum is circumscribed by DHS-DDD. As noted, the training curriculum has been approved by DHS-DDD.

Complaint #3:

- Create written policy and procedure concerning admission standards in CILA and Day Programs per rule 115 (59 Il Admin Code 115.320) and Rule 119 (59 Il Admin Code 119.260).

As stated above: Please refer to Trinity Services Policy #2-001 CILA – Admission and Policy #2-001AS Adult Services. All policies and procedures have been approved and meet the criteria set by the Department of Human Services – Division of Developmental Disabilities as evidenced by their acceptance during BALC and BQM surveys.

- Educate all staff involved in admission regarding the policies and procedures. Create policy and procedure for monitoring maladaptive behavior in day programs and monitor consumers in accordance with the procedure as per 59 Il Admin Code 119.205.
- Create policy and procedure to evaluate consumers with repeated and significant aggressive behaviors as possible perpetrators of abuse per Mental Health Code 405 ILCS 5/3-211.

People with an intellectual and/or developmental disability who engage in challenging behaviors are not typically intentional perpetrators of abuse. In the rare instance that a person who is served at Trinity Services is intentionally perpetrating abuse, action is taken to determine the level of services that person requires to keep others and himself safe. A policy and procedure regarding “repeated and significant aggressive behavior” would infringe on the rights of a person who engages in challenging behavior due to their disability.

- The HRA suggest the facility review why these consumers are not improving and develop new behavior plans, with differing goals, that can help change the consumers’ behavior patterns rather than continuing to follow goals on behavior plans that the consumer is not able to meet.
- The HRA suggests that the facility update their policy to adhere to Rule 115 and 119 and educate staff on these regulations.

As stated above: Per Trinity policy and Rule 115 and Rule 119, all behavior plans are reviewed at the semi-annual and annual staffing. In addition, any changes to functioning level or goal attainment is reviewed and the behavior plan is modified if necessary. Please refer to Policy #4-002AW – Individualized Behavioral Supports and Approved Techniques and Policy #3-002AW – Individual Supports Committee included in this submission.

- The HRA suggests that the facility re-evaluate the consumers in the CILA and day programs need for one-on-one supervision.

When Trinity Services finds it necessary to provide enhanced supervision, an application for 53 funding is submitted to the Illinois Department of Human Services. This funding is provided on a

limited basis. Trinity has utilized this funding when necessary. To protect the human rights of the person receiving services, the least restrictive means of supervision is maintained. Please refer to Policy #4-013AW – Residential Presence Observations and Policy #4-012AW Individualized Supervision Policy included in this submission.

- The HRA suggests that the facility adhere to this rule (consumer lives in the same location where the day program is being held is a violation of Rule 119) and conduct the day program in a location that differs from the exact living area of the consumers.

As stated above: The people receiving services in the at-home day program are there because of the frequency of their challenging behavior. That is why they were approved for 37U funding. Please refer to the DHS-DDD Program Description and DHS-DDD Request for Alternative Day Program included in this submission. The data to determine this percentage could be collected by recording the length of time of incidents. This is not a violation of Rule 119 and the At-Home Day Program is included in BALC and BQM surveys.

- “...they put houses in rural areas so that ...but DHS Rule 115 states that the locations should not be in places where consumers can be integrated into their communities (59 II Admin Code 115.310). From that statement, the HRA is somewhat concerned about Trinity CILA locations where the consumers cannot integrate into a community setting and suggests, when choosing these settings, that the facility ensures they are following the regulations in Rule 115.

BALC and BQM determine if an agency meets the requirements of Rule 115. Every Trinity CILA group home has passed the standards of BALC and BQM, and is a licensed CILA home. Every person living in a CILA group home is integrated into the community. Each home has a van dedicated to that house to provide transportation. They work, shop, attend church, visit with family and friends, participate in athletic programs, and contribute to their community on a daily basis. Homes that are in rural areas are within 1-2 miles of shopping, medical services, and other amenities.

GUARDIANSHIP & ADVOCACY COMMISSION

Dr. Mary L. Milano, Director

HUMAN RIGHTS AUTHORITY
LEGAL ADVOCACY SERVICE
OFFICE OF STATE GUARDIAN



January 30th, 2012

Thane Dykstra
Trinity Services, Inc.
100 N. Gougar Rd
Joliet, IL 60432

Re: HRA #11-090-9008

Dear Thane Dykstra:

The Peoria Regional Human Rights Authority, at their January 30th, 2012 board meeting, discussed the facility's response to case #11-090-9008. At the meeting, the HRA voted to request further information or action regarding the recommendations within the report. The requests are outlined below.

Complaint #2

In your response, the facility states that Trinity's staff development and training requirements meets the standards and requirements of DHS-DDD and that the requirement of 80 hours of continued education and training are tracked by the individual staff person and his/her supervisor. The HRA did not receive evidence that the required 80 hours continued education are being completed by Trinity facility staff members or that the required integrated service plan training is included in the Pre-service training program. The HRA requests that Trinity provide a sample of the required 80 hours of tracked continued education and training as indicated in the facility's response. The HRA also request that the facility provide evidence of staff training in integrated service plans, or take action on the following recommendations as stated in the HRA report:

- Change policy and procedure to educate staff in integrated service plans per Rule 115 (59 Il Admin Code 115.320).
- Educate current staff in integrated service plans per Rule 115 (59 Il Admin Code 115.320).
- Assure that staff receive continued education and training that equal 80 hours each calendar year per facility policy.

Complaint #3

It is noted that the HRA has been provided adequate policy regarding admission to satisfy that aspect of the recommendation. Although that section of the recommendation has been



satisfied, the HRA request that the facility take action on the recommendation that reads as follows "Create policy and procedure for monitoring maladaptive behavior in day programs and monitor consumers in accordance with the procedure as per 59 Il Admin Code 119.205."

Regarding the request that the facility "Create policy and procedure to evaluate consumers with repeated and significant aggressive behaviors as possible perpetrators of abuse per Mental Health Code 405 ILCS 5/3-211," the HRA contends that regardless of whether or not a service recipient intended to inflict harm on a peer, the Mental Health and Developmental Disabilities Code requires policy to address serious behaviors between service recipients. Therefore, the HRA stands by its recommendation and requests policy created specific to the Code requirements regarding possible perpetrators of abuse.

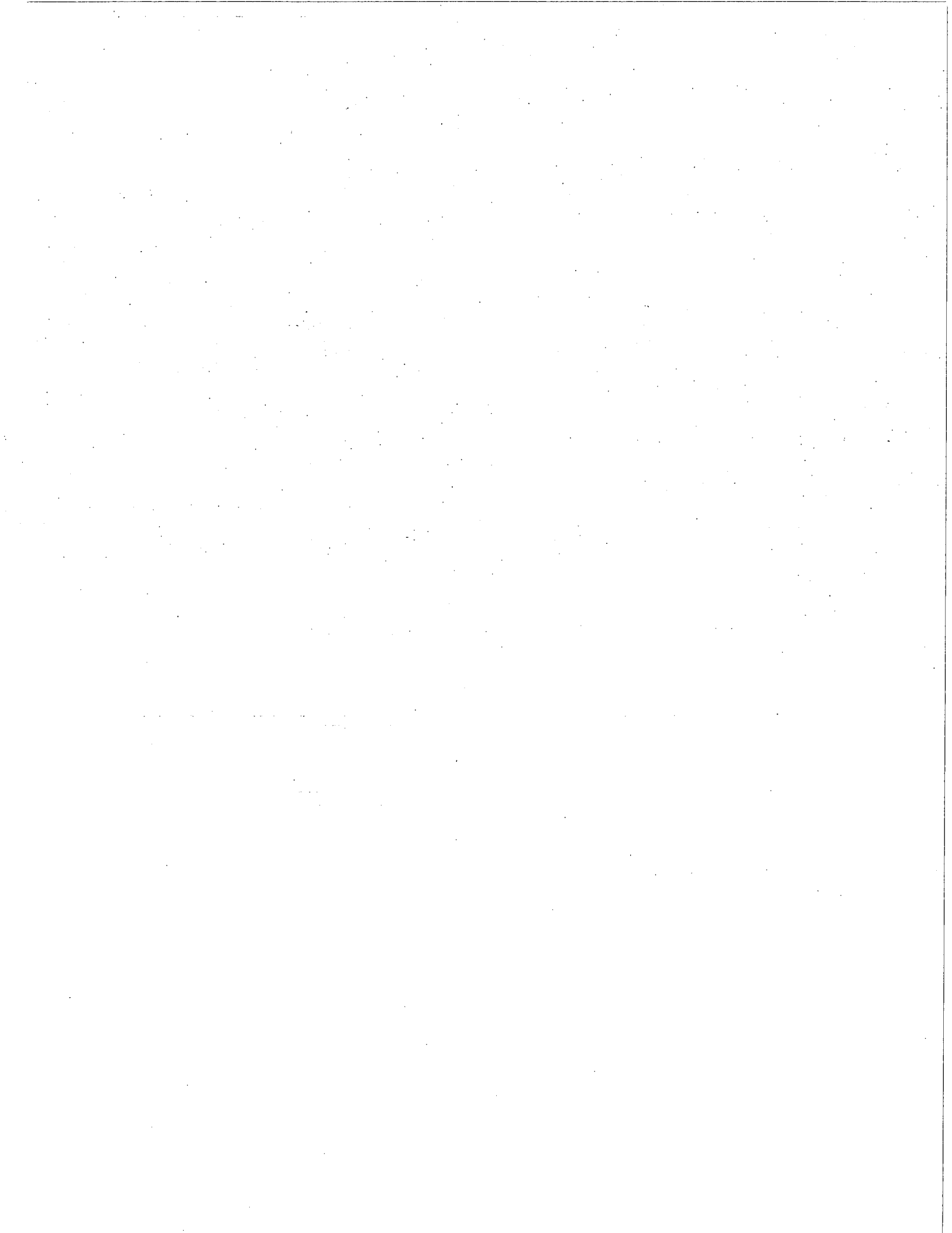
As an aside, the HRA reviewed the facility's discharge policy which was provided in the response and had some concern regarding the policy. In reviewing the DHS code (59 Il Admin Code 115.215) the HRA has discovered two discrepancies in the discharge policy. The first deals with the facility's statement that a reason for discharge can occur if "... the individual chooses to move to another geographical location." The HRA suggests that this section be reviewed for compliance with 59 Il Admin Code 115.215. Also, the facility's policy states that discharge can occur when "...this Agency is no longer able to meet the medical or behavioral needs of the individual" there is no direct mention that an individual can be discharged if "2) The behavior of the individual places the individual or others in serious danger" (59 Il Admin Code 115.215). The HRA suggests that the facility update their policy to comply with 59 Il Admin Code 115.215.

Please provide the HRA with requested policy evidence and evidence of action taken prior to the March 21st HRA Board Meeting. If information is not received, the HRA may vote to send the case for enforcement referral. If you have questions in the meantime, you may contact Human Rights Coordinator, Gene Seaman, at (309) 671-3030.

Yours truly,

Meri Tucker, Chairperson
Regional Human Rights Authority

MT:gs
Enclosures
CC: Kim Shontz





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

www.trinity-services.org

March 19, 2012

Guardianship and Advocacy Commission
Human Rights Authority – Peoria Region
401 Main Street, Suite 260
Peoria, IL 61602
Case #11-090-9008

To Whom It May Concern:

Trinity Services, Inc. is submitting this follow-up correspondence per the request of the Human Rights Authority. We appreciate your recommendations and hope we have addressed your concerns to your satisfaction. We welcome any additional questions or comments you may have regarding this submission.

Thank you,

A handwritten signature in black ink, appearing to read "Dr. Thane Dykstra".

Dr. Thane Dykstra, PhD
Director – Behavioral Health
1005 Laraway Road, Suite 230
New Lenox, IL 60451
815/717-1717

Trinity Services, Inc. respectfully submits the following response to the Human Rights Authority request for further information determined at the meeting of the HRA on January 30th, 2012.

Complaint #2:

- ***Change policy and procedure to educate staff in integrated services plans per Rule 115 (59 II Admin Code 115.320).***

Trinity Policy #2-002AW-Staff Development (previously submitted) includes Documentation and Record Keeping, and Team/Services Planning during Pre-Service Training. Course curriculum is attached to this submission.

- ***Educate current staff in integrated services plan per Rule 115 (59 II Admin Code 115.320).***

All staff are trained on integrated service plans per Rule 115. Attached to this submission are examples of attendance sheets to document these trainings.

- ***Assure that staff receive continued education and training that equal 80 hours each calendar year per facility policy.***

Trinity Services was able to maintain this voluntary standard for continuing education for many years. Unfortunately with the budget reductions of the last four years this goal is no longer in place in as much as current funding levels do not support such learning opportunities. Trinity staff are provided as many training opportunities as possible during the year. There is no regulatory requirement that anyone obtain 80 hours of continuing education credit during the year. Our policy has been modified to reflect the fact that the Trinity CEU "target" is a reflection of an "ideal" goal. Refer to page 2 of Policy #2-002AW – Continuing Education. It should be emphasized that the 80 hours of CEUs advocated by Trinity is in far excess of current state requirements.

Within the past year, Trinity Services has trained over 250 staff agency-wide in behavior management and de-escalation techniques through Quality Behavior Solutions (QBS) – Safety Care Training. Trinity spent additional financial resources to certify 30 internal trainers, including a member of the Peoria team. Information regarding Safety Care Training and QBS are attached to this submission, or go to www.qbscompanies.com. Staff trained in QBS are re-certified on an annual basis.

Complaint #3:

- ***Create policy and procedure for monitoring maladaptive behavior in day programs and monitor consumers in accordance with the procedure as per 59 II Admin Code 119.205.***

Policy #3-002AW - Individual Supports Committee (submitted in previous response) will be modified so that "individuals who exhibit challenging behaviors that put other's at risk in developmental training and residential programs will be reviewed on a regular basis." Trinity Services has signed a contract with QBS - QTS (Quality Tracking Systems) to develop an on-line unusual incident reporting system to review

and analyze unusual incidents and events. This project will also provide the ability to generate reports regarding the challenging behavior of people receiving services in both residential and day program settings. This system will allow for administrative staff and members of the Individual Supports Committee to further review summaries related to behavioral challenges and respond to problematic behaviors as necessary. Trinity Services has submitted system information to QTS to develop the on-line module and anticipates the system to be operational by July 1, 2012.

- ***Create policy specific to the Code requirements (Mental Health Code 405 ILCS 5/3-211) regarding possible perpetrators of abuse.***

In a review of Rule 115 and Rule 119, it is not evident that a policy specific to the Code requirements is mandated by DHS. Physical harm between program participants is reviewed by the person's Community Support Team, department leadership staff, and agency-wide by the Individual Supports Committee. Decisions regarding the most suitable interventions, including changes in developmental training and residential placement are a result of recommendations by these teams. Responses to severe challenging behavior frequently includes modification to the Individual Service Plan, funding requests for additional staff support, and changing the developmental training or residential setting to minimize the occurrence of challenging behavior. If these interventions are proven unsuccessful, discharge may be considered. Please note that our response to this recommendation is not intended to be oppositional. Physical aggression between service recipients is taken seriously within the agency and existing policies and procedures are in place to maximize everyone's safety. We would be open to additional feedback regarding this suggestion and recommended language for such a policy. The language of labeling service recipients as "perpetrators of abuse" is not consistent with agency philosophy. Again, physical aggression between service recipients is understood to be a significant area of concern and is addressed by existing policies and procedures.

- ***The HRA suggests that the facility update their policy to comply with 59 Il Admin Code 115.215.***

Trinity Services maintains that the policy is compliant with Rule 115 as evidenced by its review in DHS regulatory surveys. Trinity Services will revise Policy #2-002 CILA – Discharge (previously submitted) to include Section 115.215 a) 2) "the behavior of an individual places the individual or others in serious danger." Trinity is unclear as to the HRA's concern regarding the statement: "...the individual chooses to move to another geographical location."

Once the team has made the decision to discharge from a residential program, a 30-day notice is issued to the person receiving services and/or the guardian. The person and/or guardian has the option to file a formal appeal with DHS-DDD. Discharge is not allowed until the appeal has been reviewed. It is rare that a discharge is approved by DHS-DDD. There is great concern among community providers regarding the current process. Trinity strongly encourages the HRA to survey other providers across the state to assess their experiences in attempts to discharge people with challenging behaviors from residential programs.