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Springfield Regional Human Rights Authority
Report of Findings
Andrew McFarland Mental Health Center
HRA # 16-050-9004

INTRODUCTION

The Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving complaints of possible rights violations at Andrew McFarland Mental Health Center in Springfield. The allegation is that the facility refuses to disclose health information upon a recipient's request.

Substantiated findings would violate a recipient's authority to disclose under the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110).

McFarland is a Department of Human Services hospital with a 50-bed forensics program. The issues were discussed with staff involved in the recipient's care. Relevant policies were reviewed as were sections of her record with authorization.

COMPLAINT SUMMARY

The complaint stated that the recipient hired an independent evaluator to provide expert testimony in her court proceedings for a conditional release, but McFarland administration would not allow pertinent staff authorized by the recipient to talk to the hired independent evaluator.

FINDINGS

Interviews

The HRA met with the recipient on 12/2/2015, and she signed a release of medical information as well as provided evidence of her authorizations for various treatment team members to speak with the independent evaluator. The HRA was able to secure nursing, social, psychological, and psychiatry notes, assessments and consents/authorizations to release information, and all documentation or requests to release information and denials for the months of October, November, and December 2015.

The HRA set up a site interview with staff who are in direct contact with the recipient on a daily basis and spoke with them at the facility on 2/18/2016. The service and social staff that the HRA team talked with stated that the recipient was frustrated with the court-appointed evaluator due to the evaluator only speaking with a single staff member whom the recipient does

not get along with very well, and formulating a report based on that information. The recipient then hired her own independent evaluator.

It was explained that contrary to the complaint, no one was prohibited from talking with the recipient's chosen evaluator. She was able to reach two treatment team members whom the recipient specifically authorized, a psychologist who had a conversation with her and a nurse who told the HRA team that he received a voicemail from the independent evaluator asking to speak with him. He called her back was told she had all the information that she needed and had no further questions for the staff.

The staff in the site interview stated that they do not believe they have restricted the independent evaluator from doing what she needed to do in any way. She came to the facility two separate times and did some assessments with the recipient for about four hours each time. They also stated that the independent evaluator's report of findings was presented in the recipient's conditional release hearing.

The HRA was given a copy of the independent evaluator's resulting report from the recipient directly. It stated that a psychologist did not want to provide feedback to the independent evaluator due to the fact that it may impact the outcome of the evaluation. The HRA contacted an administrator at the facility on March 9, 2016 to follow up. The administrator spoke with various members of the recipient's treatment team and according to the psychologist, she talked with the independent evaluator and then ran the conversation by administration. The initial concern that they recognized was that the recipient had given them negative feedback about her previous evaluation. Knowing that any information the new evaluator received would not be viewed positively, the administration believed that the evaluation should remain completely independent. The psychologist reported that she did not refuse to share information, but instead expressed concern to the evaluator who she said understood, and they proceeded no further. It was offered that if the independent evaluator would have more formally requested information, such as records, it would have been provided to her.

The HRA also attempted to contact the independent evaluator, but was unable to speak with her until she returned the phone call on 4/7/2016. She verified having contact with the psychologist at the facility, but said it got to a point in the conversation that the psychologist became uncomfortable and would not provide any more information. She stated that no one seemed to want to talk to her after that, and that she needed input from staff to have a better-rounded, accurate report concerning how the recipient is doing. She did not say who else, other than the nurse, she attempted to reach. She stated that her goal for the recipient was to truly determine the next step for her, and not to necessarily get her out of the facility. She stated that she is worried about the repercussions for the recipient.

The HRA followed up on the status of the independent evaluator's work at the time of this writing and confirmed that she has since started another assessment and, according to administration, has met with several members of the recipient's treatment team and has been invited to attend a treatment team meeting but declined. Administration also confirmed that to date she has never approached them with complaints of being prevented from doing her job.

Record Review

The recipient's diagnosis seemed to have changed in her Inpatient Psychiatric Progress Notes, but the most recent diagnosis available to the HRA was given to the recipient on 12/15/2015. The progress note states that her diagnosis is Major Depressive Affective Disorder, and Borderline Personality Disorder.

In the Inpatient Psychiatric Progress Note dated 11/10/2015, it states that the recipient remains obsessively preoccupied with details of her court case, and read to her treatment team the original court evaluator's report. It was also noted in the 12/4/2015 Inpatient Psychiatric Progress Note that the recipient has been upset about a physician's testimony in court, and claiming that she can't trust him.

In a Nurse Progress Note dated 12/15/2015 and 12/29/2015, it states that the recipient spends a lot of time on the phone. She continues to be heavily involved in her legal situations that surround her.

In a Nurse Progress Note dated 11/10/2015, it states that the recipient met with her independent evaluator for several hours.

In a Treatment Note dated 10/30/2015, it states that the recipient had signed releases of information for the independent evaluator, specifically allowing certain staff to answer any questions that the independent evaluator may have. The releases were completed by the recipient, with a female peer as a witness. A staff member who had been on vacation when the recipient filled out her releases wanted to sit down with her and discuss some information with the recipient. The recipient admitted that she had filled the forms out incorrectly, and completed new forms correctly. The recipient wanted select staff members to be able to answer questions that the independent evaluator may ask, in relation to her care and treatment, in regards to the dates during her Unfit to Stand Trial hospitalization and her current hospitalization. On one of the releases it stated specifically that they may have verbal conversations concerning her treatment and care, but on the rest it stated that they could answer questions that the independent evaluator may have. She stated at the time of this note that she is not giving the independent evaluator permission to see her chart, or talk to anyone else. Nursing staff and treatment team were made aware of the limitation of her releases of information and were advised that if the independent evaluator had questions when she was at the facility then she should be directed to two specific staff members.

Four authorization forms allowing verbal communication with certain treatment team members were reviewed from the record, each witnessed by the recipient's social worker. Administration points out that these individual are former treatment team members.

In a Treatment Note dated 11/13/2015 it stated that a staff member met with the recipient on 11/5/2015. On 11/5/2015 the recipient stated that the evaluator who was court mandated to do the recipient's conditional release evaluation had only talked to the clinical director there, and voiced concerns of that due to her complaints regarding the clinical director. She talked about the two reports by the court-appointed evaluator and read off some information that suggested she stay in the hospital if actively delusional. She voiced concern that he only indicated his belief that she was delusional until after he spoke with the clinical director. On 11/10/2015 the recipient also stated that the independent evaluator had completed some testing of her and was going through the recipient's book, and workbook that the recipient had completed. She stated that the independent evaluator was also to be calling other people like her mother. The recipient read over the court evaluator's credentials from a copy of a report she had from him. She also read parts of the report he had written, stating that the facility would not be receiving a copy. She stated that he did not believe the recipient had a personality diagnosis, but rather PTSD and that he believed a conditional release would be warranted if she were not delusional. She asked the psychiatrist a direct question about whether he had ever said she was delusional. At that time the psychiatrist indicated that he was not going to answer at that time, as he has been subpoenaed for the court.

In a Treatment Note dated 12/2/2015, it states that the recipient went to her conditional release court hearing the day prior, which was denied. The psychiatrist was subpoenaed and testified during court. Reportedly, the independent evaluator also testified to her assessments.

CONCLUSION

Allegation: The facility refuses to disclose health information upon a recipient's request.

Policy:

The program's Health Information Management policy (#HIM400) states that disclosures shall comply with the Confidentiality Act and be considered valid if specific and as authorized in writing by an entitled person.

Statute:

Under the Illinois Mental Health and Developmental Disabilities Confidentiality Act, recipients aged twelve and older may consent to disclose to others specific records and communications made or created in the course of providing mental health services (740 ILCS 110/4 and 5).

The question is whether the independent evaluator was prevented from authorized information in completing her assessment. Based on hers and the staffs' recollections, she met with the recipient's psychologist who never refused to talk but chose to limit her contribution. Nothing compels the psychologist otherwise. Another staff member returned the evaluator's call to be told she had all she needed. While the evaluator reported to us that she felt no one wanted to talk with her she never confirmed whether she was expressly prohibited or by whom. It seems that behind the allegation is that not all of the people were interviewed as selected and preferred by the recipient, but the facts are that two of them were reached and there is no evidence of attempts to reach the others or of complaints from the evaluator that she was unable to complete her work. Ultimately she controls the contents. At present she has another assessment underway and full access to the recipient's treatment team. The complaint is not substantiated.