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**HUMAN RIGHTS AUTHORITY – NORTHWEST REGION  
REPORT 14-080-9011  
BEN GORDON CENTER**

**INTRODUCTION**

The Human Rights Authority (HRA) of the Illinois Guardianship & Advocacy Commission opened an investigation after receiving complaints of possible rights violations at the Ben Gordon Center in DeKalb, IL. It was alleged that program evaluators require petitions for involuntary admissions to be valid for 72 hours and the evaluators complete petitions when they believe that patients are not subject to involuntary admission.

Substantiated findings would violate rights protected under the Mental Health Developmental Disabilities Code (405 ILCS 5/3-203, 603, 604 and 610).

The Ben Gordon Center provides professional mental health counseling and substance abuse treatment services. Nearly 40 counselors and therapists provide a variety of services including clinical specialties for women, children, adolescents, couples, and families. They also evaluate patients at area hospitals for potential psychiatric admissions and when appropriate, complete petitions that are required to hold them for further evaluation or involuntary certification.

The HRA discussed the matter with representatives from the Ben Gordon Center, including an administrator, a chief compliance officer, a social worker and an attorney. Relevant policies were reviewed, as were masked records of some emergency room patients under Ben Gordon evaluation.

**COMPLAINT SUMMARY**

The complaint stems from the growing crisis in Illinois hospitals where some mental health patients are spending days in emergency departments involuntarily awaiting transfer to available beds. Statutes meanwhile establish

strict timelines for completing documents to hold them. This allegation claims that Ben Gordon evaluators or social workers refuse to renew initial petitions they completed on involuntary patients in a neighboring emergency department, saying that petitions are good for 72 hours. It was further said that the evaluators are directed to complete petitions even when a patient is not found subject to involuntary admission.

## FINDINGS

### Interviews

The Ben Gordon Center social worker states that on Wednesday 11/29/13, a hospital social worker requested that she do a new petition for a patient being held involuntarily for possible psychiatric admission. She informed the hospital social worker that “petitions are good for 72 hours and the Ben Gordon Center is responsible to the State Collaborative” aka the Northwest Crisis Care System, and it is the “responsibility of the hospital social worker to complete a new petition”. Both the social worker and the chief compliance officer explained that there is no existing policy regarding this 72 hour rule. It was a verbal directive given to them by an administrator of a local state agency. The attorney added that “there is nothing in the State of Illinois Mental Health Code that supports this 72 hour rule”. The Ben Gordon Center social worker continued, stating that she was not prepared to cite specifics regarding similar circumstances. As instructed, she will complete a new petition after 72 hours if requested by the hospital, but added that the responsibility for the care of the patient and completion of the necessary documents rests with the hospital. They admit that there is a 72 hour rule, referring to their verbal directive from the state agency, and they will only do a new petition after 72 hours.

The chief compliance officer stated that “the staff at Ben Gordon Center do not complete petitions when they have determined that the patient is not subject to involuntary admission”, adding that this is a practice that they would never engage in. The attorney and social worker concurred. The determination to complete a petition is based on the evaluation that is also conducted by the social worker.

## RECORDS

Progress notes dated 11/29/13 by the Ben Gordon Center social worker to the hospital social worker, denote their discussion regarding a petition being valid for 72 hours, but the hospital social worker requested that the Ben Gordon Center complete a new petition. This particular instance began on Wednesday, 11/27/13 when a patient was admitted to a local hospital emergency room. The Ben Gordon Center social worker completed a petition due to suicidal intentions dated 11/27/13. The petition stated that the client informed a family member that “she

was leaving this world” and since the client was “unresponsive during a safety check”, the authorities were called. The hospital emergency room physician completed a certificate dated 11/27/13. The Ben Gordon Center social worker completed an evaluation and dated it 11/28/13. There was no second certificate completed. On 11/29/13 the Ben Gordon Center social worker refused to complete another petition upon the request of the hospital. The patient remained in the hospital emergency room until 12/3/13 and was then transferred to a local mental health facility.

On Friday, 10/4/13 a patient was admitted to the local hospital emergency room. The Ben Gordon Center social worker completed an evaluation and petition citing suicidal ideations dated 10/5/13. The petition stated that the client “placed 2 knives to his neck, and said the next time you see me I will be dead”. The emergency room physician completed a certificate dated 10/5/13. There was no second certificate completed. The Ben Gordon Center social worker refused to complete a new petition upon the request of the hospital and the patient remained in the hospital emergency room until the transfer to a mental health facility on 10/8/13.

The administrator of a local state agency, via email to the HRA dated 7/18/14, explained that the NCCS (Northwest Crisis Care System) “contract with the Ben Gordon Center has them responsible for the initial evaluation and determination of needs for certain persons presenting to the local emergency departments. After that determination is made, Ben Gordon may assist in the movement of that person to the referred site for our covered persons. Our contract would not necessarily require Ben Gordon staff solely to be responsible for subsequent actions, as needed. Petitions can be done by hospital staff.” He offered no commitment to a 72-hour petition rule per se but gave an example of how a weekend admission on a petition and accompanying certificate can carry a patient to 72 hours.

Prior to this, in another email from the local state agency administrator to the President/CEO of the Ben Gordon Center dated 12/23/13, he states that “there is nothing in our expectations of NCCS that would compel BGC (Ben Gordon Center) to revisit the emergency department for the sole purpose of completing a petition which can/should be completed by someone (anyone) witnessing the consumer’s behavior. This hospital retains responsibility for the handling with legal standards and providing active tx [treatment] of the consumer. BGC’s responsibility under NCCS is to assess and facilitate the next level of care”.

## CONCLUSION

The Northwest Crisis Care System (NCCS) policies and procedures as collaborated with the Division of Mental Health, state that “in order for

communities to enhance their crisis response services, it will require agencies to incorporate the Eligibility Determination and Assessment (EDA) process into its enhanced crisis response services. This will ensure that calls for an evaluation of an individual are responded to on-site in the community within one hour of the time the call is first received. The evaluator is to document the time the call was received and the time reported on-site and complete a face-to-face evaluation of the individual presenting a mental health crisis to determine the individual's eligibility for NCCS services per the eligibility criteria. If the individual does not meet the eligibility criteria, an alternative treatment or service recommendation is to be made. If the individual does meet the eligibility criteria, the evaluator then determines the individual's willingness to engage in the recommended level of treatment and whether the individual needs transportation to the recommended inpatient or residential treatment site”.

The NCCS manual goes on to explain that “once the decision is reached on the recommended level of care for services for the eligible individual, the evaluator then calls the State Collaborative Access line as the services authorizing agent, to determine if the recommended level of service is available and, if so, secure approval and the authorization number of the level of service. This authorization number is also used for securing any necessary transportation to an inpatient or residential services site. Through the appropriate follow-up within 24 hours, the evaluator confirms the outcome of the referral to the service site. The most likely strategy would be to call the site to confirm that the individual has been accepted into services. If any difficulties have arisen, the evaluator takes any corrective actions as necessary to establish this linkage, and documents this follow-up and related action in the individual's clinical record”. There is no written reference to completing petitions and/or a timeframe for doing them, and there is no reference to a 72-hour rule.

According to section 5/3-601 of the Mental Health Code regarding involuntary admission; petition:

*§ 3-601. Involuntary admission; petition.*

*(a) When a person is asserted to be subject to involuntary admission on an inpatient basis and in such a condition that immediate hospitalization is necessary for the protection of such person or others from physical harm, any person 18 years of age or older may present a petition to the facility director of a mental health facility in the county where the respondent resides or is present. The petition may be prepared by the facility director of the facility.*

*(b) The petition shall include all of the following:*

*1. A detailed statement of the reason for the assertion that the respondent is subject to involuntary admission on an inpatient basis, including the signs and symptoms of a mental illness and a description of any acts, threats, or other behavior or*

*pattern of behavior supporting the assertion and the time and place of their occurrence.*

*2. The name and address of the spouse, parent, guardian, substitute decision maker, if any, and close relative, or if none, the name and address of any known friend of the respondent whom the petitioner has reason to believe may know or have any of the other names and addresses. If the petitioner is unable to supply any such names and addresses, the petitioner shall state that diligent inquiry was made to learn this information and specify the steps taken.*

*3. The petitioner's relationship to the respondent and a statement as to whether the petitioner has legal or financial interest in the matter or is involved in litigation with the respondent. If the petitioner has a legal or financial interest in the matter or is involved in litigation with the respondent, a statement of why the petitioner believes it would not be practicable or possible for someone else to be the petitioner.*

According to section 5/3-603 of the Mental Health Code regarding detention pending certificate; petition:

*§ 3-603. (a) If no physician, qualified examiner, psychiatrist, or clinical psychologist is immediately available or it is not possible after a diligent effort to obtain the certificate provided for in Section 3-602, the respondent may be detained for examination in a mental health facility upon presentation of the petition alone pending the obtaining of such a certificate.*

*(b) In such instance the petition shall conform to the requirements of Section 3-601 and further specify that:*

*1. the petitioner believes, as a result of his personal observation, that the respondent is subject to involuntary admission on an inpatient basis;*

*2. a diligent effort was made to obtain a certificate;*

*3. no physician, qualified examiner, psychiatrist, or clinical psychologist could be found who has examined or could examine the respondent; and*

*4. a diligent effort has been made to convince the respondent to appear voluntarily for examination by a physician, qualified examiner, psychiatrist, or clinical psychologist, unless the petitioner reasonably believes that effort would impose a risk of harm to the respondent or others.*

Section 5/3-604. Refers to the Detention pending certificate; limitation:

*§ 3-604. No person detained for examination under this Article on the basis of a petition alone may be held for more than 24 hours unless within that period a certificate is furnished to or by the mental health facility. If no certificate is furnished, the respondent shall be released forthwith.*

Sections 3-602, 3-610 and 3-611 respectively establish the process for completing a first and second certificate to accompany the petition for involuntary admission and file them in court.

Section 5/3-203. Oaths and affirmations

§ 3-203. Every petition, certificate and proof of service required by this Chapter shall be executed under penalty of perjury as though under oath or affirmation, but no acknowledgement is required.

Complaint: The program evaluators require petitions for involuntary admissions to be valid for 72 hours. The chief compliance officer and the social worker both concur that the Ben Gordon Center has no policy that supports petitions being valid for 72 hours, but a verbal instruction from a local state agency supported their actions. But, responsibility ultimately lies on the service provider not on instructions from elsewhere. The attorney stated that he cannot present an Illinois State Code that would validate the progress note written by the social worker dated 11/29/13 addressing the 72 hour rule; the HRA agrees. There is a 24-hour limit on detaining by the petition alone; the first certificate must be done within 24 hours after detention, not 72, and a second certificate comes by a psychiatrist not longer than 24 hours after admission, excluding weekends and holidays. A weekend scenario can certainly present a 72-hour journey for the patient after being petitioned. In cases where the local hospital does not admit the patient and there is no second certificate, the hospital requests that the Ben Gordon Center renew the petition. Ben Gordon refused to renew a petition for an individual who was in the hospital's care. There are no policy, Code or agreement provisions that would have required Ben Gordon to renew the petition for a patient who has been in the hospital's care and Code timelines have expired. While the statement that a petition is valid for 72 hours is inaccurate with some specific exceptions, the HRA contends that the hospital in this case, versus Ben Gordon, bears the responsibility for further actions related to the patient's detention and thus does not substantiate the complaint. However, as partners in the community, the Ben Gordon Center and the local hospital should work together for the good of the patients.

Complaint: Ben Gordon staff complete petitions when they believe that patients are not subject to involuntary admission. Per the chief compliance officer, the social worker and the attorney, "the staff at the Ben Gordon Center do not complete petitions when they have determined that the patient is not subject to involuntary admission". The petitions reviewed over a three month period provided no evidence to the contrary and seemed to include content requirements under the Code. The complaint is not substantiated.

SUGGESTION:

1. Discontinue the process of referring to 72 hour petitions and work as partners with the local hospital which has no mental health staff in serving the community.