FOR IMMEDIATE RELEASE

REPORT OF FINDINGS
LEXINGTON OF ORLAND PARK- 14-040-9001
HUMAN RIGHTS AUTHORITY- South Suburban Region

[Case Summary— The Authority did not substantiate the complaint below. The public record on this case is recorded below; the provider did not provide a response to the report.]

INTRODUCTION

The Human Rights Authority has completed its investigation into an allegation concerning Lexington of Orland Park. The complaint stated that a resident is being denied the right to choose her own physicians because the facility refuses to coordinate services with community medical providers. If substantiated, this allegation would violate the Nursing Home Care Act (NHCA) (210 ILCS 45/2 et seq.), the Illinois Administrative Code for Skilled Nursing and Intermediate Care Facilities (77 Ill. Admin. Code Part 300) and the Centers for Medicare and Medicaid Services, Department of Health and Human Services' (CMS) Requirements for Long Term Care Facilities (42 C.F.R. Part 483).

Lexington of Orland Park is part of Lexington Health Care Network and provides 24-hour skilled nursing care and offers a range of programs. The 278-bed nursing facility had 230 residents when the complaint was discussed with the facility staff.

METHODOLOGY

To pursue the complaint, the HRA conducted two site visits. The Facility Administrator, a social worker, the resident and her authorized health care agent were interviewed. The resident's record was reviewed with written consent. A policy was also reviewed.

COMPLAINT STATEMENT

The complaint stated that the facility staff is unwilling to coordinate services with the resident's medical providers of choice. For example, it was reported that the resident was not allowed to take cholesterol medication prescribed by her private physician. She was informed that her cholesterol levels needed to be checked before her assigned physician at the nursing facility would approve the medication above.

FINDINGS

Information from the record, interviews and policy

According to the record, the resident was transferred to the nursing facility from a community hospital on April 17th, 2013 because intravenous (IV) antibiotics were required. She

was diagnosed with depression, anxiety, urinary tract infection, fibromyalgia, paraplegia and other physical medical problems. She was placed in isolation due to an infectious disease and was started on antibiotics intravenously on that same day. Her care plan consisted of services to manage her physical and psychiatric symptoms as well as physical and occupational therapy five times weekly. Her plan stated that she required assistance with transferring, repositioning and most activities of daily living. She was planning on having surgery to straighten her contracted legs when IV antibiotics were completed and wanted to be transferred to another facility for rehabilitation.

The resident's face sheet, completed by the nursing facility, documented that the attending physician was the only physician involved in her care. However, the nursing and social services notes recorded that she was being seen by other physicians such as those who specialize in infectious diseases, kidneys and bones. Her record also documented that the Illinois Department on Aging–Long Term Care Ombudsman Office, which provides mediation concerning residents' care in nursing homes, was involved with the resident. On April 18th, an order indicated that the attending physician or designee determined that the resident no longer required an isolated environment because her infection was contained. On the 20th, intravenous antibiotics were held for laboratory testing as ordered by the physician of infectious diseases, and the medications were discontinued nine days later. On that same, day, a care plan meeting was held with the resident and her authorized health care agent. According to the meeting note, the resident's progress toward her treatment goals, compliance with treatment, alternative nursing facilities, residents' rights, the grievance process, and many more issues were discussed. On May 9th, the regional Ombudsman worker reportedly came to the nursing facility to see the resident at her request, but she refused to see the worker because she was in therapy. The Ombudsman worker met with the resident and her authorized health care agent concerning placement issues on that next week. There was no mention about the right to choose his or her physicians found in the resident's record at the time.

On May 15th, the entries recorded that a bone density scan was completed as ordered by the orthopedic surgeon, who supposedly was going to straighten the resident's legs. On the 23rd, the resident's podiatry appointment was rescheduled for June 4th while she was being transported by ambulance to the visit. According to the nursing note, the resident's appointment was rescheduled because she had called the physician's office to report that she would be about twenty minutes late. On that same afternoon, the Ombudsman worker and the facility's social worker met with the resident and her authorized health care agent. She reportedly was reassured that the staff were not planning on discharging her to another living arrangement at the time. She was asked to provide her surgeon's name and contact information for coordination of services. She reportedly became angry and told the social worker, "I don't want to tell you who the surgeon is [and] I don't feel comfortable telling you anything... just leave…." When the social worker had left the room, the Ombudsman worker was provided with the surgeon's name and the hospital where she was planning on having surgery. The note referenced the resident's previous refusal to provide information about her surgeon and her medical appointments because she was suspicious of the staff. According to the note, the social worker would follow up with the resident's surgeon as needed or requested by the individual.

On the evening of May 23rd, a note documented that a nurse found a bottle of Atorvastatin (for cholesterol problem) 20 mg at the resident's bedside, but there was no order for the medication in her chart. She told the nurse that she had taken the medication above on that previous day. She proclaimed her right to see a physician outside of the nursing facility and said

that she could take whatever medication was beneficial to her health. She was informed that an order for the medication was needed. The nurse wrote that the attending physician refused to order the medication above upon notification because he was unaware of her need for the medication. Six days later, the medication records indicated that Lipitor was added to her medication regimen after a lipid profile (a blood test that measures a person's cholesterol and triglyceride levels) was completed.

On May 30th, it was recorded that a representative from the Human Rights Authority (HRA), the investigative division of the Illinois Guardianship & Advocacy Commission met with the facility's social worker, the resident and her authorized health care agent concerning placement issues, transportation services, etc. According to the note, the resident announced during the meeting that she wanted to arrange transportation services for her medical appointments. She was informed that the facility's secretary needed to know about her medical visit arrangements so that the paperwork could be prepared in advance. She was asked to provide a list of her physicians and their contact information. This request included information about the resident's surgeon, although a nursing note suggests that the nursing facility already had this information because the surgeon had ordered a bone density scan in May. And, the surgeon's name reportedly had been provided to the social worker according to a note written on the 23rd. We also noticed that the meeting note recorded that the resident inquired about the need for consent for her private physicians to share her medical information with the nursing facility. However, there was no written indication that she provided consent for sharing information found in her record.

On June 3rd, the facility staff reportedly met with the resident concerning an appointment at her attending physician's office scheduled for the 4th. She was informed that the facility's secretary would make transportation arrangements for the medical visit. She requested that a mammogram and a podiatry appointment should be scheduled for her on the 4th. She was informed that she would have to schedule the medical appointments above, but she told a nurse to ask her attending physician if he could make them. Another note stated that the resident was hospitalized due to a urinary tract infection and a fever on that same day. Three days later, she returned to the nursing facility, and the Ombudsman worker met with her concerning a complaint about her roommate. The resident reportedly was asked again to provide her surgeon's telephone number because the social worker did not have this information. There was no indication that the resident complied with the request above.

For July and August, the entries reflected that the resident saw her urologist several times and documented many appointments with other medical providers and orders. On August 5th, a nurse wrote that the physician of infectious diseases had ordered a urine culture, and the results were faxed to the physician four days later. The same physician ordered that another urine culture should be done on the 13th. But, she refused to give a urine specimen because she wanted to talk to the physician of infectious diseases about her treatment. She also told the Certified Nursing Assistant that bacteria would always be present in her urine and that treatment was not necessary according to the attending physician. The resident reportedly saw the physician of infectious diseases on the 22nd. She refused to comply with a urine specimen again and said that she would soon be seeing her urologist. On the 27th, the resident reportedly returned to the nursing facility after seeing her urologist with new orders for Vesicare 10 mg orally (overactive bladder medication) and that her suprabuic catheter should be irrigated as needed. This is a

catheter inserted into a person's bladder through the abdomen. The attending physician was notified and the orders above were added to her care plan. The medication records also indicated that Vesicare was discontinued by the attending physician on that next day and that Oxybutynin Extended Release 10 mg for her overactive bladder was continued.

On September 26th, a social services note documented that the resident was given a list of physicians associated with the nursing facility because she no longer wanted the attending physician to be involved in her care. According to the note, the resident wanted to meet two of the physicians on the list so that she could make a determination which one of them could meet her needs. She reportedly was provided with the physicians' contact information. She was informed that she needed to sign paperwork and to notify her attending physician that she no longer wanted his services once she had chosen a new physician. The HRA found no documentation that the resident changed her attending physician or that she had met with one or both of the physicians identified in her record.

When the complaint was discussed with the facility staff, the HRA was informed that the attending physician listed on the resident's face sheet was associated with the nursing facility. The staff reported that the Illinois Department of Public Health (IDPH) and the regional Ombudsman worker were involved with the resident. We were told that the resident still resides at the nursing facility. She sometimes refuses to accept help from the facility staff and that she wants certain staff members to provide care for her. She does not always comply with medication. According to the social worker, she prefers that another staff person should be present when she meets with the resident because the individual usually "twists" or restates her words inaccurately. The Administrator reported that a representative from the IDPH said that the staff should document all discussions with the resident.

According to the staff, residents are given a copy of the "Residents' Rights for People in Long Term Care Facilities" which includes the right to choose one's own physician upon their admission to the nursing facility. These rights are reportedly explained during the intake process. We were told that the resident involved in the complaint has many specialized physicians in the community. She chose to makes her own medical appointments and transportation arrangements for these visits. She reportedly uses PACE bus services for outings in the community and she is transported by ambulance to medical visits. She sometimes refuses to give the nursing staff orders from her private physicians. She did not have an order for the cholesterol medication found in her possession as indicated in her record. According to the staff, the resident wanted the attending physician to prescribe certain medications, but he was not willing to do this. She then wanted to change the attending physician, but her physicians of choice were not accepting new patients. The Administrator reported that about 15 of the nursing facility's 230 residents are receiving dental and vision care from medical providers in the community. We were told that the facility is responsible for coordinating services for its residents, including those residents who select their own physicians. The staff reported that this resident had agreed to receive care from the dentist associated with the facility.

The resident told the investigation team that she was planning on having surgery to straighten her legs when she was medically cleared for the procedure. She said that she chose to make transportation arrangements to facilitate her medical appointments because the facility staff had canceled them twice. She had numerous complaints about her medical care and treatment at the nursing facility. She confirmed that representatives from both the IDPH and the Ombudsman Office had met with her about her concerns. She denied that she had refused to see the Ombudsman worker because was in therapy as indicated in the record. She said that the worker

never came down to the therapy room located in the basement. According to the resident, she did not feel included in decisions regarding her care provided by the facility staff. She also said that she did not receive a "Welcome Packet" from the nursing facility and that initially she did not know that residents could receive free haircuts.

The facility's "Changing Attending Physician" policy states that: 1) a social services staff person or designee will provide the family with a list of physicians practicing in the facility, 2) the resident or legal representative is responsible for arranging for the services of a new attending physician, 3) the resident or legal representative is responsible for notifying the attending physician about the change in physician, 4) an order is written to transfer the resident to the physician of choice, 5) the resident's chart will be reviewed to determine if any signatures or notes are needed prior to the change, 6) the physician is notified, and, 7) a new face sheet with the new physician's name is placed in the chart.

CONCLUSION

According to Illinois Department on Aging—Residents' Rights for People in Long Term Care Facilities and Sections 45/2-104 of the NHCA and 300.3220 of the Illinois Administrative Code,

> A resident shall be permitted to retain the services of his or her own personal physician at his or her own expense or under an individual or group plan of health insurance, or under any public or private assistance program providing such coverage.... Every resident shall be permitted to participate in the planning of his or her total care and medical treatment to the extent that his or her condition permits....

CMS' Requirements for Long Term Care Facilities Section 483.15 (b) guarantees a resident the right to self-determination and to make choices about aspects of his or her life in the facility that are significant to the resident.

The Authority does not substantiate the complaint stating that a resident is being denied the right to choose her own physicians because the facility refuses to coordinate services with community medical providers. We reviewed many entries in the resident's record suggesting that the nursing facility staff were working with the community medical providers, which they were aware of, and that the resident was repeatedly asked to provide a list of all physicians involved in her care. We noticed that the resident was asked several times to provide information about her surgeon. However, the surgeon had ordered a bone density scan in May which suggests that the nursing facility should have had this information. The entries also documented that the regional Illinois Department of Aging– Long Term Care Ombudsman worker was very involved with the resident because sometimes she was not satisfied with services provided by the nursing facility and that there were problems with her roommate. The HRA found no clear evidence that the resident's right to choose her own physicians was violated and no violations of Section 45/2-104 of the NHCA, Section 300.3220 of the Illinois Administrative Code, CMS' Section 483.15 (b) and the Illinois Department on Aging—Residents' Rights for People in Long Term Care Facilities concerning the right to participate in one's care.

SUGGESTIONS

1. The Authority is concerned because only about fifteen of the nursing facility's current residents reportedly have chosen their own physicians. The HRA suggests that when new residents are admitted, the intake staff person should ensure that the eligible person understands

his/her rights to the best of his/her ability. If a guardian has been appointed that person must also be informed of the residents' rights. The above information should also be communicated at least annually.

2. Ensure that residents are provided with a copy of the nursing facility's "Welcome Packet during the intake process.

2. Ensure that written releases are secured in order to obtain information from private physicians to facilitate the resident's care.