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**FOR IMMEDIATE RELEASE**

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**HUMAN RIGHTS AUTHORITY- CHICAGO REGION**

**REPORT 14-030-9018  
COMMUNITY COUNSELING CENTERS OF CHICAGO**

Case Summary: The HRA did not substantiate the complaint that the facility staff breached a recipient's confidentiality but it did substantiate the complaint that the facility staff did not provide an adequate grievance process.

**INTRODUCTION**

The Human Rights Authority of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving a complaint of possible rights violations at the Community Counseling Centers of Chicago (C-4 Clark site). It was alleged that the facility breached a recipient's confidentiality and did not provide an adequate grievance process. If substantiated, this allegation would be a violation of the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110) and the Medicaid Community Mental Health Services Program Code (59 Ill. Admin. Code 132.42).

Community Counseling Centers of Chicago (C-4) is a community based service provider for people with mental illness, emotional trauma, substance abuse, and issues resulting from sexual assault. The agency has six locations throughout the Chicago area, serving over 7,000 clients annually. The Center at C-4 Clark is an outpatient treatment center providing mental health, substance abuse and related counseling.

To review these complaints, the HRA conducted a site visit and interviewed the Site Director, the Vice President of Clinical Operations, the Director of Clinical Records, the Supervisor, and two Case Managers. Agency policies were reviewed and the recipient's clinical record was reviewed with written consent.

**COMPLAINT SUMMARY**

The complaint alleges that a recipient, who receives individual and group therapy at C-4, attended a regularly scheduled therapy group which visitors (college students) attended without the recipient's prior knowledge or consent. At that meeting the facilitator reportedly stated to the group, "Hey, [recipient], I had a dream and in that dream I called a police officer "boy." You've been to jail and prison- would that be considered offensive?" Allegedly, the staff person then laughed hysterically.

The recipient allegedly filed a complaint about the event to his therapist, but his therapist told him to speak with the group leader, who is the recipient's case manager, the staff who breached his confidentiality. The recipient then took the complaint to his therapist's supervisor, who said that the recipient should have brought it to him sooner, and he also encouraged the recipient to meet with his case manager regarding the complaint. The complaint alleges that C4 does not have a clear, effective grievance process that is sensitive to the complainant and that the process is designed to suppress complaints. Additionally, complainants are made to refer back to the staff persons against whom the complaint was originally filed, and they do not receive written responses which address their concerns.

## FINDINGS

The record shows that the recipient had been a client at the C4 Center since 7/26/12. A written complaint filed by the recipient dated 12/13/13 and addressed to facility staff is included in the record which alleges that the recipient's case manager breached his confidentiality and that the facility lacked an adequate grievance procedure. The complaint indicates that it was sent to the facility staff on December 13<sup>th</sup>, 16<sup>th</sup>, and 18<sup>th</sup>, 2013.

The clinical record contains the Client Direct Service Contacts list for the period of 2013-2014. It lists all groups offered by the recipient's case manager within the complaint timeframe. The list indicates nine Psychosocial Rehabilitation groups that were attended by the recipient in September and October of 2013. Accompanying these records are progress note summaries for all groups offered by the case manager. They describe the group's Problems, Objectives and Issues that are addressed in the group, Interventions/Service provided to address the issues, Assessment of the Client's Response to the Interventions, General Clinical Impressions and Additional Assessment Information, and Strategy for Moving Forward. There is no indication from the notes that students from outside the facility took part or observed the recipient's group meetings.

The record contains the minutes of the Executive Meeting convened on 1/22/14 to address the complaint and it outlines the actions taken up to this date:

"The administrative team met to discuss and review the letter that C4 received from written letters of complaints (dated 12/13/13, 12/16/13, 12/18/13, and 1/15/14) that [the recipient] had submitted to [the Director of Clinical Records] on 1/14/14 and also the letter that C4 received from the Guardianship and Advocacy Commission informing us that the Chicago regional Human Rights Authority had opened an investigation of possible rights violation ... The allegation as stated was that C4 did not follow the Mental Health Code Confidentiality Act requirements when it breached this recipient's confidentiality and did not provide an adequate grievance process.

[The Director of Medical Records] presented a summary of the client's written complaints to the team. Most of the team members were not aware of the written complaints. [The Supervisor] acknowledged receiving the written letter of complaint that was dated for 12/13/13 for the first time during the week of 12/16/13. [The Supervisor] acknowledged receiving the letter dated for 12/13/113 and the one dated for 12/16/13 for the first time during

the week of 12/16/13 and received the one dated for 1/15/14 during the week of 1/15/14. [The Supervisor] stated that she never received the letter dated for 12/18/13.

In regards to the grievance process issue, [the Supervisor] reported that back in 7/20/13 when the client was first transferred to AOB [Adult Outpatient Services-Broadway], he expressed dissatisfaction with his services as a client of AOC [Adult Outpatient Services-Clark]. At this time [the Supervisor] discussed with the client the difference between a complaint and filing a formal grievance and explained to the client the C4 Grievance process. [The Supervisor] stated that she was waiting for the client to write up a formal written grievance so that she could assist him with the grievance process. According to [the Supervisor], the client never presented the written complaint until the week of 12/16/13. [The Supervisor, the Site Director, and staff] reported that this client has continuously presented numerous complaints based on his misinterpretations and misperceptions of events or situations which they have addressed with the client during the course of treatment and have tried to resolve but never to this client's satisfaction.

[The Director of Medical Records] agreed to email all staff named in the complaint letters to determine if they had received the written complaint and, if so, when and what action was taken. The purpose of this was to help determine the time line when exactly the client did provide the named staff with the written letters of complaints and, if indeed, he did.

The team reviewed the C4 Grievance procedure. I was agreed that the 1997 procedure is still in effect and is the procedure that all C4 clients are expected to follow when filing a formal grievance. Members reviewed the steps that have been taken to handle the client's grievance as soon as he presented the formal written complaint. The outcome of this review indicates that C4, up to this point, had followed the grievance process as outlined in the procedure. The team also agreed not to do an internal investigation into the right violation for now but will wait until the Chicago Regional Human Rights Authority completes its investigation and then the team will review any recommendations that may result from this investigation. However, the team agreed to review the C4 Grievance Procedure and the communication process between the client and the involved staff pertaining to this grievance to determine if any quality improvements are needed to make the grievance process better for our C4 consumers.

In regard to client's concern regarding the violation of his privacy by having interns participate in group session, it was agreed that according to agency HR policy, C4 interns are treated like C4 employees and have the right to provide services along with other staff persons to C4 clients. These interns are trained to our C4 confidentiality and HIPAA Privacy rules at the new employee orientation. The current practice is that new staff persons are introduced to the group members from the first time they are assigned to provide group services or any other services. However, the team agreed to look at the process of introducing interns to determine if any improvement is needed..."

The minutes conclude by addressing several other complaints that were filed by the recipient regarding his treatment plan, the wording of his objectives of treatment, billing issues, and the recipient's request for a copy of his clinical record. These issues were addressed by the agency separately and were not part of the HRA complaint.

The record contains a copy of the letter forwarded to the recipient on 2/06/14 regarding his complaint:

“On Friday, January 17, 2014 you met with me at the C4 Clark site and provided me with your written letters of complaint regarding concerns you have about your privacy and confidentiality as a consumer of our services as well as concerns with C4’s Client Grievance process. In addition, we discussed your request for obtaining copies of your clinical records for your personal use.

At the end of our meeting, I informed you that I will initiate an internal investigation regarding your complaints and will get back to you regarding the outcome; furthermore, that I will notify you when you can pick up the copies of your records.

On January 17, 2014 we received notice from the Guardianship and Advocacy Commission informing us that the Chicago Human Rights Authority had opened an investigation of possible rights violations that had been filed against C4. Since the Human Rights Authority is performing the investigation C4 will not conduct a separate investigation into the complaints.

Please know that we take our clients’ concerns very seriously, and as a human service agency, we do our best to protect our clients’ rights and provide considerate and respectful treatment free from abuse, neglect, exploitation and any violation of one’s rights. This is why we will be conducting an internal review of our C4 Client Grievance policy and procedures, our group process, and introduction of interns into group settings, as well as review how the communication about your grievance and client rights were handled. This review will provide us with an opportunity to re-examine our clients’ related policies and procedures and make any needed improvement so that we can serve our consumers better.”

The record contains minutes of a meeting held between the recipient and the Director of Clinical Records on 2/11/14. At this meeting the recipient received a copy of his clinical record. He expressed his dissatisfaction with the facility’s decision to postpone their investigation until after the Human Rights Authority had completed their investigation. The recipient was informed of the Executive meeting held on 1/22/14 and staff discussed with the recipient the issues which were covered in the meeting, namely his concerns regarding his privacy and dissatisfaction with the grievance procedure, violation of his privacy by the presence of interns in therapy groups, billing issues, and disagreement over his treatment plan.

#### AGENCY REPRESENTATIVES’ RESPONSE

Agency representatives were interviewed about the complaint. They indicated that all admittees are given the grievance process steps when they enter the program. The supervisor indicated that originally she met with the recipient in July of 2013 when she reviewed the entire grievance policy and procedure with the recipient. On December 13, 2013 the recipient discussed the complaints with his therapist, who was not sure if these complaints would become a more formal grievance- the recipient frequently made complaints which were handled informally but referred to by the recipient as a “formal grievance.” The therapist stated that the recipient often

confused complaining about issues with filing a formal grievance. He understood that the recipient wrote the dates on the letters of complaints as if they were the dates when complaints were issued, when really they were the dates on which the letters were composed. The therapist was working with the recipient on how to handle his complaints appropriately. Then the week of December 16, 2013 the recipient approached the supervisor with his written complaint at which time she met with the recipient. She explained the role of the interns and how they are bound by the same confidentiality laws as regular employees of C4. After this meeting the supervisor spoke with the recipient's case manager. The case manager stated that he did not know previous to the complaint that the recipient had been incarcerated and that he had not made a comment about a dream that he had in any therapeutic group. The supervisor indicated that she asked the recipient to speak with the case manager about the complaint but he did not. When the recipient did not speak with his case manager to settle the issue, a meeting was scheduled for 1/17/14 with the Director of Clinical Records. At this meeting the staff member acted as an advocate to the recipient and she formalized this meeting in the letter that was issued on 2/06/14. At the 1/17/14 meeting the recipient was told that an Executive Meeting would be convened to begin an internal investigation which was held on 1/22/14. At this meeting the executive staff discussed the grievance policy and procedure and it was announced that the facility had that day received a letter from the Human Rights Authority opening a case regarding the complaint. The facility determined that under section 5-E of the grievance policy, this complaint was being investigated by a third party, so the facility's internal investigation was suspended as it had been when the two other investigative bodies had initiated their investigations (the complaints had been reported to the Joint Commission and the Illinois Office of the Inspector General, neither of which had any findings). The HRA noted that the policy refers to the involvement of an attorney, not a third party, and staff indicated that they were in the process of revising this language to indicate "third party." Staff were asked if the recipient had received a written response regarding the determinations made at the Executive meeting and they indicated that they had not formally responded regarding their decisions. Staff stated that they were considering revising the policy and would consider this recommendation.

The HRA interviewed the case manager who allegedly made the remarks regarding the recipient's past incarcerations. He stated that he did not know that the recipient had been incarcerated and did not make any comment to a therapeutic group at any time about a dream or the recipient's experience related to incarceration. The HRA asked if the presence of interns is noted in the progress notes and they indicated that it is not. Staff as well as the HRA noted that there is no documentation in the group notes that would relate to the recipient's complaint and the recipient did not identify a date or a specific group when this event might have occurred.

Facility representatives were interviewed about the presence of interns in therapeutic groups. They stated that the agency treatment agreement, which the recipient signed, indicates that at times during the year (twice yearly), nursing interns may be present for 10 weeks at which time they observe groups, in this case, a group addressing humor in recovery. Staff indicated that interns are considered employees of C4 and as employees, they are given the same orientation and training as other employees, which involves HIPAA and confidentiality training. Clients are informed about interns at admission and although they do not sign a release for the interns to be present in group, the clients are given the opportunity to opt out of these groups if they are uncomfortable with interns. All interns are introduced to the group as interns and the

staff felt that the recipient would have been familiar with the practice since he had been a client at C4 for almost two years.

## STATUTES

The Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110) states that all records and communications shall be confidential and shall not be disclosed except as provided in the Act. “Communication” means “any communication made by a recipient or other person to a therapist or to or in the presence of other persons during or in connection with providing mental health or developmental disability services to a recipient. Communication includes information which indicates that a person is a recipient.”

The Illinois Administrative Code (59 Ill. Admin. Code 132.142) states that providers shall inform clients prior to evaluation and annually thereafter of “The right or the guardian’s right to present grievances up to and including the provider’s executive director or comparable position. The client or guardian will be informed on how his or her grievances will be handled at the provider level. A record of such grievances and the response to those grievances shall be maintained by the provider. The executive director’s decision on the grievance shall constitute a final administrative decision (except when such decisions are reviewable by the provider’s governing board, in which case the governing board’s decision is the final authority at the provider level.”

## AGENCY POLICY

C4 provided their policy regarding Notice of Privacy Practices. It states, “C4 shall prepare and maintain a Notice of Privacy Practices that complies with HIPAA [Health Insurance Portability and Accountability Act of 1996] requirements. Such Notice shall be written in plain language that clearly informs clients of C4’s uses and disclosures of PHI (Protected Health Information), its duties regarding clients’ rights and other responsibilities with respect to PHI. C4 shall assure that every client receives a copy of the current Notice of Privacy Practices and has the opportunity to seek clarification of any of its pronouncements. C4 shall document that the client has received such notice. C4 shall post a copy of the Notice prominently in public areas of its facilities and post the Notice on its website.”

C4 provided the Client Rights form that is signed by recipients at admission and annually thereafter. It indicates that if a client is dissatisfied with any aspect of treatment, he/she has the right to file a formal complaint and receive a response in a timely manner. Clients may receive a copy of the Client Grievance Policy and assistance from staff in filing it.

C4 provided their policy and procedure regarding the Client Grievance Policy. It states that any client who is dissatisfied with any aspect of services provided or who believes that his/her rights as a client have been violated, may file a grievance. The procedure which addresses this process is as follows:

1. The client is urged to discuss grievances first with his/her primary worker.

2. If the client feels that the problem is unresolved, s/he may request that the primary worker's supervisor assign another worker (an advocate) to assist the client in using the grievance procedure.
3. If the client feels that the problem remains unresolved, s/he is guided through the agency's accountability structure, i.e., Supervisor to Program Director, until the grievance is satisfied. The primary worker or the advocate is available to assist the client at all steps. This discussion process should take no longer than two weeks.
4. If there are unresolved issues following discussion with the Supervisor/Director, a copy of the procedure is made available to the client.
5. The client may submit any unresolved issues in writing to the Executive Staff. The primary worker or another clinician is available to assist the client in preparing his/her written grievance.
  - A. If Executive Staff determines that the case requires further review, they appoint an ad hoc Grievance Committee to review the grievance and make recommendations. Committee review may include, but is not limited to, the review of the clinical record, interviews with the client, and interviews with the involved clinical staff in any format they deem appropriate and necessary. The recommendations are presented to the Executive Staff within two weeks of receipt of the client's written grievance.
  - B. Executive Staff reviews the Client Grievance Committee's recommendations, and provides a written reply to the client within two weeks of receipt of the recommendations.
  - C. The client's response to the recommendations is in writing. If the client's response to the recommendations is positive, the grievance process is ended; and the recommendations are forwarded to the appropriate Program Director. For implementation.
  - D. If the client does not accept the Client Grievance Committee's recommendation, s/he may address his/her dissatisfaction to any appropriate regulatory body. A list of such bodies may be provided to the client at this time.
  - E. If at any time during the client grievance process, either party engages an attorney, the client grievance process is stopped and all activities are suspended and the case is transferred to the appropriate administrative venue. This is the end of the internal client grievance process. Records created during the client grievance process are annotated to indicate suspension of activities, and are maintained in the Department of Clinical records.

## CONCLUSION

The allegation that the recipient's case manager revealed confidential information within a therapeutic group setting cannot be verified by the record and the staff member stated to the HRA that he did not know of the recipient's incarceration and did not make any comments regarding the recipient's incarceration. Additionally, the fact that the recipient had been incarcerated is itself not Protected Health Information but part of the public record, although it may be an ethical consideration if indeed it was mentioned in group, which we cannot confirm. Also, the presence of interns within the therapy group is a facility practice that recipients are

informed of at admission into the program, and recipients are offered the opportunity to opt out of these sessions if they choose. The date or time of the group in which the interns were allegedly present is not known by the recipient and the HRA did not find group notes which related to the recipient's complaint. The HRA does not substantiate the complaint that the facility breached a recipient's confidentiality.

The C4 Grievance Policy indicates that after a recipient has submitted a written complaint the recipient is guided through the agency's accountability structure from "Supervisor to Program Director, until the grievance is satisfied...This discussion should take no longer than two weeks." Additionally, if the recipient's complaint cannot be resolved, a Grievance Committee is to be formed which makes recommendations to the Executive Staff and the recommendations are presented to the Executive Staff within two weeks of the client's written grievance. After the Executive Staff reviews the recommendations a written reply is sent to the recipient within two weeks of receipt of the recommendations. The record indicates that the facility staff received written notice of the complaint on 12/16/13, an Executive meeting was held on 1/22/14, and a letter informing the recipient of the termination of the internal investigation was sent on 2/06/14. The complication is that the grievance process was halted by the facility's receipt of the HRA complaint, which was construed by the facility to approximate the engagement of an attorney, which it is not. This measure delayed the resolution of the complaint and denied the recipient the right to the timeline set forth in the facility policy and procedure. Additionally, an internal investigation is very different from that of the HRA and it should proceed independent of the HRA investigation, which is not limited by a timeline. The HRA substantiates the complaint that C4 did not provide an adequate grievance process according to its stated policies.

### RECOMMENDATIONS

1. Review with staff the facility policy regarding the process for the handling of grievances and ensure that the policy timeline is adhered to. Reconsider the policy that terminates internal investigations pending the outcome of third party investigations.

### SUGGESTIONS

1. Make note in the clinical record of the presence of clinical interns during group meetings in order to ensure that there is documentation that participants are aware of their presence and have the option to discuss concerns or opt out of group.