



FOR IMMEDIATE RELEASE

North Suburban Regional Human Rights Authority
Report of Findings
HRA #11-100-9007
Pathway Senior Living, LLC
Victory Centre of Bartlett

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

Introduction

In October 2010, the North Suburban Regional Human Rights Authority opened an investigation of possible rights violations within Victory Centre of Bartlett. The complaint accepted for investigation was that a resident's rights were violated when he did not receive a notice and the right to appeal an involuntary discharge, and that the program is not releasing his personal possessions. Residents receiving services at Victory Centre of Bartlett are protected by the Illinois Administrative Code (89 IL Adm. Code 146).

Background

According to Pathway literature, Pathway communities serve the growing needs of America's aging population. Supportive Living communities operated by Pathway are designed for seniors (those age 65 and over) who are no longer able to live on their own safely, but do not require the high level of care provided in a nursing home. Assistance with medications, most activities of daily living (ADLs), meals and housekeeping are routinely provided. Three meals per day are provided in a central dining room. Residents live in their own private apartments, which frequently have a limited kitchen area. Staff is available 24-hours per day for additional safety. Social activities and scheduled transportation are also available. The difference between assisted living and supportive living in the state of Illinois is that, by providing services as outlined by the state, supportive living communities are able to offer a financial assistance program to their residents. These programs vary, but, in general, unlike with typical assisted living programs, residents who qualify for the financial assistance program are able to stay at the supportive living community if and when personal funds are depleted. Victory Centre of Bartlett is a supportive living community.

Method of Investigation

The HRA conducted an on-site visit in November 2010. While at the facility, the HRA discussed the allegation with the Executive Director, a corporate representative responsible for overseeing the facility and the Resident Care Manager. The HRA was sent correspondence from a law firm representing the provider which addressed the cited allegations. This correspondence also contained written documents from agency staff which were reviewed by the HRA.

Findings

The complaint stated that a resident was involuntarily discharged from the facility; he did not receive a written discharge notice and he had no knowledge of his appeal rights.

According to documentation provided by the law firm, the resident and his wife were admitted to the Supportive Living Center in November 2007. It was stated that up until about May 2010, both individuals were relatively independent, although the wife's health had declined and the husband was assisting her with her medications. In May 2010, the husband left the facility for about one week and had not made arrangements to address his wife's medication needs. Upon his return staff discussed his absence and requested that he authorize additional assistance for his wife; he refused. On September 14, 2010, the wife fainted at the community salon and was subsequently sent to the hospital. Upon her return, the husband was informed that he had to let staff monitor the wife on a regular basis. On September 14, staff tried twice (8 and 11 a.m.) to see the wife; the husband would not let staff into the apartment and reported that she was fine. The husband subsequently called 911 saying that his wife was unresponsive. About a week later, the husband again refused to let staff check on his wife and told a police officer that "I could poison her and you would not even know it". The wife was sent for medical hospitalization; the husband was sent to a behavioral health hospital.

At the site visit, agency personnel reiterated what was stated in the written correspondence mentioned above. It was also offered that in the months prior to this, the resident would repeatedly go to the Executive Director's office as well as the corporate offices and complain about a number of things; the resident's behavior was described by them as aggressive and hostile.

It was also offered that the resident and his wife were on an annual lease for their residential unit. The Executive Director indicated that on several occasions he told the resident that the lease would not be renewed and that the facility intended to provide 30-day written notice of nonrenewal one month before the lease would have terminated, which would have been October 31, 2010. But because of the behavior of the resident, specifically his refusal to let the facility assist with monitoring his wife and her medications, and in the face of her declining health condition, a decision was made to involuntarily discharge them both at the time of the last hospitalization. The facility stated that notice of the involuntary discharge, the right to appeal and the pre-paid stamped envelope was provided at that time. The discharge notice reviewed by the HRA appeared to meet the notice requirements of the Administrative Code. The Director stated that the resident has appealed the discharged to the Department of Healthcare and Family Services.

The HRA spoke to a Healthcare and Family Services/Bureau of Long-Term Care representative who stated that he was very familiar with the resident identified in this case. He stated that the resident had been discharged as an immediate jeopardy - more so in terms of harm to his wife. He spontaneously stated that they had received the appeal notice, indicating that the resident received the necessary paperwork about this process within the mandated timeframe.

With regard to the complainant's personal belongings, the facility stated that they have made repeated attempts to schedule a time for the resident to pick up his belongings and that they are not preventing him from obtaining his possessions. The materials reviewed contained two Bartlett Police Department Incident/Offense Reports. The first Report (dated 9/28/10) documented that the Executive Director contacted the PD because of the concern that the resident (being discharged from the hospital that day) would return to the facility for his belongings. The Director stated that he could get his belongings, but that he would then need to leave. The PD Officer stated that if the resident returned, the Director should call the PD and they would escort the resident to gather his belongings. The PD was dispatched on this date, and the resident was escorted to his apartment and some items were removed. The Officer documented that he advised the resident twice that he could

be arrested for trespassing if he returned, and advised him to arrange for the resident to have a third party retrieve any other property he needed; the resident indicated that he understood. On October 1, 2010, the PD Officer documented that the resident was at Victory Center and requested an escort to retrieve his belongings. The Officer reminded the resident about the trespassing arrest request; the resident stated that he would call the facility the following day to have a third party retrieve his belongings.

Conclusion

Pursuant to Section 146.255 of the Illinois Administrative Code, *"The SLF shall provide a resident with a 30-day written notice of proposed involuntary discharge unless such a delay might jeopardize the health, safety, and well-being of the resident or others. A copy of the notice required by this subsection (b) shall be placed in the resident's record and a copy shall be transmitted to the resident and the resident's designated representative. The notice shall be on a form prescribed by the Department and shall contain all of the following:*

- 1) The stated reason for the proposed discharge;*
- 2) The effective date of the proposed discharge;*
- 3) A statement in not less than 14-point type that reads: "You have a right to appeal the SLF's decision to discharge you. You may file a request for a hearing with the Department within ten days after receiving this notice. If you request a hearing, you will not be discharged during that time unless you are unsafe to yourself or others and the SLF has given you a notice for an emergency discharge. If the SLF has not given you a notice for an emergency discharge, and if the decision following the hearing is not in your favor, you will not be discharged prior to the tenth day after receipt of the Department's hearing decision unless you are unsafe to yourself or others. If the SLF provided you with a notice of emergency discharge, and the decision following the hearing is in your favor, you will be entitled to readmission to the SLF upon the first available apartment. A form to appeal the SLF's decision and to request a hearing is attached. If you have any questions, call the Department at the telephone number listed below.";*
- e) The 30-day notice required under subsection (b) of this Section shall not apply in either of the following instances; however, a notice and right to appeal information must still be provided when an immediate discharge is required:*
 - 1) When an emergency discharge is mandated by the resident's health care or mental health needs as documented in the resident record. The SLF may consult with the attending physician for additional support on the emergency discharge.*
 - 2) When the discharge is mandated to ensure the physical safety of the resident and other residents as documented in the resident record.*
- f) If the resident submits a request for hearing under subsection (b) of this Section, the involuntary discharge shall be stayed pending a hearing or appeal of the decision, unless the discharge is a result of a condition allowing a discharge in less than 30 days as described under subsections (e)(1) and (2) of this Section. "*

Based on the information obtained, the HRA concludes that the resident did receive the notice of involuntary discharge and the mandated information regarding the right to appeal the involuntary discharge; the allegation is unsubstantiated. The HRA found no evidence to support the allegation that the facility is not releasing a resident's personal possessions; the allegation is unsubstantiated.