



FOR IMMEDIATE RELEASE

North Suburban Regional Human Rights Authority
Report of Findings
HRA #13-100-9012
Elgin Mental Health Center

Introduction

In December 2012, the North Suburban Regional Human Rights Authority (HRA) opened this investigation regarding Elgin Mental Health Center (hereafter referred to as Center), Forensic Treatment Program. A complaint was received that alleged that a consumer is receiving inadequate medical treatment, that a consumer has not received a copy of her treatment plan, that Center personnel have been in contact with the consumer's family members despite the consumer's requests that they not be contacted, that personal possessions have been lost and that the Center is not responding to the consumer's grievances. The rights of consumers are protected by the Illinois Mental Health and Developmental Disabilities Code (405 ILCS 5/2-105), the Illinois Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110/3) and the Conditions of Participation for Hospitals (42 C.F.R. 482.13).

Recipients receiving services at EMHC's Forensic Treatment Program have been remanded by Illinois County Courts to the Illinois Department of Human Services (DHS) under statutes finding them Unfit to Stand Trial (UST) and Not Guilty by Reason of Insanity (NGRI). Placement evaluations determine the most appropriate inpatient or outpatient setting for forensic treatment based on a number of factors including age, gender, mental health diagnosis, and security need. Unless a person is specifically ordered to receive services in an outpatient setting, court ordered referrals under state forensic statutes call for placement in a secure inpatient setting. The Forensic Treatment Program has 315 beds.

Methodology

To pursue this investigation, the HRA met with the consumer whose rights were alleged to have been violated. The HRA, with written consent, reviewed portions of the consumer's clinical record. A site visit was conducted at which time the allegations were discussed with the consumer's Social Worker and the Unit's Nurse Manager from the Hartman Unit.

Findings

The consumer reported that she must remain upright after meals due to reconstructive gastrointestinal surgery. The prescribed medication Abilify (an antipsychotic medicine used to treat (among other symptoms) the symptoms of schizophrenia and bipolar disorder) fatigues her to the point that she is very sleepy after meals and thus she cannot remain upright. She stated that when she reported this to her physician, the physician suggested that the medication be increased. It was also reported that she has not received a copy of her treatment plan despite many requests for the plan. The consumer reported that Center personnel have been in contact with her parents despite

her requests that they not be contacted. The consumer reported that some personal possessions (electric razor) have been lost and that the Center is not responding to her grievances.

According to the clinical record, the consumer was remanded to DHS in July 2012; at that time she resided on the Hartman Unit. She was transferred to Unit H (August 2012) and then transferred back to the Hartman unit on October 1, 2012.

On the day of the transfer back to the Hartman Unit, it was noted that the consumer's Abilify had been discontinued because the consumer reported fatigue and she was unable to function. The record contained a physician's order written in October which stated that the consumer is to have extra time when eating meals due to her medical condition. On October 29, 2012, the Psychiatrist documented that he/she met with the consumer as she wanted to talk about her medications. She reported that the Olanzapine (the medication that replaced the Abilify) has been less problematic for her than the Abilify was, but she still feels tired and she has some fogginess at times. It was documented that the consumer "seemed relieved when I said that most people take 15-20 mg and that she may not need to have an increase dose..."

The consumer's October treatment plan documented that the consumer's last treatment plan staffing was in August 2012. The consumer stated that her last staffing was held in September 2012 and it is this treatment plan that she has not been given a copy. At the site visit, it was stated that it did take some time (a few weeks) for the consumer to receive a copy of the September treatment plan from the other unit. Center personnel did not want to speak for the staff on that unit, but they did say that they heard that one of the treatment team members had been on vacation and had not completed their portion of the plan. It was stated that the consumer did (and the consumer confirmed) receive a copy of this plan. Center personnel told the HRA that each consumer receives a copy of the treatment plan as soon as possible, often the same day as the staffing.

The clinical record contained two Authorizations to Disclose, Obtain Information forms that authorized the Center to disclose and obtain specific information as designated by the consumer, to her father and mother. The forms were signed by the consumer on August 3, 2012; it is noted that date in which the authorization is valid until was not completed. While on the H Unit, the Social Worker wrote about a family contact she had (9/21/12) with the consumer's parents, saying that she spoke at length with the parents. At the October 17th treatment plan staffing, the consumer reported that she was not comfortable talking with her parents and that she had concerns about limiting the amount of staff contact with her parents as she did not want them involved in her treatment. It was documented that there had been no contact with the parents since the consumer's return to the Hartman Unit. At the site visit, Center personnel stated that they are very cognizant of breaching confidentiality, and when the consumer stated that she wanted no contact with her parents, no contact would be made.

Regarding the allegation that the Center is not responding to her grievances, the Unit Manager produced about 20 or so complaint/concern forms that had been generated by the consumer in about a three month span. A lot of the forms show that the consumer asks for a response "in writing". The forms are to be submitted to any staff member and then given to the Nurse Manager for review and handling. The Manager stated that the complaints need to be addressed, but not necessarily in writing. The forms show (for the most part) that responses were given. The responses included; counseling the consumer, continue to meet with treatment team, refer to dietitian, etc. It is noted by the HRA that the record contained numerous notations showing that the consumer had made complaints to the Illinois Office of the Inspector General, Equip for Equality, NAMI and Legal Assistance.

Toward the end of October, the Primary Care Physician documented that the consumer has excessive facial hair on her chin and that it does not appear to be due to abnormal hormone levels. It was documented that acceptable hair removed options will be looked into, since waxing and

depilatories are not allowed due to safety reasons. Documentation showed that in December, an electric shaver had been purchased by the state for the consumer's use. At the site visit, it was stated that the shaver did get lost between the unit transfers; another shaver has been purchased.

Center policy

The Center's Consent for Release of Information policy states that in compliance with Illinois law (Mental Health and Developmental Disabilities Confidentiality Act), all patient records and communications are confidential and shall not be disclosed, except as provided in this Act.

The Illinois Department of Human Services Treatment Planning policy states that "each individual is entitled to receive the highest quality of care and treatment that can be provided within an Office of Mental Health facility. The development of a quality treatment plan requires clinically competent staff who work collaboratively with the individual in the treatment planning process."

The Center's 3-page Patient/Family/Guardian Concerns & Grievances policy states (in part) that for non-OIG (Office of the Inspector General) complaints/concerns, "the nurse manager will attempt to resolve the concern/complaint and will indicate the proposed solution on the form, as well as whether it was accepted. The action(s) taken, as well as the resolution or lack thereof, will be documented on the complaint form. A copy of the completed complaint form will be given to the complainant and a copy to the Responsible Leader." The consumer reported to the HRA that she has not received a copy of any completed complaint form.

Conclusion

Pursuant to the Illinois Mental Health and Developmental Disabilities Code, Section 5/2-102., "*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. The Plan shall be formulated and periodically reviewed with the participation of the recipient to the extent feasible and the recipient's guardian, the recipient's substitute decision maker, if any, or any other individual designated in writing by the recipient.*"

Pursuant to the Illinois Mental Health and Developmental Disabilities Confidentiality Act, Section 3, "*All records and communications shall be confidential and shall not be disclosed except as provided in this Act.*" Section 5 of this Act states that, "*Except as provided in Sections 6 through 12.2 of this Act, records and communications may be disclosed to someone other than those persons listed in Section 4 of this Act only with the written consent of those persons who are entitled to inspect and copy a recipient's record pursuant to Section 4 of this Act.*"

Pursuant to the Conditions of Participation for Hospitals, Section 482.13, "*A hospital must protect and promote each patient's rights. (a) Standard: Notice of rights.(1) A hospital must inform each patient, or when appropriate, the patient's representative (as allowed under State law), of the patient's rights, in advance of furnishing or discontinuing patient care whenever possible. (2) The hospital must establish a process for prompt resolution of patient grievances and must inform each patient whom to contact to file a grievance. The hospital's governing body must approve and be responsible for the effective operation of the grievance process and must review and resolve grievances, unless it delegates the responsibility in writing to a grievance committee. The grievance process must include a mechanism for timely referral of patient concerns regarding quality of care or premature discharge to the appropriate Utilization and Quality Control Quality Improvement Organization. At a minimum: (i) The hospital must establish a clearly explained procedure for the submission of a patient's written or verbal grievance to the hospital. (ii) The grievance process must specify time frames for review of the grievance and the provision of a response. (iii) In its resolution of the grievance, the hospital must provide the patient with written notice of its decision that contains the name of the hospital contact person, the steps taken on behalf of the patient to investigate the grievance, the results of the grievance process, and the date of completion.*"

The complaint alleged that the consumer is receiving inadequate medical treatment, in that she is on medication that makes her very tired and when she discussed this side effect with her physician, it was suggested that the medication be increased. According to clinical documentation, the consumer stated that the Abilify medication made her too fatigued and the medication was

discontinued. Documentation showed that when another medication was discussed that was producing the same side effects, the physician assured the consumer that that the medication would not be increased. It is concluded that rights were not violated; the allegation is unsubstantiated.

By staff members' own admission, it did take a few weeks for the consumer to receive a copy of her treatment plan; they had no control over this delay. The law does not provide a timeframe for which a consumer must receive a copy of the treatment plan; it is assumed it would be within a reasonable amount of time. It is concluded that the consumer received her treatment plan within a reasonable amount of time; the allegation is unsubstantiated.

The record contained authorization that allowed Center personnel to discuss the consumer's legal status, continuing care plan and visitation issues with the consumer's parents. The consumer verbally revoked this authorization; the HRA found nothing to show that Center personnel have breached confidentiality by contacting the parents subsequent to the authorization withdrawal; the allegation is unsubstantiated. The HRA takes this opportunity to say that pursuant to the Confidentiality Act, the authorization forms must document a calendar date showing how long the authorization is valid. And, when authorization has been revoked, the authorization form should note the withdrawal.

A razor that was purchased by the state had been lost; the item was replaced. The allegation is unsubstantiated.

Based on the information obtained, it is concluded that Center personnel are not responding to the consumer's grievances in writing; the allegation is substantiated. Therefore it is **recommended** that Center personnel follow Federal mandates and Center policy by ensuring that when grievances are filed, the complainant receives a copy of the completed compliant/concern form that documents how the matter was resolved.

RESPONSE

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



Pat Quinn, Governor

Michelle R.B. Saddler, Secretary

Division of Mental Health - Region 2
Elgin Mental Health Center — Singer Mental Health Center

RECOVERY IS OUR VISION
 Recovery is a Personal Journey of Hope, Healing, Growth, Choice, and Change

April 10, 2013

Ms. Kori Larson - Chairperson
 North Suburban Regional Human Rights Authority
 9511 Harrison Street, W-300
 Des Plaines, IL 60016-1565

Re: HRA #13-100-9012

Dear Ms. Larson:

Thank you for your recent letter dated April 3, 2013. We appreciate your thorough review of this matter and we agree with your finding and recommendation regarding patient complaint forms. Ms. Hogan, our Associate Director of Nursing, has met with all the Forensic Nurse Managers and specifically addressed that patients should receive a copy of all completed complaint forms.

We ask that you please include our response with any public release of your Report of Findings.

Sincerely,

Paul N. Brock, M.P.A., M.H.A.
 Hospital Administrator

PNB/JP/lf

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