



FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY – NORTHWEST REGION

REPORT 14-080-9004

VISITING NURSES ASSOCIATION

INTRODUCTION

The Human Rights Authority (HRA) of the Illinois Guardianship & Advocacy Commission opened an investigation after receiving a complaint of potential rights violations in the care provided to a patient at the Visiting Nurses Association in Rockford. Allegations state that the program refused to provide a consumer with services for inadequate reasons.

Substantiated findings would violate rights protected under the Home Health, Home Services, and Nursing Home Code (77 Ill. Admin. Code 245.205) and the Home Health, Home Services, and Nursing Home Licensing Act (210 ILCS 55/6.7).

The Visiting Nurses Association is a non-profit, medicare-certified home health agency with physicians, case managers, and discharge planners offering clinical care with personalized services to patients and families. They are accredited by the Joint Commission on Accreditation of Healthcare Organizations. Visiting Nurses Association consists of 4 core programs: home health, home medical equipment & supplies, hospice and homemaker adult services.

To investigate the complaint, the HRA team met at the facility where we interviewed the executive director and 2 attorneys. Relevant issues were discussed as were sections of the patient's file with written authorization.

COMPLAINT SUMMARY

The complaint states that the applicant/patient applied for home care services, medication and blood pressure management, and was denied because the family is too difficult.

FINDINGS

Interviews

The executive director states that the referral for home services for the applicant originated from the order written by the physician that was submitted to the home health department within the Visiting Nurses Association. Per the executive director, no home services were ever provided to the applicant. The order written by the physician was never accepted by their agency for the following reason: "at the time of the referral from the physician, the Visiting Nurses Association only had one psychiatric nurse on staff." The staffing of only one psychiatric nurse currently remains an issue for the agency as they have experienced difficulty in finding nurses trained in psychiatry. There is no policy that governs how many psychiatric nurses the agency should have and there is no policy that speaks to the size of a caseload for the nurse. In fact, the current size of the caseload for the nurse is unknown. The executive director goes on to say that since the referral was never accepted, there is no documentation of a denial, therefore,

no denial notice was sent to the applicant. There is no policy that governs “not accepting” a referral. There is no appeal process. It is the standard procedure of Visiting Nurses not to document any progress notes in a case such as this. There is no policy in regard to training staff as the agency uses skilled nurses only. However, there was follow-up with the physician who wrote the order, by way of verbal communication from Visiting Nurses to the physician, that the referral was not accepted due to the agency having only one psychiatric nurse. The executive director adds that the patient did indeed qualify for home health services, but the agency did not have the capacity to deliver the services that were ordered by the physician.

The executive director explained that the patient has always received homemaker adult services from Visiting Nurses. When the referral could not be accepted, the patient was referred by case management to continue receiving homemaker adult services from the agency. The executive director goes on to say that the homemaker adult services program does not provide nurses or other certified workers. The Visiting Nurses Association outsources the services with this program. A social worker is assigned to the patient to assist them in connecting with community service agencies. The agencies that these services are outsourced to, are responsible for providing the services to the patients and Visiting Nurses receives no feedback or updates. Per the executive director, no staff spoke to the patient and his family member and stated that the family is too difficult to deal with.

RECORDS

The Certification of Face-to-Face Encounter for Home Health form, signed and dated by the physician on 10/15/13 states that the applicant is homebound and is in need of home health care services to assist him in medication administration, and to monitor his medical condition.

CONCLUSION

Visiting Nurses Association home health policy states that “the patient must be considered homebound to receive services. This means that the doctor must certify that the patient is confined to his/her home.” The executive director states that the referral for home services for the applicant originated from the order written by the physician that was submitted to the Home Health Department within the Visiting Nurses Association. The Certification of Face-to-Face Encounter for Home Health form was signed and dated by the physician on 10/15/13 verifying that the patient is homebound.

The Visiting Nurses Home Health policy explains that “if the patient does not qualify, the staff will assist in meeting the patient’s needs through a different type of program or community agency.” The executive director explained that the applicant has always received homemaker adult services from Visiting Nurses. When the referral could not be accepted, the applicant was referred by case management to continue receiving homemaker adult services from the agency.

According to 77 Ill. Admin. Code 245.205 regarding home nursing agencies:

a) Each home nursing agency shall provide skilled nursing services and may provide home health aide services under the supervision of the registered nurse. Home nursing services may be provided directly by agency staff or through a contractual purchase of services. All services shall be provided:

- 1) in accordance with the client's physician or podiatrist, or under a plan of treatment established by the physician, podiatrist or prescribing professional; and*
- 2) under the supervision of agency staff, by a health care professional.*

b) *The agency shall state in writing to the client what services will be provided directly by agency staff, and what services will be provided under contractual arrangements.*

c) *Acceptance and Discharge of Patients*

Patient acceptance and discharge policies shall include, but not be limited to, the following:

1) *Persons shall be accepted for services with a plan of treatment established by the patient's health care professional. This plan shall be promulgated in writing within 30 days after acceptance and shall be signed by the prescribing professional within 45 days after acceptance.*

2) *Prior to acceptance, the person shall be informed of the agency's charges for the various services that it offers.*

3) *No person shall be refused service because of age, race, color, sex, marital status, national origin or sexual orientation. Patients are accepted for treatment on the basis of a reasonable expectation that the patient's nursing needs can be met adequately in the patient's place of residence.*

According to 210.ILCS 55/67 regarding the home health, home services and home nursing agency licensing act:

§ 6.7. Home nursing agencies; standards; fees.

(a) Before January 1, 2008, the Department shall adopt standards for the licensure and operation of home nursing agencies operated in this State. After consideration and recommendations by the Home Health and Home Services Advisory Committee, the Department shall adopt such rules as are necessary for the proper regulation of home nursing agencies.

Requirements for licensure as a home nursing agency shall include the following:

(1) Compliance with the requirements of the Health Care Worker Background Check Act.

(2) Notification, in a form and manner established by the Department by rule, to home nursing agency workers and consumers as to the party or parties responsible under State and federal laws for payment of employment taxes, social security taxes, and workers' compensation, liability, the day- to-day supervision of workers, and the hiring, firing, and discipline of workers with the placement arrangement for home nursing services.

(3) Compliance with rules, as adopted by the Department, in regard to (i) reporting by the licensee of any known or suspected incidences of abuse, neglect, or financial exploitation of an eligible adult, as defined in the Adult Protective Services Act, by a home nursing care worker employed by or placed by the licensee or (ii) reports to a law enforcement agency in connection with any other individual protected under the laws of the State of Illinois.

(4) Compliance with rules, as adopted by the Department, addressing the health, safety, and well-being of clients receiving home nursing services.

(b) The Department may establish fees for home nursing agency licensure in rules in a manner that will make the program self-supporting. The amount of the licensure fees shall be based on the funding required for the operation of the licensure program. Notwithstanding any other provision of this Section, the Department may not charge any fee to a certified local health department in connection with the licensure of a home nursing agency.

Complaint: The applicant applied for home care services, medication and blood pressure management, and was denied because the family is too difficult. Per the executive director, no staff spoke to the patient and his family member and stated that the family is too difficult to deal with. At the time of the referral from the physician, the Visiting Nurses Association only had one psychiatric nurse on staff. The staffing of only one psychiatric nurse currently remains an

issue for the agency as they have experienced difficulty in finding nurses trained in psychiatry. The patient has always received homemaker adult services from Visiting Nurses. When the referral could not be accepted, the patient was referred by case management to continue receiving homemaker adult services from the agency. The Visiting Nurses Association outsources the services with this program. A social worker is assigned to the patient to assist them in connecting with community service agencies. The Visiting Nurses Association accepts patients for treatment on the basis of a reasonable expectation that the patient's nursing needs can be met adequately in the patient's place of residence. It can therefore be concluded, that the patient was not denied services because the family is too difficult. The complaint is not substantiated.

SUGGESTIONS:

1. Establish a patient acceptance and discharge policy, including a denial and appeal process. (77 Ill. Admin. 245.205)
2. Require staff documentation regarding referral from the physician and progress thereafter. (77 Ill. Admin. 245.205)

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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September 10, 2014

VIA FEDERAL EXPRESS

Florence Sandberg, Chair
Human Rights Authority
Guardianship and Advocacy Commission
4302 North Main Street, Suite 108
Rockford, Illinois 61103

Re: Complaint #14-080-9004 – Visiting Nurses Association

Dear Ms. Sandberg:

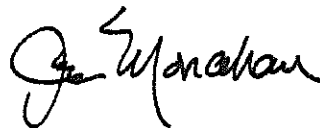
As you know, our office represents Rockford Health System (“RHS”) in connection with the above-captioned matter. We are in receipt of your August 28, 2014 correspondence which informs RHS that the Human Rights Authority (“HRA”) has completed its investigation of an allegation of a potential rights violation by the Visiting Nurses Association (“VNA”) in regard to Alexander B. and has concluded that the HRA cannot find that VNA violated any rights.

In your letter you provide suggestions how VNA may improve its practices. While RHS appreciates the suggestions, since the HRA found no violation RHS respectfully requests that should the report of findings for the investigation be made part of the public record, the suggestions be excluded from any publicly released report.

Should you have any questions or need additional information, do not hesitate to contact me.

Thank you.

Very truly yours,



Joseph T. Monahan

JTM:lp