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HUMAN RIGHTS AUTHORITY - PEORIA REGION  
REPORT OF FINDINGS

Case # 12-090-9007  
Forest Hill Health and Rehab

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving a complaint of possible rights violations at Forest Hill Health and Rehab. The complaints alleged the following:

- 1. Communication violation, including no access to telephone, impeded telephone calls and lack of privacy**
- 2. Not served in least restrictive environment when staff supervises patient visits to physician**
- 3. Inadequate treatment, including facility administered wrong dosage of medication and continued administering medication that was stopped**
- 4. Inadequate maintenance of facility, including room sink being broken**
- 5. Inadequate safety of patients from registered offender**
- 6. Facility cleanliness and patient hygiene not being maintained, including unclean showering areas and patients only allowed access to showers weekly**
- 7. Inadequate staffing, not all patient needs are being met due to lack of staff**
- 8. Lack of privacy for showering, family had to watch door while patient was in the shower area and shower area was both male and female**

If found substantiated, the allegations would violate the Mental Health and Developmental Disabilities Code (405 ILCS 5/2), the Nursing Home Care Act (NHCA) (210 ILCS 45/2), and the Skilled Nursing Facility (SNF) and Intermediate Care Facility (ICF) Regulations (77 Il Admin Code 300).

Forest Hill Health and Rehab is a nursing home with a mental health unit that serves the entire state of Illinois as well as some patients from Iowa. The facility has the capacity for 137 residents and averages 80 patients per month between all 3 wings. The facility also has an Alzheimer's Disease unit and a geriatric unit. The facility has 80 staff members that consist of CNAs, LPNs, RNs, Dietary staff, and housekeeping staff among other positions.

To investigate the allegations, HRA team members met and interviewed Forest Hill Health and Rehab staff and reviewed pertinent policies and records.

The patient discussed in this complaint was court ordered to be admitted into Forest Hill and was diagnosed with Bipolar Disorder as well as other medical conditions such as Hyperthyroidism and possible renal failure. The patient was admitted on 9/27/11 and left the facility on 10/20/11. The patient was moved from another facility and placed in Forest Hill.

### COMPLAINT STATEMENT

The first complaint states that the facility violates patient's communication rights. The complaint alleges that the nurses use the same phone as the patients. Also, the HRA witnessed a patient who had to end their telephone conversation due to the noise in the background. The complaint alleges that the patients are only allowed access to the phone once a week in an area that is not private.

The second complaint states that patients are not served in the least restrictive environment when staff supervises patient visits to the physician. A patient has off-site physician appointments and is not allowed to be taken to the appointments by family/friends, only by staff.

The third complaint alleges that a patient received inadequate treatment dealing with medication administration. The complaint alleges that the patient received a new medication order and an order to reduce some medication. The patient's nurse tried to administer 50mg of medication when the patient was actually to receive 5mg. The patient refused the medication so the 50mg was never actually received. Also, a new physician replaced medication but the facility continued to administer the medication to the patient. The patient was receiving the old medication and the new medication for a period of time.

The fourth complaint alleges that there is inadequate maintenance in the facility and a sink was plugged for an entire week.

The fifth complaint alleges that there is inadequate protection for patients from a registered sex offender who resides at the facility. The complaint alleges that none of the doors in the facility are locked and there was nothing else done to protect the patients.

The sixth complaint states that facility cleanliness and patient hygiene are not being maintained. The complaint alleges that the showering areas are unclean and patients are only allowed access to showers weekly.

The seventh complaint states that the facility is not properly staffed. Not all patients have their specific needs met because there is not enough staff at the facility to assist each patient.

The final complaint states that there is a lack of privacy for showering. The complaint alleges that showers are male and female and people have walked in on the opposite sex

showering. The complaint alleges that a patient's family had to watch the door while the patient showered.

#### Interview Staff (1/19/2012)

The staff explained that the patients in the facility have a phone that is available. Each patient has two days during the week that they can call out on the phone but if they receive calls, they can take the call even if it is not during their two allotted days. The phone is located at the nursing station and has a long cord that the patients can stretch into the dining room or into a bathroom next to the nursing station if they want privacy. Also, if the patient wants privacy, they can have calls transferred into the Social Service Director's office or the activity room. The staff explained that those two rooms are more private and accessible. The staff said the dining room area is sometimes private and there are other times when people are in the room. The bathroom and the other two rooms are alternative areas for privacy. The staff explained that very few patients are frequent phone users and also that cell phones are allowed to be used in the facility. The staff informed the HRA that 10 or 15 patients have cell phones. Staff explained that requests to use the private phone vary. The staff stated that if they do not limit the use of the phone, then some patients would talk on the phone all day. Also, usage is limited because the phone is a business phone that is used by the staff. The staff said that if a staff member, for example, a nurse, needs to use the phone they will not tell the patient to end the phone call, but rather they will use the phone elsewhere. Staff stated that they do not believe that a patient has had to relocate in the past due to staff's need to use the phone. On admission, the patients are made aware of all policies, including the telephone policy. The patient is explained the policies before they begin their stay at the facility and also the policies are explained when they do the initial admission paperwork. The staff stated that patients have to request a hard copy of the policy. The staff who were interviewed by the HRA said there was a possibility that the patients learned about the policy only from asking. The HRA felt as though the staff were unclear on how patients were educated about policy. They did state that the patient associated with the request requested multiple policies.

The staff said that the Illinois Department of Public Health (IDPH) asked questions about the phone but the facility has had no complaints. The IDPH requested the facility to change the phone cord so that it is long enough to stretch to the private areas and the staff explained that the agency did not have an issue with the phone situation after the cord was extended.

The staff explained that there is an actual phone schedule for each patient. The patients become familiar with their "call days." If a patient needs the phone outside of their scheduled time, the facility will make exceptions, for example if a patient needed to contact their probation officer. The staff explained that if the patient wanted to use the phone outside of his/her scheduled time to call someone such as a girlfriend then they would not be allowed to use the phone. If a patient said to a staff member that they have an emergency and need to use the phone, the staff would have to know what the emergency is in order to know whether to make an exception. The staff explained that often the request is not for an actual emergency. The staff also stated that patients do not often request to use the phone outside of their call days. They said most patients are satisfied with the policy.

The staff stated that Wing A has a pay phone that the patient's can use but B and C Wings do not have a pay phone available. The staff also stated that there may be a sign posted by the phone at the nurse's station regarding phone privacy but they were unsure.

As far as communication with visitors, the facility staff stated that the patient's family can visit anytime for as long as they want. There are visiting hours at the facility but they are not enforced. The patients receive all their mail but they can sign a release that correspondence from Medicaid or correspondence that appears to be of high importance can be opened by the facility. This action is described in the admission packet.

The Forest Hill staff explained that the patient was under a court order because she was not taking her medication. The patient was transported from the facility to the physician's appointment because she was under the court order to be at the facility. The facility never said that the family could not attend the physician's appointment. The facility staff said that they even allow family members to be transported with the patient but they were not sure what the physician at the other facility may have said to the patient or family about them attending or being transported to the appointments. The staff said that the family was aware that they could attend appointments with the patient but were not sure if they were aware that they could ride with the patient. The family asked if they could take the patient to the appointments and the Forest Hill staff explained to them that they could not because of the court order. According to the staff, if a patient does not have a court order, the family can transport them to the physician's appointment unless the physician has a reason why they should not. The facility asks the patients if they want to be transported by their family to the appointments. The only procedure for the patient to be transported by their family is a sign-in, sign-out note and the understanding that the family member takes the physician copies of any information that the physician may need. The staff stated that they do not know of any policy regarding the transportation and often it varies depending on the situation. The staff did say that it is documented that the facility explained the court order as being the reason the patient could not leave with the family.

The staff explained that there is a form that is completed for medication errors. They said that they reviewed the records and there was an order for 5mg of Haldol on 10/13/11 but, when the patient was admitted into the facility on 9/27/11, the dosage for Haldol was 1mg. The staff stated that it appears that the extra Haldol was added but no medication was actually discontinued. The staff explained that the only stock of medication that they have at the facility are over-the-counter medications. The medications come into the facility in their doses unless the after hours pharmacy must be contacted and the medication is needed as soon as possible. If the after hours pharmacy is contacted then the medication will be in bottles. The staff stated there are no records of medication errors at all and no indication that wrong medications were given. If there was a medication error, the Director of Nursing is notified, the physician is contacted, the family is contacted, and then a medication error report is completed. The staff said that they believe the Illinois Department of Public Health is contacted only if there are severe and adverse affects. The staff explained that this patient never complained to the facility that she received the wrong medication. If there is a medication change, the physician will write the order. If the order is called in over the telephone, the facility writes this down for the physician to sign the next time they visit the patient. The order is then put into the record and the pharmacy and family is contacted regarding the order.

When the facility heard about the complaint regarding the sink, a maintenance employee was sent to inspect the sink and it was in working order. The staff heard of the complaint regarding the sink through IDPH and not within the facility grievance process. The staff explained that if a patient has complaints regarding maintenance, a maintenance form is completed and staff delivers the form to the Director of Nursing. The Director of Nursing provides the form to the maintenance employee the next day. The staff explained that the facility only has one maintenance staff member. The staff said that sinks are in good working condition, especially for the age of the building. They do not know of any major plumbing problems within the facility. The staff stated that sometimes residents will plug up the drain with paper towels, etc. The staff explained that the turnaround time for fixing a drain is quick. The staff does not believe that a maintenance sheet was filled out for the sink. The Director of Nursing does not keep maintenance forms but the Social Services Director does keep track of the maintenance requests with which she is associated. The staff explained that the Social Services Director only writes notes but does not fill out a maintenance form. The staff does not believe there is tracking for maintenance. They explained that there was a book on the floor that maintenance would write jobs in but they do not know how consistently it is used. If a sink is broken, patients can be taken to the shower room, an empty bathroom, or another room to use the sink. The staff assured that even if a sink is broken, patients will have access to a sink.

Regarding the complaint involving lack of safety for patients from a registered sex offender who resides at the facility, the staff explained that during the time the patient was at the facility, there was a registered sex offender. The staff explained the offender was on one-on-one supervision, was in a room that was located in the men's hall, which is separate from the women's hall, and the room is private and located by the nurse's station. The patient was recently moved to fifteen minute checks instead of the one-on-one supervision. The facility staff stated that they have a policy regarding sex offenders. The staff explained that before someone is admitted to the facility, the staff completes a background check, a hand scan, and if the individual is flagged as a sex offender, they call an officer that works with the Department of Public Health and two physicians who perform an evaluation of the individual. The evaluation is for supervision, assessment, level of need, etc. The staff assured the HRA that they are following the patient's treatment plan and that the patients have never expressed that they feel unsafe. The staff said the patients are more annoyed because they know that the patient is an offender but they have never said that they feel unsafe. The staff explained that the facility is not allowed to have sex offenders in the facility. The offender ended up in the facility because he was not identified as a sex offender on the background check. Even though the patient was not identified as a sex offender on the background check, the Forest Hill staff stated that they knew that he was a sex offender because the facility from which the individual was transferred shared his status with the staff. The staff said that the IDPH told them that the individual could not stay at Forest Hill but they also cannot discharge the individual with no place to go.

The staff stated that they were not understaffed. They have 30 patients on the Mental Health Unit and they have 1 nurse on each shift for each unit. They have 6 CNAs, 2 on each unit, and 1 or 2 Unit Assistants (UA) on each unit. Sometimes there is a floating CNA when needed. The Unit Assistant cannot do direct patient care. If staff cannot attend their shift, the facility tries to call around first to see if someone will cover. If they cannot find a replacement,

then they have a "Forced Stay" rotation where they ask someone who is currently working to cover the shift. The staff stated that they have never had a facility complaint due to lack of staff and that they staff according to need. The facility explained that they have a call light system and staff answering the call light is within a 10 to 15 minute timeframe.

The staff explained that the showers have curtains for privacy and there is an "In Use" sign by the door. The shower is by the nurse's station. The patients are to move the sign by the door to read "In Use," close the door, and close the curtain in the bathroom when they are showering. The facility has a shower schedule for some people who do not like to shower and need help but not a shower schedule for the entire population. Patients can shower whenever they want unless it is during someone else's scheduled shower time. People may have to wait to take a shower because of the schedule but they still get to take a shower. The CNAs are to clean the shower after each shower taken. The CNAs spray and wipe down the showers. The showers are male and female showers and the different genders do not have separate, gender specific showers. The staff explained that they did not know if a family member watched the shower door for a patient while they showered. The staff stated they were unaware of anyone complaining about a lack of privacy. If a patient wanted that level privacy they could ask and staff would stand in front of the door. Staff explained the shower cleanings are automatically done after a shower is taken. There is housekeeping protocol but staff is unsure as to how often they are required to clean the shower. If there was a complaint the staff would check the shower and then question the nurses as to how often the shower is cleaned. The staff concluded by stating that there is only one shower in Mental Health unit.

#### Tour of the facility

The HRA toured the behavioral health unit at Forest Hill. While in the unit, the HRA saw that the telephone stopped working as a patient was using the phone. No one was around to assist the patient so he placed the phone on top of the desk at the nurse's station and left. The HRA saw the dining area where the patients could stretch the cord and, at that time, the area was occupied with patients and would not have been considered a place for a private call. The restroom that the patients can take the phone into is directly next to the nurse's station, approximately 3 feet away with the door facing the station. The entire area was highly populated with patients and nurses and the HRA felt that if everyone was talking, the person on the phone could become easily distracted or not be able to hear. The HRA also observed a patient ask to make a call, and after being asked if it was her scheduled time to make a call, the staff member dialed the telephone for the patient. The HRA asked to see the sign that notifies patients that they can request a private call and the sign was approximately the size of a regular size piece of paper and was on a shelf on the wall behind the nurse's station. Part of the sign was covered by a flower vase and the HRA was concerned that the patients would not be able to see the sign. The Illinois Department of Public Health abuse hotline number was displayed on the wall behind the nurse's station on a regular sized piece of paper which could be difficult to see from the desk surrounding the nursing station.

The bathroom/shower room is in the main hallway, adjacent to the nursing station. This is a highly populated area. The HRA saw a patient walk by the shower and change the "In Use" sign to read that the shower/bathroom was not in use, while the bathroom was occupied by

another patient. Later, another patient opened the bathroom door all the way while the bathroom was being occupied. The HRA inspected the shower and saw a used washcloth hanging in one of the shower stalls and no disinfectant spray in the shower area. When asked, the staff said that the spray must be in another room and the nurses must have to ask for it. While waiting to view the shower, an HRA member saw a Forest Hill staff member spill ice on the floor and then put it back into the container it was spilled from.

Findings (Including record review, mandates, and conclusion)

**Complaint #1 - Communication violation, including no access to telephone, impeded telephone calls and lack of privacy**

The HRA began the review of the first complaint by inspecting the facility rights policy. The facility rights policy is a copy of the Illinois Department on Aging pamphlet which has a revision date of 12/2004. The document reads "You have the right to make and receive phone calls in private."

The Forest Hill Resident Phone Policy states "Phones are available for resident use. Privacy is maintained by a long phone cord on 'B' wing so the resident can walk around into the dining room to talk. 'B' wing residents may also request to use the private phone in a room directly across from the nurse's station. Station 'B' also sets up assigned 'call days.' 'A' wing has a private pay phone that is available. 'C' wing has a phone at the nurse's desk and phone available in the coordinator's office. At times an available phone can be used in the Activity office and Social Services offices. Individuals are allowed to use their own cell phones. Residents may request a copy of the phone policy at any time during their stay."

The Nursing Home Care Act reads "§ 2-108. Every resident shall be permitted unimpeded, private and uncensored communication of his choice by mail, public telephone or visitation (a) The administrator shall ensure that correspondence is conveniently received and mailed, and that telephones are reasonably accessible" and "(d) Unimpeded, private and uncensored communication by mail, public telephone and visitation may be reasonably restricted by a physician only in order to protect the resident or others from harm, harassment or intimidation, provided that the reason for any such restriction is placed in the resident's clinical record by the physician and that notice of such restriction shall be given to all residents upon admission" (210 ILCS 45/2-108).

The Mental Health and Developmental Disabilities Code (MHDDC) reads "§ 2-103. Except as provided in this Section, a recipient who resides in a mental health or developmental disabilities facility shall be permitted unimpeded, private, and uncensored communication with persons of his choice by mail, telephone and visitation ... Writing materials, postage and telephone usage funds shall be provided in reasonable amounts to recipients who reside in Department facilities and who are unable to procure such items" and "(b) Reasonable times and places for the use of telephones and for visits may be established in writing by the facility director. (c) Unimpeded, private and uncensored communication by mail, telephone, and visitation may be reasonably restricted by the facility director only in order to protect the recipient or others from harm, harassment or intimidation, provided that notice of such restriction

shall be given to all recipients upon admission" (405 ILCS 5/2-103).

The Nursing Home Care Act also states "§ 2-210. A facility shall establish written policies and procedures to implement the responsibilities and rights provided in this Article. The policies shall include the procedure for the investigation and resolution of resident complaints as set forth under Section 3-702. The policies and procedures shall be clear and unambiguous and shall be available for inspection by any person. A summary of the policies and procedures, printed in not less than 12 point type, shall be distributed to each resident and representative" (210 ILCS 45/2-210).

### *Conclusion - Complaint #1*

Per the interview with the Forest Hill staff, the facility has a schedule that only allows patients to call out on the phone two days a week, which is a violation of the Nursing Home Care Act (210 ILCS 45/2-108) and the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-103). Although the Act states that "(b) Reasonable times and places for the use of telephones and for visits may be established in writing by the facility director" (405 ILCS 5/2-103), the HRA finds that limiting the patients' phone use to 2 days, because the phone is also a business line and because the facility is concerned about extensive resident use is not reasonable.

Also, the HRA viewed the patient's phone not working and the staff dialing the phone for a patient, both of which are in violation of the MHDDC because the phone call is impeded and not private under those circumstance (405 ILCS 5/2-103). The HRA is particularly concerned about phone access and privacy should residents seek to contact external regulatory and advocacy agencies.

The HRA **substantiates** the complaint regarding communication violations and recommends the following:

- The HRA recommends that the facility comply with the MHDDC and the Nursing Home Care Act regarding telephone communication rights (405 ILCS 5/2-103 & 210 ILCS 45/2-108) with emphasis on not restricting the telephone rights of the patients within the facility to 2 allotted call days per week. The HRA also requests evidence that the compliance has been followed.
- The HRA witnessed the phone stop working while a patient was using the phone. The HRA recommends that the phone system is fixed so that patients are able to make calls without the calls being dropped.
- The HRA also witnessed staff dialing the phone for a patient in the unit, which inherently negates privacy. The HRA recommends that the facility create a procedure/situation for the patients in which they are able to dial their own phone calls.
- The staff could not guarantee that patients receive a hard copy of the phone policy, and the privacy request sign by the nurse's station did not seem accessible to all patients. The Nursing Home Care Act states that " A summary of the policies and procedures, printed in not less than 12 point type, shall be distributed to each resident and representative" (210 ILCS 45/2-210). The HRA recommends that the facility comply with the Act,



- including the telephone policy and ensure that each patient is completely aware of the policy and the possibility of requests for privacy.
- The HRA finds that stretching the phone cord into the dining area is not a situation that constitutes privacy because the dining area is a public area and can be potentially used by many patients. Also, the use of the employee bathroom as a private area does not constitute privacy because it is a room for employee use and could lend to a situation where the employee asks the patient to leave the room. Although staff states otherwise, the same thought applies for patients using a business phone to make calls. The phone policy does state that residents can request to use a private phone, as above, the HRA has no evidence that the patients are receiving the policy or are aware of their options for privacy. In reviewing the MHDCC and the Nursing Home Care Act regarding communication rights (405 ILCS 5/2-103 & 210 ILCS 45/2-108), ensure that patients are able to have private telephone conversations and provide the HRA with evidence that this assurance has been enacted.

The HRA also offers the following **suggestions**:

- The HRA has seen in other facilities that a phone is placed away from the nurse's desk on the wall so that patients have private access to a phone call without the need to even request privacy. The HRA suggests that the facility consider creating this phone situation for the patients in the behavioral health unit. If this method is not considered, the HRA suggests the facility move the sign regarding requesting private calls to an area where it can be viewed by patients more easily and so it is not obstructed by other objects.
- In reviewing rights documentation, the HRA discovered that there is a new version of the "Residents' Rights for People in Long-Term Care Facilities" brochure from the Illinois Department on Aging. The brochure has a revision date of 3/11. The HRA suggests that if the facility chooses to continue using the brochure, they begin using the newest brochure in case there are changes in the versions.

The HRA would also like to state that, in a previous complaint (11-090-9006) that was investigated by the HRA, the following suggestion was made which the HRA would like to offer again as a suggestion to the facility:

*The HRA also noticed, during our tour, that the location of the Public Health posting, which was located outside of the locked behavioral health unit, is in direct violation of the Nursing Home Care Act regarding posting of information, which states that a phone number and complaint procedure must be posted in an area that is accessible to residents (210 ILCS 45/3-209).*

Although the sign appears to be in a different area, the HRA still feels as though it is posted in an area that is not easily viewed by patients. Also, because the posting is in an area where staff frequents, it may deter patients from calling because of the lack of anonymity.

**Complaint #2 - Not served in least restrictive environment when staff supervises patient visits to physician**

The HRA reviewed a court order (dated 9/22/11) which states that a patient was involuntarily committed into a different facility for care and, at that time, the facility the patient was ordered into was the least restrictive environment. The court order then explains that the patient has made improvement and been compliant in taking her medication, and because of this compliance, the facility is no longer the least restrictive placement for the patient and "That the Court has determined that the least restrictive placement for the Respondent at this time is an appropriate licensed nursing home facility."

In reviewing the nurse's notes on the patient, on the date 10/4/11 it reads "Resident is not allowed out of facility [with] friends or family ... Resident is court ordered to be here." Then, in the social service progress notes, dated 10/4/11, it reads "Various family has been here to take [patient] to various appointments. At this time, due to court order to facility and 30 day assessment, facility needs to provide transport to appointments. Received a phone call from sister [sister's name] she stated she applied for guardianship today. She has continued questions about passes. Made an attempt to explain [patient] is court ordered and at times needs to stay at facility and be [with] facility staff during transport of appointments and explained 30 day assessment period. [Sister] was argumentative and difficult to communicate with. Called [previous facility] discharge planner [name] to obtain specifics about court order ..." The HRA did not see documentation that the previous facility contacted the social service staff about the court order. The HRA did see a notation on 10/5/11 that states "Spoke with facility owner, [owner's name], and he stated even with a court order we are to follow facility policies in providing care."

The Forest Hill Health and Rehab Center Outside Pass Policy reads "Because of a combination of mental health, physical problems and irresponsible behavior certain residents may not be appropriate for independent pass privilege. Each resident admitted to this facility will have a 30 day observation and evaluation period before being considered for independent pass privilege." There is nothing written into the policy regarding court orders.

The Forest Hill policy regarding resident appointments reads "Residents are taken to outside appointments by either family members or staff from the facility. Residents that have special medical needs or court orders to be at facility and cared by facility staff must be taken by Forest Hill staff unless directed otherwise by Social Services staff."

The MHDDC reads "§ 2-102. (a) A recipient of services shall be provided with adequate and humane care and services in the least restrictive environment, pursuant to an individual services plan" (405 ILCS 5/2-102).

### *Conclusion - Complaint #2*

Because the patient was in the facility under a court order, and there was evidence that there was an attempt to explain that she could not be taken to the appointment by family members because of the court order, the HRA finds this complaint **unsubstantiated** but offers the following **suggestions**:

- The HRA was concerned that the Social Services Director contacted that previous facility requesting clarification of the patient's court order so late in the patient's stay at the facility. The patient was admitted on 9/27/11 with the court order already in place and the previous facility was contacted by the Director on 10/5/11. The specifics of the court order should have been understood at the beginning of the patient's stay so that the facility could successfully treat the patient in accordance to the court's decision. The HRA suggests that the facility make a concerted effort to understand the specifics of a patient's court order prior to admission so that the individual receives proper care.
- The facility Outside Pass Policy does not mention court orders but the policy regarding resident appointments does reference court orders. The HRA suggests that the facility review and update the Outside Pass Policy to reference court orders as a possible reason to not receive an outside pass so that there is consistency between the two policies

### **Complaint #3 - Inadequate treatment, including facility administered wrong dosage of medication and continued administering medication that was stopped**

The HRA reviewed nurse's notes regarding the complaint of inadequate treatment. On 10/7/11 a passage reads "Resident refused AM meds said that 3<sup>rd</sup> Shift had given them when meds were checked meds had not been given [and] Pills were already wasted Resident came back it wanted them everything except depakote meds given.[sic]" Another passage on 10/13/11 reads "Res has new orders for Latuda 40 mg PO Daily [and] Haldol 50mg PO @ HS."

Another passage in the nursing notes on 10/20/11 reads "Resident refused to take 8am meds. Nurse reminded her that she was court ordered here to be compliant [with] her meds [and] Resident still refused them."

The HRA reviewed the facility's Adverse Drug Reactions and Drug Errors policy. The policy reads "Adverse drug reactions and drug errors are to be reported to the resident's physician, documented in the nursing notes, and documented on an incident or MEDICATION ERROR REPORT. These reports are to be filed with the Administrator, and reviewed by the Medical Director and Consultant Pharmacist." The policy lists medication errors as "Wrong medication administered," "Wrong dose administered," and "Medication not administered" among other examples.

In reviewing physician's orders and the patient's medication administration records (MAR), the HRA saw that when the patient was admitted on 9/27/11, she was taking 1mg of Haldol in the morning and 10mg of Haldol in the evening. On 10/13/11 there is a physician's order that states the patient is to receive 40mg of Latuda and 5mg of Haldol. The physician's order does not state that the Latuda or the Haldol replaces any medication. On the patient's MAR dated 10/1/11 through 10/31/11, the Haldol order for 10mg was discontinued as of 10/13/11 (as well as an order for Penicillin which the MAR stated was "done") and, on 10/13/11 the Haldol 5mg dosage started as well as the Latuda 40mg dosage. On the MAR, the 5mg dosage of Haldol does have an area to the right of the handwritten "5" which is scribbled and could look as though it is a "0." In researching Haldol dosage, the National Alliance of Mental Health website, in their "Medications" section, states that Haldol tablets come in doses of .5 milligrams, 1 milligrams, 2 milligrams, 5mg, 10mg, and 20mg. These were the only drug

changes viewed by the HRA in reviewing the patient records. The complaint statement states that the patient was almost given 50mg of medication in error which, due to the dosage sizes, does not look like it would be possible with the doses of Haldol. Also, the physician's order did not state that the Latuda was replacing any medication.

The Nursing Home Care Act reads "(b) All medical treatment and procedures shall be administered as ordered by a physician. All new physician orders shall be reviewed by the facility's director of nursing or charge nurse designee within 24 hours after such orders have been issued to assure facility compliance with such orders" (210 ILCS 45/2)

The MHDDC reads "The recipient and the recipient's guardian or substitute decision maker shall be given the opportunity to refuse generally accepted mental health or developmental disability services, including but not limited to medication or electroconvulsive therapy" (405 ILCS 5/2-107).

The SNF and ICF regulations read " e) Medication errors and drug reactions shall be immediately reported to the resident's physician, licensed prescriber if other than a physician, the consulting pharmacist and the dispensing pharmacist (if the consulting pharmacist and dispensing pharmacist are not associated with the same pharmacy). An entry shall be made in the resident's clinical record, and the error or reaction shall also be described in an incident report" (77 ILCS 300.1630). The same regulations read "o) The facility shall also immediately notify the resident's family, guardian, representative, conservator and any private or public agency financially responsible for the resident's care whenever unusual circumstances such as accidents, sudden illness, disease, unexplained absences, extraordinary resident charges, billings, or related administrative matters arise (B)" (77 ILCS 300.1630).

### *Conclusion - Complaint #3*

Due to the fact that there was no evidence that wrong medication was given, the HRA finds this complaint **unsubstantiated** but offers the following **suggestions**:

- The facility medication error policy is not completely compliant with the SNF and ICF medication error regulations (77 ILCS 300.1630) and the HRA suggests that the facility review and create policy to comply with the regulations.
- Another section of the same SNF/ICF regulation requires that the family be called whenever there are "unusual circumstances" (77 ILCS 300.1630) which could be interpreted as a medication error. During the staff interview, the staff stated that they do contact the family but this step does not appear in the policy. The HRA suggests that the facility add contacting the family for unusual circumstances to the policy to fully comply with the SNF regulations.
- In accordance with the MHDDC patients have the right to refuse medication (405 ILCS 5/2-107). The patient's court order, if for commitment to the facility, does not automatically deny a patient the right to refuse medication; therefore the patient still has the right to refuse medication. The statement made in the nurse's notes reminding the patient that she is in the facility because she is not compliant with medication could be

interpreted as borderline coercion to take medication. The HRA suggests that the facility educate staff in the patient's right to refuse treatment from 405 ILCS 5/2-107.

#### **Complaint #4 - Inadequate maintenance of facility, including room sink being broken**

The HRA reviewed the facility maintenance policy, which reads "Maintenance is available for assistance and repairs. Staff can report general issues by completing a work order form which is located at the A Wing nurse's station. The original copy of the form should be taped to the maintenance door and maintenance will prioritize jobs that need to be done. For emergencies on weekends and off-hours, maintenance can be notified by the nurse on duty."

The HRA also reviewed work orders dated 5/6/11, 5/21/11, 6/15/11, and 8/2/11. All work orders reviewed dealt with sinks being plugged. There were no responses provided stating whether the work orders were completed. The HRA also reviewed a blank maintenance request slip which had a family request section that was added to the maintenance form, indicating that families could make requests.

The SNF and ICF regulations read "a) Every facility shall have an effective written plan for maintenance, including sufficient staff, appropriate equipment, and adequate supplies ... 9) Maintain all plumbing fixtures and piping in good repair and properly functioning." (B) (77 Il Admin Code 300.2210). Also in the staff interview the Social Services Director stated they do not fill out maintenance forms which does not follow the facility policy. The HRA called the facility and verified that they have no other written maintenance plan besides what was provided to the HRA that was reviewed above.

#### *Conclusion - Complaint # 4*

The HRA viewed a maintenance policy that did not seem to comply with SNF and ICF regulations for a maintenance plan including sections regarding "sufficient staff, appropriate equipment, and adequate supplies" (77 Il Admin Code 300.2210). Because the maintenance plan is not in compliance with the regulations, the HRA feels that the facility does not provide adequate maintenance of the facility and **substantiates** this complaint. The HRA offers the following **recommendations**:

- In compliance with the Skilled Nursing Facility requirements, create a plan that includes all aspects of 77 Il Admin Code 300.2210.
- In the interview, it was discovered that the Director of Nursing completes a form but the Social Services Director does not complete a form, which is not in compliance with the facility's own maintenance policy. The HRA requests that the facility educate the staff in the maintenance policy so that all staff are consistently following the policy and provide the HRA with evidence of this education.

The HRA offers the following **suggestions**:

- In the staff interview, the staff stated that there used to be a book on the floor that maintenance would use to track jobs but they do not know how often that is being used.

Also, the staff said that they do not believe there is tracking for maintenance. Along with this, the work orders have dates and problems but there is no evidence of resolution to the issues. The staff also assured the HRA that the turnaround time for maintenance is quick but the HRA is not sure how the facility even knows what is being fixed and when if the maintenance is not being tracked. The HRA suggests that the facility add a tracking mechanism to their policy.

#### **Complaint #5 - Inadequate safety of patients from registered offender**

The HRA reviewed the facility registered offender policy for compliance with the SNF and ICF regulations. Because the HRA did not have a release for the individual at the facility that is registered as a sex offender, the HRA could only review the policy of the facility and evaluate the policy's compliance with regulations. In its review, the HRA discovered some sections of policy to be in compliance with the SNF and ICF regulations but other sections were not in compliance. The sections of the SNF and ICF regulations that do not appear in the policy, therefore making the facility policy noncompliant are as follows:

"a) The facility shall review the results of the criminal history background checks immediately upon receipt of these checks. b) The facility shall be responsible for taking all steps necessary to ensure the safety of residents while the results of a name-based background check or a fingerprint-based check are pending; while the results of a request for a waiver of a fingerprint-based check are pending; and/or while the Identified Offender Report and Recommendation is pending. c) *If the results of a resident's criminal history background check reveal that the resident is an identified offender as defined in Section 1-114.01 of the Act, the facility shall do the following: 1) Immediately notify the Department of State Police, in the form and manner required by the Department of State Police, that the resident is an identified offender. 2) Within 72 hours, arrange for a fingerprint-based criminal history record inquiry to be requested on the identified offender resident. The inquiry shall be based on the subject's name, sex, race, date of birth, fingerprint images, and other identifiers required by the Department of State Police. The inquiry shall be processed through the files of the Department of State Police and the Federal Bureau of Investigation to locate any criminal history record information that may exist regarding the subject. The Federal Bureau of Investigation shall furnish to the Department of State Police, pursuant to an inquiry under this subsection (c)(2), any criminal history record information contained in its files.* d) *The facility shall comply with all applicable provisions contained in the Uniform Conviction Information Act.*e) *All name-based and fingerprint-based criminal history record inquiries shall be submitted to the Department of State Police electronically in the form and manner prescribed by the Department of State Police. The Department of State Police may charge the facility a fee for processing name-based and fingerprint-based criminal history record inquiries. The fee shall be deposited into the State Police Services Fund. The fee shall not exceed the actual cost of processing the inquiry.*(Section 2-201.5(c) of the Act)" (77 Il Admin Code 300.625)

"g) Facilities shall maintain written documentation of compliance with Section 300.615 of this Part. h) Facilities shall annually complete all of the steps required in subsection (f) of this Section for identified offenders. This requirement does not apply to residents who have not been discharged from the facility during the previous 12 months. i) For current residents who are

identified offenders, the facility shall review the security measures listed in the Identified Offender Report and Recommendation provided by the Department of the State Police ... k) *The facility shall incorporate the Identified Offender Report and Recommendation into the identified offender's care plan.* (Section 2-201.6(f) of the Act) ... m) The facility's reliance on the Identified Offender Report and Recommendation prepared pursuant to Section 2-201.6(a) of the Act shall not relieve or indemnify in any manner the facility's liability or responsibility with regard to the identified offender or other facility residents" (77 Il Admin Code 300.625).

In their review, the HRA saw that the Identified Offender Report and Recommendation that is identified in the regulations is not referenced within the facility policy. The HRA would also like to emphasize that the regulations state that the steps required in (f) should be completed annually but the policy makes no mention of completing these annually.

The HRA also reviewed specific areas of the policy that did refer to the regulations but was still not in complete compliance. One point that was not in compliance on the policy list states that the facility should provide in writing, as well as post, that individual's (patients, guardians, etc.) have the right to ask whether any residents of the facility are identified sex offenders. The policy proceeds to state that the notice "shall include a statement that information regarding sex offenders may be obtained from the Department of State Police and that information regarding persons serving terms of parole or mandatory supervised release may be obtained from the Illinois Department of Corrections." The SNF and ICF regulations state "3) *Every licensed facility shall provide to every prospective and current resident and resident's guardian, and to every facility employee, a written notice, prescribed by the Department, advising the resident, guardian, or employee of his or her right to ask whether any residents of the facility are identified offenders.* The facility shall confirm whether identified offenders are residing in the facility" (77 Il Admin Code 300.625). The difference between the policy and the regulation is the facility policy does not inform individuals that they can confirm whether identified offenders are residing in the facility.

Another section of the policy reads that "On a routine basis the facility, as appropriate, will evaluate care plans for identified offenders for appropriateness and effectiveness of the portions specific to the identified offense and provide document such review. As necessary and appropriate, the facility shall modify the care plan in response to this evaluation." The regulations read "n) The facility shall evaluate care plans at least quarterly for identified offenders for appropriateness and effectiveness of the portions specific to the identified offense and shall document such review. The facility shall modify the care plan if necessary in response to this evaluation. The facility remains responsible for continuously evaluating the identified offender and for making any changes in the care plan that are necessary to ensure the safety of residents" (77 Il Admin Code 300.625). The difference between the policy and regulations in this case is that the facility policy should state that the care plan needs reviewed "at least quarterly" and also the facility is responsible for continuously identifying the offender.

The facility also sent along a document titled "Identified Offender Supervision Policy" which outlines structured treatment and intervention levels based on if the individual is low risk, moderate risk, and high risk. The facility also shared another policy/protocol titled "Identified Offender Risk Screening Assessment" which is "designed to assist the interdisciplinary team in

comprehensively evaluating residents who may have a history of criminal behavior. This tool is useful in helping determine which individuals may need extra behavioral attention in order to function within the facility's milieu or to determine who is not appropriate for placement." The document outlines the procedure for completing the assessment.

#### *Conclusion - Complaint #5*

Due to the fact that the facility's identified offender policy is not in compliance with the SNF and ICF regulations (77 Il Admin Code 300.625) the HRA finds this complaint **substantiated** and makes the following **recommendations**:

- Update the facility's identified offender policy to comply with the SNF and ICF regulations (77 Il Admin Code 300.625).
- Educate staff on the updated policy and provide the HRA with evidence of this education.

The HRA also makes the following **suggestion**:

- During the interview, the staff stated that they are not supposed to have identified offenders at the facility but the HRA saw no evidence of this in regulations. The HRA suggests that when reviewing the identified offender regulations as requested in the prior recommendation, the facility also educate staff on admission policy for identified offenders.
- The HRA questions how the previous facility knew that the individual was a registered sex offender but he was not labeled as a registered offender when Forest Hill completed a background check for the offender. It seems there may be errors occurring in the actual background check method that is used by the facility. The HRA contends that the facility should have checked on the individual's status further when there was a discrepancy between the background check and reported history. The HRA searched via address and found that the individual in the sex offender database but the HRA does acknowledge that this was a recent search. The HRA suggests that the facility review their background check process for accuracy and, based on the results of the review, find a new background check method that may be more accurate.
- Ensure that the sex offender resolutions and policies are being applied to any individual that is a know sex offender.

#### **Complaint #6 - Facility cleanliness and patient hygiene not being maintained, including unclean showering areas and patients only allowed access to showers weekly**

The HRA reviewed a document titled "Cleaning of Residential Areas" which states that "Resident care areas are cleaned daily," "Trash is removed, furniture disinfected," "Resident bathrooms are cleaned and disinfected daily," "Floors in resident rooms and bathrooms are swept and mopped." There is also a checklist on the document where an individual is to mark when these tasks are complete.

The HRA also read a document titled "Sanitizing - Bath Tubs, Showers, & Commodes/Toilets, Nursing/Housekeeping Policy" which reads "Housekeeping personnel shall



sanitize every facility shower, bath tub, toilet, shower chair, and commode daily. Nursing personnel shall sanitize commodes, bath tubs, shower chairs and stalls after each use. TNT and/or Mint Air Plus will be used as the sanitizer. The sanitizer will be in a spray bottle located in the locked soiled utility room."

The facility resident's rights state that "Your facility must be clean and stay at a healthy temperature."

In the document titled "Bath/Shower - Dependent" it reads "A bath (shower/tub) for cleanliness and comfort is scheduled at least weekly for each resident." According to the policy, the responsibility of this is to be "All Nursing Assistants, monitored by Charge Nurse." Two of the steps in the policy read "Cleanse tub or shower with appropriate disinfectant. Dry wet floor," and "Discard soiled linen."

The SNF and ICF regulations reads " 4) All nursing personnel shall assist and encourage residents so that a resident's abilities in activities of daily living do not diminish unless circumstances of the individual's clinical condition demonstrate that diminution was unavoidable. This includes the resident's abilities to bathe, dress, and groom; transfer and ambulate; toilet; eat; and use speech, language, or other functional communication systems. A resident who is unable to carry out activities of daily living shall receive the services necessary to maintain good nutrition, grooming, and personal hygiene" (77 Il Admin Code 300.1210). The Regulations also read " B) Each resident shall have at least one complete bath and hair wash weekly and as many additional baths and hair washes as necessary for satisfactory personal hygiene" (77 Il Admin Code 300.1210).

The SNF and ICF regulations also read "a) Every facility shall have an effective plan for housekeeping including sufficient staff, appropriate equipment, and adequate supplies. Each facility shall: (B) 1) Keep the building in a clean, safe, and orderly condition. This includes all rooms, corridors, attics, basements, and storage areas ... c) Bathtubs, shower stalls, and lavatories shall not be used for laundering, janitorial, or storage purposes. d) All cleaning compounds, insecticides, and all other potentially hazardous compounds or agents shall be stored in locked cabinets or rooms." (77 Il Admin Code 300.2220)

#### *Conclusion - Complaint #6*

As stated in the tour of the facility, the HRA witnessed a washcloth hanging in one of the facility shower stalls. Part of the policy for "Bath/Shower - Dependent" reads that the staff assisting the patient need to discard soiled linen which would consist of used washcloths. Due to the HRA witnessing this non-compliance with the facility's own policy, the HRA finds this complaint **substantiated** and offers the following **recommendation**:

- Review shower policy with staff to assure that procedure is being followed regarding the cleaning of shower stalls.

The HRA also offers the following **suggestions**:

- Although the regulations do not state that a housekeeping plan must be in written form (77 Il Admin Code 300.2220), the HRA suggests that the facility write a plan incorporating all aspects of the regulation so that the plan can be reviewed by all essential staff and easily enforced.
- The HRA witnessed ice being dropped on the floor and then being put back in the ice container. The HRA acknowledges that the ice may not have been intended for consumption but still feels that it is important to review hygiene and cleanliness with staff that deal with food and water so that it is assured that patients are not receiving food that may have been contaminated in some manner.

### **Complaint #7 - Inadequate staffing, not all patient needs are being met due to lack of staff**

The HRA began this review by first viewing the SNF and ICF Code regarding staffing. The Code reads "a) Staffing shall be based on the needs of the residents, and shall be determined by figuring the number of hours of nursing time each resident needs on each shift of the day. This determination shall be made separately for both licensed and nonlicensed nursing personnel. (A, B) ... c) It is the responsibility of each facility to determine the staffing needed to meet the needs of its residents ... e) The designations used for shifts in the following tables are used for illustrative purposes only, and are not meant to imply that other shift designations cannot be used by the facility" (77 Il Admin Code 300.1230). The regulation illustrates a formula for determining staffing based on care needed (skilled, intermediate, light intermediate). The HRA received a copy of the daily staffing levels for nursing and aides at the facility between the dates of 9/27 and 10/20. The HRA calculated the formula based on the licensed number of facility beds which is 97 skilled beds and 40 intermediate beds. Based on that formula, for 137 residents (97 of which are skilled and 40 of which are intermediate) the facility staffed the correct amount of nurses per shift, per day which is 3 for the first two shifts and 2 for the last shift. As far as staffing for aides, the facility staffed between 6 and 9 aides during that timeframe reviewed (most days, 9 were staffed). According to the calculations which were based on the licensed or actual number of beds the facility should have 13 aides for the first shift. For the second shift the facility staffed between 6 and 11 aides when the calculations stated they should have 10 (most days, 9 were staffed). For the last shift the facility staffed between 4 and 6 staff members and the calculations call for the last shift to have 6 aides. The staff stated that they average 80 patients per month, which would make the staffing calculations drop lower. The HRA does not have releases for other patients within the facility, so they cannot provide a completely accurate account of staffing requirements because the care levels of each patient in unknown. In accordance with the number of licensed beds, the facility lacks staff members per shift but, considering that there are actually less patients in the facility than they are licensed for, the staffing ratio appears to match.

#### *Conclusion - Complaint #7*

Because the HRA found no evidence that the facility is understaffed using the regulatory formula and the number of filled versus licensed beds the HRA finds this complaint **unsubstantiated**

### **Complaint #8 - Lack of privacy for showering, family had to watch door while patient was in the shower area and shower area was both male and female**

In the "Bath/Shower - Dependent" policy which was referenced earlier, it states that part of the procedure is to "Knock before entering" and to "explain procedure to the resident."

The SNF and ICF regulations read "b) The facility shall provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychological well-being of the resident, in accordance with each resident's comprehensive resident care plan. Adequate and properly supervised nursing care and personal care shall be provided to each resident to meet the total nursing and personal care needs of the resident" (77 Il Admin Code 300.1210).

The SNF and ICF regulations also state that the facility must "A) Provide minimum of one water closet, one lavatory, and one bathtub or shower for each sex on each floor occupied by residents" (77 Il Admin Code 300.3060). In the interview, it was stated that the shower area was male/female.

#### *Conclusion - Complaint #8*

The HRA witnessed a patient change the "In Use" sign to read that the bathroom was not in use while another patient was in the bathroom, and then a second patient opened the door all the way and entered the bathroom while it was occupied. Also, the shower area is male/female when they should have separate areas in accordance with regulations. Because of these findings, the HRA finds this complaint **substantiated** and offers the following **recommendations**:

- The HRA recommends that the facility find a new method to assure that the patients in the facility are allowed to shower in privacy without interruption by other patients.
- In compliance with 77 Il Admin Code 300.3060, no longer allow the shower area to be both male and female and create a separate shower area for the genders. Please provide the HRA with evidence that this action has been taken.

**In reviewing the documentation against what was discussed in the staff interview, the HRA has some concerns regarding the staff's knowledge of the facility's policies/procedures. For example, the documentation recorded staff contacting the patient's prior facility regarding aspects of the patient's court order when the patient had already been at the facility for a week. Also, the staff stated that the registered sex offender should not be staying at the nursing home even though there are no facility policies or regulations that state this. The HRA recognizes that some of this could be miscommunication during the interview, but they would also like to stress the importance of staff and administration understanding and having a working knowledge of policies and procedures so that individuals within the facility are treated in accordance with regulated rights and facility procedures. The HRA would strongly suggest an overall refresher in policy, procedure, and regulations with the Forest Hill staff and administration.**

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## **RESPONSE**

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

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April 26, 2012

Mr. Gene Seaman, HRA Coordinator  
Guardianship & Advocacy Commission  
401 Main Street, Suite 620  
Peoria, Il. 61602  
Re: HRA No. 12-090-9007

Dear Mr. Seaman,

Enclosed please find our response to the recommendations that were sent us. We have included evidence of any action that was taken. Please contact us at 309-796-0922 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Judy Scott".

Judy Scott, MSN

## Complaint #1

### Recommendation 1:

Facility added a phone line in an office across from the nurse's station, on "B" wing, that is available (at their discretion) for resident use without any restriction. A new policy was created to allow private phone use.

See policy.

## Complaint #1

### Recommendation 2:

A new phone system was put in on April 24, 2012. The new phone system will eliminate the number of dropped calls. See successful completion through AT&T.

**Complaint #1**

**Recommendation 3:**

**Private phone is now available and is addressed in the new policy.**

**This allows residents to dial by themselves.**



Complaint #1

Recommendation 4:

"B" wing residents will be informed of new phone policy, sign new policy, a copy will be placed in their chart, and they will be given a copy of the policy.

**Complaint #1**

**Recommendation 5:**

**Please refer to Phone Policy regarding privacy.**

Complaint #4

Recommendation 1:

See plan:

**Complaint #4**

**Recommendation 2: See inservice documentation.**

**Complaint #5**

**Recommendation 1: See new "Identified Offender Facility Policy and Procedure."**

## Complaint #5

Recommendation 2: See documentation on inservice of updated identified offender policy.

**Complaint #6**

**Recommendation 1:**

**Reviewed shower policy with staff to assure that procedure is being followed regarding the cleaning of shower stalls.**

## **Complaint #8**

### **Recommendation 1:**

**Educated residents on protocol for using the occupied/unoccupied sign on shower room doors and council residents regarding respect for other residents in shower rooms. Residents instructed that they can request a staff person to remain outside the shower door while they are in the shower room.**



## Complaint #8

### Recommendation 2:

This recommendation is inaccurate, as the code quoted 300.3060, is not applicable to our facility since it is specific to new construction. Our facility is governed by 300.2860 F 7, which does not require separate shower area for the genders, for existing nursing homes.

In addition, we actually do comply with 300.30060, since our C unit does have gender specific shower rooms. Our entire nursing home is on one floor.