



FOR IMMEDIATE RELEASE

North Suburban Regional Human Rights Authority
Report of Findings
HRA #14-100-9002
Elgin Mental Health Center

Introduction

In August 2013, the North Suburban Regional Human Rights Authority (HRA) opened this investigation regarding Elgin Mental Health Center (hereafter referred to as Center), Forensic Treatment Program., Unit H. A complaint was received that alleged that facility personnel did not advise a consumer of her right to attend a court hearing for enforced medication. The rights of consumers are protected by the Illinois Mental Health and Developmental Disabilities Code (405 ILCS 5/2-107.1).

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 interviewed the consumer via telephone and with written consent reviewed portions of her clinical record. The HRA discussed the allegation with the consumer's Psychiatrist, the facility's Medical Director and the Court Liaison.

Findings

According to the consumer, she learned that she had to take court-ordered medication. The consumer stated that she was not advised of this court proceeding and thus she did not attend the hearing.

According to the clinical record, the consumer was admitted to the facility in April 2013. During the first month of the hospitalization, the consumer's rights were restricted when she was administered emergency medication six times because of aggressive behavior, being in a psychotic agitated state, and destroying state property. In addition, the consumer was placed on frequent observation for aggression and agitation. On May 14, 2013, the Psychiatrist documented that a petition had been filed with the court for the administration of involuntary psychotropics. On May 24th, the Psychiatrist documented that the consumer "expressed hostility toward her after having received notice from the legal department that she is to have a hearing on May 24, 2013 for court ordered psychotropics." On May 28, 2013, the Psychiatrist documented that she gave the consumer

hand-outs regarding the medications that were listed on the petition. Record documentation indicated that on May 31, 2013, the consumer was to begin receiving court-ordered psychotropic medication. The record did not show that the consumer did or did not attend the court-hearing.

At the site visit, it was explained that the court hearing notification is made by the Court Services Liaison. The Liaison serves the notice to the consumer in a sealed envelope. The envelope contains the Notice of Hearing, the Petition for Involuntary Administration of Psychotropic Medication document (that has been completed by the physician) and an Alternative to Psychotropic Medications statement. It was stated that sometimes unit staff are present when the notification is given, but they are not always present. It was stated that if the consumer does not willingly take the notice, the notice might be placed on the bed or nightstand. The consumer is free to decide whether or not he/she will attend the court hearing. Center personnel do not document in the consumer chart that a copy of the notice of hearing, petition and alternatives was given/presented to the consumer. The HRA obtained a copy of the Notice of Hearing that showed that the Notice was delivered in person on May 15, 2013 at 4:00 p.m.

The Psychiatrist in this case recalled that she spoke with the consumer on May 21, 2013 and reportedly encouraged the consumer to attend the hearing. The Psychiatrist had an extensive recall of the May 21st, conversation but when asked, she could not remember whether the consumer attended the hearing two days later on May 23, 2013. The Court Services Worker was unable to tell from her records whether the consumer attended the court hearing.

The facility's Refusal of Services/Psychotropic Medication policy states that the procedures for the administration of emergency and court-ordered medication will follow the Department of Human Services Policy and Procedure Directive for the Administration of Psychotropic Medication. The policy states that the treating physician, with the support of the interdisciplinary team, may file a Petition for the Administration of Authorized Involuntary Treatment with the circuit court for court-ordered treatment under Section 2-107 of the Mental Health and Developmental Disabilities Code.

The Illinois Mental Health and Developmental Disabilities Code, Section 2-107.1, states that "(a-5) Notwithstanding the provisions of Section 2-107 of this Code, psychotropic medication and electroconvulsive therapy may be administered to an adult recipient of services on an inpatient or outpatient basis without the informed consent of the recipient under the following standards: (1) Any person 18 years of age or older, including any guardian, may petition the circuit court for an order authorizing the administration of psychotropic medication and electroconvulsive therapy to a recipient of services. The petition shall state that the petitioner has made a good faith attempt to determine whether the recipient has executed a power of attorney for health care under the Powers of Attorney for Health Care Law or a declaration for mental health treatment under the Mental Health Treatment Preference Declaration Act and to obtain copies of these instruments if they exist. If either of the above-named instruments is available to the petitioner, the instrument or a copy of the instrument shall be attached to the petition as an exhibit. The petitioner shall deliver a copy of the petition, and notice of the time and place of the hearing, to the respondent, his or her attorney, any known agent or attorney-in-fact, if any, and the guardian, if any, no later than 3 days prior to the date of the hearing. Service of the petition and notice of the time and place of the hearing may be made by transmitting them via facsimile machine to the respondent or other party. Upon receipt of the petition and notice, the party served, or the person delivering the petition and notice to the party served, shall acknowledge service. If the party sending the petition and notice does not receive acknowledgement of service within 24 hours, service must be made by personal service."

Conclusion

The Illinois Mental Health and Developmental Disabilities Code stipulates that upon receipt of the petition and notice, the party served, or the person delivering the petition and notice to the party served, shall acknowledge service. In this case, the party served acknowledged the service as evidenced by the Psychiatrist note saying that the consumer had expressed hostility toward her after having received notice from the legal department that she is to have a hearing for court ordered psychotropics. It is concluded that the allegation that the consumer was not advised of her right to attend a court hearing for enforced medication is unsubstantiated.

However, the HRA takes this opportunity to say that court-ordered involuntary treatment is a major event in the course of a consumer's path to recovery. Such an event should be documented thoroughly, showing that the consumer has received the petition notice and whether the consumer did or did not attend the court hearing.

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

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

December 10, 2013

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

Re: HRA #14-100-9002

Dear Ms. Larson:

Thank you for your thorough investigation. We strive to resolve all concerns in a timely manner. In regard to your suggestions, we are in agreement and our Court Service staff will be adding documentation to the medical record which includes verification the consumer has received the petition notice and whether the consumer attended the court hearing.

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/aw