



FOR IMMEDIATE RELEASE

**METRO EAST HUMAN RIGHTS AUTHORITY
REPORT OF FINDINGS
HRA CASE # 16-070-9009
TOUCHETTE REGIONAL HOSPITAL**

The Metro East Regional Human Rights Authority (HRA) has completed its investigation of a complaint at Touchette Regional Hospital (Touchette), a community hospital established in 1955 located in Centreville, Illinois. Admissions come from St Clair County as well as multiple surrounding counties. The hospital currently has 137 licensed beds and services include Medical/Surgical services, Obstetrics, Medical Detox, and both inpatient and outpatient Behavioral Health (BH) services. The Inpatient Behavioral Health Unit underwent extensive renovations and a new wing was opened in 2016 which increased the number of inpatient beds from 12 to 30. The new unit served approximately 837 consumers from Jan 1st 2016 to August 31, 2016. During that time period, 27 of the 837 patients served were reportedly diagnosed with an Intellectual Disability (ID). Hospital-wide, there were 1,819 total hospitalizations, 42 of which were individuals with ID.

The allegation being investigated is:

The facility does not ensure the provision of adequate and humane services when hospital administration and staff discriminate against and make publicly derogative statements about patients with developmental disabilities and are insensitive to their needs

If found substantiated, the allegation represents violations of the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-100, 102), the Medical Patient Rights Act (410 ILCS 50/3), the Americans with Disabilities Act (28 CFR 36.201), the Rehabilitation Act of 1973 (504 29 USC 794), the Illinois Human Rights Act (775 ILCS 5/1-102, 5/5-102), hospital licensing regulations and Touchette's Patient Rights Policy AD.1017 as well as Touchette's Vision, Mission and Values Statement.

METHODOLOGY

To pursue the investigation, the HRA conducted a site visit and interviewed the Emergency Department (ED) Director, the Quality Assurance (QA) Director, the Administrator, the Behavior Health Director, the Behavior Health Psychiatrist, the Clinical Nurse Manager and the Vice President of Nursing. Hospital policies and patient census records were reviewed. In addition, the HRA interviewed 3 witnesses. The HRA did not have any releases to examine individual patient records.

FINDINGS

The complaint alleges that on April 7, 2016 an outside agency held a presentation at Touchette Regional Hospital to give an overview of the services they provide to individuals with disabilities and they participated in a question and answer (Q & A) session with the hospital

staff. According to the complaint, the Q & A session quickly became dominated by a physician who expressed his thoughts and feelings towards the ID population as a whole. His comments allegedly included that he was “disgusted” by the entire ID population, which he repeated with conviction more than once. He reportedly conveyed to the group that he intended to eliminate admission to the behavior health unit at Touchette Regional Hospital for anyone with ID. The physician allegedly revealed a strong personal dislike for all ID individuals and intolerance for this population utilizing inpatient psychiatric supports. He also suggested that the ID population was solely responsible for financial losses that led to the closure of the institution where he was previously employed and flagrantly vowed to “keep out” this specific population. The physician’s comments continued as the hospital staff slowly dispersed from the training room.

The physician who allegedly made these statements was present during the site visit, and began answering questions when the HRA asked questions specific to his role at the hospital. He stated that he is a psychiatrist and that he has been a full time employee of the BH unit since January of 2016. When asked about his background and experience, he gave a lengthy history of his career in medicine. The physician went on to say that Touchette invited professionals from an outside agency that specializes in serving individuals with disabilities to what they call a “Community Collaboration” meeting in order for the agency to provide education to the staff at Touchette on how they could better serve the ID population. He apologized multiple times stating he was “deeply sorry” if someone had misinterpreted his words. The HRA coordinator clarified that it was not just one person who complained about his comments, it was multiple people who brought this to the HRA’s attention. He then acknowledged that he “spoke strongly at that meeting” and that “I could have chosen my words better”. He went on to say that “it takes an inordinate amount of time, work and money to place those people” however he denied being disgusted by the ID population and stated that his “mission is to care for everyone”. When discussing this issue he stated this “was a direct correlation to the closure of the BH unit where he worked previously.” When asked if the hospital was aware of his frustrations, it was acknowledged that the hospital is aware. He also acknowledged that he worked for a hospital during the time its BH was closed and stated that hospital suffered \$2 million dollars a year in losses but denied it was due to ID individuals. The physician did not state that he is the Unit Director although that is the understanding held by outside agency professionals with whom the HRA has spoken.

Members of Touchette staff were invited to attend the Community Collaboration meeting although, according to the QA director, no sign in sheet, survey or video recording was made of the training. She stated that they did not track employee attendance and that official ongoing trainings are done via an online training system that is scenario-based and competency-based trainings; all employees receive age specific mental health training. However, during follow up questioning with witnesses, each witness reported seeing a sign in sheet being passed around multiple times during the presentation and confirmed that there was also a post presentation survey provided. None of the site visit attendees acknowledged hearing the presentation and/or the physician’s remarks however, witnesses state that the majority of the site visit attendees observed the presentation and were in the room when the physician began speaking negatively regarding individuals with disabilities. During the site visit, the QA Director stated that all trainings now have a sign in sheet and survey; all comments are read by the Education Coordinators and that information is also shared with the leadership council.

In follow up questioning with an event attendee, it was indicated that the complaint statement is an accurate account of what occurred that day. According to the witness, the meeting was going well until the physician began speaking to the panel and asking question and at that time, the meeting “took a dark turn”, “he made very direct comments,” “he changed the whole tenor of the meeting when he started speaking.” This witness could not recall the physician’s name, but stated that he announced that “once we get stuck with these people, we can’t get them out” referring to individuals with an intellectual disability. He also made a comment about not letting those people into his hospital or his BH unit, although the witness could not recall the exact statement.

According to the QA Director, the Complaint/Grievance process consists of an online occurrence report that is filled out by the complainant. The report goes directly to QA, QA forwards to nursing. If the complaint is against a physician, QA sends the complaint directly to the Chief Operating Officer who presents to the medical executive committee. It was stated that if a patient or guardian is dissatisfied with the physician assigned to the patient that they can simply request another physician. The National Practitioner Data Bank has never been utilized against a physician according to the QA Director as no complaints have been received that raise to the level of such a submission. The majority of physician complaints are handled internally by the medical executive community. The QA Director denies having received any previous complaints about the physician in question and denies receiving any complaints either internally or externally regarding this incident.

The majority of psychiatric admissions come to the ED from group homes. The ED Director stated that the psychiatrist in question personally comes to the ED to evaluate patients for possible psychiatric admission. Psychiatric admissions remain in the ED until appropriate placement is found whether it be at Touchette or another facility. Touchette has 3 psychiatric wings which include acute, fragile and general populations. A nurse from the psychiatric unit would make the determination of which unit would best suit the patient and assigns the patient to that specific unit. Individuals with ID are always admitted to the fragile unit which consists of 8 beds that generally treat the geriatric population. During the interview, hospital staff made the statement that patients with ID are always admitted to the fragile unit due to their need for assistance with activities of daily living (ADL’s) and their need to be “watched very closely”. Units are separated by level of acuity, symptoms, level of cognitive functioning, sexual abuse history and level of functioning. The behavioral health staff consists of Psychiatrists, Registered Nurses, Licensed Practical Nurses, Social Workers, Activity Therapists, Physical Therapists, Behavioral Health Techs and Psychiatric Aides.

Touchette does not have an Americans with Disabilities Act (ADA) Coordinator. There is a hospital ethics committee that is made up mainly of Registered Nurses who deal with end of life issues in the ICU. However, anyone can request an issue be heard by the ethics committee.

During the site visit, the HRA coordinator observed a member of hospital management (who was sitting directly to her right) doodling on a paper and writing “blah, blah, blah” as the discussions occurred.

When asked how patients are informed of their rights, it was stated that upon admission, all patients are given a patient handbook which contains information regarding patient rights and they must sign to acknowledging receipt of the information, per policy. The admitting nurse reportedly also explains patient rights to each patient during the admission process.

MANDATES/REGULATIONS

According to the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-100, 102):

Sec.2-100. (a) No recipient of services shall be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Illinois, or the Constitution of the United States solely on account of the receipt of such services.

(b) A person with a known or suspected mental illness or developmental disability shall not be denied mental health or developmental services because of age, sex, race, religious belief, ethnic origin, marital status, physical or mental disability or criminal record unrelated to present dangerousness.

Sec. 2-102. (a) A recipient of services shall be provided with adequate and humane care and services in the least restrictive environment, pursuant to an individual services plan. The Plan shall be formulated and periodically reviewed with the participation of the recipient to the extent feasible.... and the recipient's guardian, the recipient's substitute decision maker, if any, or any other individual designated in writing by the recipient. The facility shall advise the recipient of his or her right to designate a family member or other individual to participate in the formulation and review of the treatment plan. In determining whether care and services are being provided in the least restrictive environment, the facility shall consider the views of the recipient, if any, concerning the treatment being provided. The recipient's preferences regarding emergency interventions under subsection (d) of Section 2-200 shall be noted in the recipient's treatment plan.

The Medical Patient Rights Act (410 ILCS 50/3) states:

Sec. 3. The following rights are hereby established:

(a) The right of each patient to care consistent with sound nursing and medical practices, to be informed of the name of the physician responsible for coordinating his or her care, to receive information concerning his or her condition and proposed treatment, to refuse any treatment to the extent permitted by law, and to privacy and confidentiality of records except as otherwise provided by law.

According to the Americans with Disabilities Act (28 CFR 36.201):

36.201 General.(a)Prohibition of discrimination. No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any private entity who owns, leases (or leases to), or operates a place of public accommodation.

Section 504 of the Rehabilitation Act of 1973 (504 29 USC 794) states:

(a) Promulgation of rules and regulations

No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service.

Illinois Human Rights Act (775 ILCS 5/1-102, 5/5-102)

Sec. 1-102. Declaration of Policy. It is the public policy of this State:

(A) Freedom from Unlawful Discrimination. To secure for all individuals within Illinois the freedom from discrimination against any individual because of his or her race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service in connection with employment, real estate transactions, access to financial credit, and the availability of public accommodations....

(E) Public Health, Welfare and Safety. To promote the public health, welfare and safety by protecting the interest of all people in Illinois in maintaining personal dignity, in realizing their full productive capacities, and in furthering their interests, rights and privileges as citizens of this State.

(F) Implementation of Constitutional Guarantees. To secure and guarantee the rights established by Sections 17, 18 and 19 of Article I of the Illinois Constitution of 1970.

(G) Equal Opportunity, Affirmative Action. To establish Equal Opportunity and Affirmative Action as the policies of this State in all of its decisions, programs and activities, and to assure that all State departments, boards, commissions and instrumentalities rigorously take affirmative action to provide equality of opportunity and eliminate the effects of past discrimination in the internal affairs of State government and in their relations with the public....

Sec. 5-102. Civil Rights Violations: Public Accommodations. It is a civil rights violation for any person on the basis of unlawful discrimination to:

(A) Enjoyment of Facilities, Goods, and Services. Deny or refuse to another the full and equal enjoyment of the facilities, goods, and services of any public place of accommodation.

(B) Written Communications. Directly or indirectly, as the operator of a place of public accommodation, publish, circulate, display or mail any written communication, except a private communication sent in response to a specific inquiry, which the operator knows is to the effect that any of the facilities of the place of public accommodation will be denied to any person or that any person is unwelcome, objectionable or unacceptable because of unlawful discrimination;

(C) Public Officials. Deny or refuse to another, as a public official, the full and equal enjoyment of the accommodations, advantage, facilities or privileges of the official's

office or services or of any property under the official's care because of unlawful discrimination.

The Hospital Licensing Act (210 ILCS 85/9.7) states:

Sec. 9.7. List of individuals that may not be admitted for treatment prohibited. No hospital may maintain a list of individuals that may not be admitted for treatment at the hospital. Nothing in this Section shall be construed to prohibit a hospital or a member of the hospital's medical staff from recommending an alternate provider, coordinating an appropriate transfer, or arranging access to care services that best meets the needs of an individual patient.

Hospital Licensing Requirements (77 ILCS 250.240) state:

Sec. 240. Admission and Discharge

a) Principle

The hospital shall have written policies for the admission, discharge, and referral of all patients who present themselves for care. Procedures shall assure appropriate utilization of hospital resources, such as preadmission testing, ambulatory care programs, and short-term procedure units....

4) When the hospital does not provide the services required by a patient or a person seeking necessary medical care, an appropriate referral shall be made.

Touchette's Patient Complaint/Grievance Policy #: AD.1011

"To establish a process for resolution of patient/family complaints and/or grievances that provides a mechanism for communicating those concerns.

The Board of Directors has delegated responsibility for grievance review and resolution to the Administrative Council....

Procedure:

The hospital encourages patients, families and visitors to express concerns regarding the care and services received at the hospital. Patients and/or their representative receive a copy of the Patient Rights & Responsibilities (provided in the patient handbook) which informs them of:

- the complaint resolution process
- their right to voice concerns
- their right to have their concerns reviewed and resolved

The patient rights are also posted throughout the hospital. A patient/family's complaint may be given in writing, verbal or via the telephone.

A written complaint is considered a grievance requiring a written response (whether it is; inpatient, outpatient, a released/discharged patient, or a patient's representative).

Hospital staff advises patients of their right to express their concerns regarding their care to those directly involved in their care. Those directly involved in the situation review

the complaint and are authorized to attempt to resolve the complaint without additional intervention from another party.

A confidential online Occurrence Report is completed for any complaint and/or grievance received. Occurrence reports are processed through Patient Safety/Quality Management and forwarded to the appropriate Department Manager for review, investigation and follow up....

Simple or general complaints are attempted to be resolved at the department level.

If no immediate resolution of the complaint is possible at the department level, the patient or patient representative who made the complaint is advised that the matter will be investigated further. It is the responsibility of Department head to contact the complainant as soon as possible. If unable to contact the complainant, the Department head may write a letter to the complainant and forward a copy to Quality Management.

The manager/director/department head completes the complaint follow-up as soon as possible after receiving the complaint. The follow-up includes but is not limited to:

- actions taken to resolve the complaint and the date they were taken
- the patient's response to the actions taken
- whether the case was referred to Quality
- whether the case is a quality issue for tracking
- the resolution status of the case
- any additional comments related to the outcome of the actions and the patient's response to the actions

If the complaint concerns quality of care, the complainant is referred to the appropriate clinical area for follow-up. Complaints of alleged abuse by staff are handled as outlined in the abuse procedure and are classified as grievances. The organization takes action immediately.”

The policy requires the hospital to provide the complainant with a written response in 7 days. Contact information is provided for a Quality Improvement Organization as well as the Illinois Department of Public Health. If a complainant is dissatisfied, it is referred to an administrative council as well as a grievance committee; the council results are reported to the hospital's board.

The policy also addresses patient rights as follows:

“While a patient in Touchette Regional Hospital your Patient Rights include:

Treatment, evaluation and referral as needed without regard to race, color, national origin, religion, disability, sexual orientation or financial abilities.

Respect for the differences in abilities, values, cultures, beliefs, ages and diversities

incorporated into daily practices.

You have the right to express your concerns which includes:

Making a verbal and/or written complaint, if you or your designated support person feels that you have been discriminated against due to age, race, sex, color, creed, national origin, physical ability or have had your rights violated. Discuss

any concerns with your nurse, the Department Manager, or house supervisor. The hospital investigates complaints and most problems can be resolved when reported.

If you feel an issue regarding patient care or safety has not been resolved, you or your designated support person may contact a member of Hospital Administration by calling 332-5400.

OR

If not resolved by Hospital Administration, you or your designated support person, have the right to call The Joint Commission at 800-994-6610 and/or mail the complaint to the office of Quality Monitoring at:

The Joint Commission
One Renaissance Blvd
Oakbrook Terrace, Il 601814”

Touchette’s Vision, Mission and Values read as such:

Vision: The communities we serve have access to quality health care and related services that empower individuals to improve their overall life chances and achieve the highest quality of life.

Mission: To improve the overall health Status of the community we serve as part of a comprehensive network meeting health needs including lifestyle issues, environmental issues, education, prevention, primary care, and all other aspects of health care.

Values: Professionalism: Assuring a proficient and skilled staff, grounded in the philosophy of customer service.

Compassion: Caring for other with sensitivity, understanding and concern.

Quality: Providing our customers with excellence in care and services that continually improves,

Access: Enabling every person to receive needed and quality health care services without ability to pay.

Customer Service: Treating every person with respect and dignity. Delivering services that are convenient.

Diversity: Respecting and understanding differences, valuing the worth and dignity of each person and the importance of treating all people in a non-judgmental manner.

Collaboration: Building and maintaining partnerships and working together with other organizations in order to assess and meet the need of our communities. SIHF recognizes its role as a community development agency. Honesty: Providing care of the highest ethical and moral standards. We expect our staff to perform with integrity.

Touchette’s Code of Conduct Policy Policy #: HR 1001

Policy Statement:

The Code of Conduct has been adopted by our leadership to explain the basic obligations of all of us. It is the Hospital policy to comply with applicable laws and regulations. This Code is a guide and resource to provide information on business conduct issues. We

strive to develop and maintain a pleasant, efficient, and fair work environment that fosters cooperation and understanding. This policy is not intended to address every circumstance. All employees are always expected to use their common sense and best judgment when addressing business conduct issues, and to seek guidance if the best course of action is not clear.

Scope:

All employees, physicians and other healthcare providers having privileges granted by the Hospital.

Definitions:

Acceptable Behavior is defined as, but limited to:

- Obey all laws, rules and regulations and comply with all Hospital and Department policies and procedures, including this policy on our Code of Conduct. Report any violations to your supervisor.
- Conduct yourself in an honest, professional and ethical manner that reflects the highest level of integrity.
- Be courteous, respectful and helpful when dealing with other staff members, volunteers, and the community we serve.
- Give primary consideration to the welfare and safety of the patient.
- Respect and accept direction from established authority.
- Adherence to the Service Behaviors: Caring, Professionalism, and Respect (CPR)
- Be particularly careful that your personal appearance and attitude reflect in a positive manner on the Hospital, as well as yourself.
- Perform all duties and responsibilities diligently, respectfully, and efficiently.
- Observe the confidentiality and rights of patients, employees, and the Hospital.
- Be on time and ready for work at the beginning of the workday. Follow the established attendance policy.
- Maintain accurate, honest and complete books and records. Business transactions of all kinds are to be executed only by employees authorized to do so. Department Directors are responsible for establishing and maintaining an effective system of administrative and accounting controls in their areas of responsibility and in accordance with Finance policies and procedures

Unacceptable Behavior is defined as, but is not limited to:

- Threats, intimidation or harassment toward fellow co-workers or others who do business with the Hospital. (Diversity is a value and must be embraced)
- Conducting oneself in a way that jeopardizes their safety, or the safety and health of any employee, or any of the customers we serve or vendors with whom we do business.
- Taking or giving to others assets or opportunities belonging to the Hospital. This includes taking for yourself personal opportunities that are discovered through the use of Company property, information or through your position with the Hospital for your personal gain.
- Avoid creating conflicts of interests, both real and perceived, and report any potential conflicts to your supervisor.

- Acts or behaviors that are contrary to “Acceptable Behavior” as defined in this policy
- Acts or retribution or retaliation against an employee who has properly reported the appearance of a violation of a business conducts issue or question.
- Using inappropriate language, specifically profanity in the work environment.

Procedures:

Employee Responsibility – Conflict Resolution:

It is the obligation and responsibility of employees to work on resolving problems and conflicts by focusing on solutions, keeping issues work-related, avoiding personal issues and communicating directly with the person or persons with whom you have a conflict. In most cases discussing a situation will clear the matter up.

- Get the facts, clarify the dilemma and determine the fundamental issue as best you can.
- Do your best to understand the interests of those who will be affected by your decision.
- Only those people directly involved in the conflict should be included in the problem-solving as early as possible.
- Gather the data necessary for problem resolution. Maintain the safety and quality of patient care.
- Evaluate the situation.
- If the dilemma seems to present a further conflict refer to our Values for additional guidance to select a decision that considers the values and will, in your best judgment, be the best choice.
- Seek additional guidance from your immediate supervisor, and follow the chain of command if you are still unsure of the best course of action. Refer to HR policy “Fair Treatment/Problem Resolution.” Contact Human Resources if you are uncomfortable using this course of action.
- When there is conflict among the members of the leadership groups, they shall be guided by this policy (Code of Conduct and Fair Treatment/Problem Resolution). Members of the medical staff leadership shall be guided by Medical Staff Bylaws.

Conflicts of Interests

A conflict of interest arises when we put our personal, social, financial, or political interest before the interests of the Hospital. Conflicts of interest are to be avoided. Not every potential conflict is a problem, but all potential conflicts have to be disclosed to permit timely guidance.

Examples of potential conflicts of interests include, but are not limited to:

- Accepting gifts of more than nominal value from a customer or supplier.
- Receiving a loan or a guarantee of an obligation as a result of your position with Touchette.
- Competing with Touchette for the purchase or sale of property, services or other interests
- Undermining the morale and creating turnover among the professional and medical staffs.

- Behaving in acts that are considered discriminatory under federal and/or state laws.
- Having a personal interest, financial interest or potential gain in any the Hospital transaction.
- Owning or having a substantial interest in a competitor, supplier or contractor.
- Violating any of the Standards of Behaviors as listed in this Code of Conduct.

Process for Managing Disruptive and Inappropriate Behaviors, Conflicts of Interests

When there are episodes of disruptive or inappropriate behavior, as well as violations or non compliance with potential or actual conflicts of interest, the Hospital will follow the Human Resource Policy, “Progressive Discipline” and the “Fair Treatment/Problem Resolution:”. The Policy includes the steps that will be followed in the employee counseling process to include a Performance Improvement Plan. There are four steps in the Policy:

1. Verbal Warning(s)
2. Written Warning(s)
3. Suspension(s)
4. Termination

At each of these steps, a performance improvement plan may be developed with input from and in collaboration with the employee to modify/reframe from or discontinue the conflict of interest. Steps may be skipped depending on the nature of the violation.

Adherence to Code of Conduct and Reporting Information:

All employees are responsible for ensuring that the Code of Conduct is followed. Employees are encouraged to assist in eliminating any Code of Conduct violations by bringing concerns to their supervisor, V.P, Human Resources or Quality Management. If, for any reason, an employee wishes to remain anonymous while filing a complaint of violation, a telephone number is provided by the Hospital. This information is located at the ground floor time clock. Employees may file a complaint in confidence. Sufficient information should be provided to allow initiation of an inquiry to determine if further actions (to include an investigation) are necessary. If an investigation is deemed necessary, contact Human Resources.

You may also use the telephone number or bring concerns to or report complaints regarding accounting, auditing, internal controls, fraud and our corporate disclosure policies. Any complaints submitted to Human Resources relating to any of these matters will be presented to the Compliance Officer.

The Hospital will promptly, thoroughly and impartially seek sufficient information to initiate an inquiry into the allegations of Code of Conduct violations. Inquiries may also be initiated by management without receipt of a complaint or allegation. The Hospital will take immediate measures to eliminate any confirmed violations of the Code of Conduct utilizing procedures identified in the Process for Managing Disruptive Behaviors and Conflicts of Interests. Any employee found to have violated the Code of Conduct will be subject to prompt disciplinary action up to and including termination and may be subject to prosecution to the fullest extent of the law if necessary.

Retaliation against any employee for having made, in good faith, or having been involved as an alleged victim or as a witness, in a complaint of a Code of Conduct violation is strictly prohibited. For the purposes of this policy, retaliation is defined as any adverse action that negatively impacts the conditions of employment of an employee, and includes, for example, demotion, suspension, threats, harassment or discrimination. Any employee found to have engaged in retaliation will be subject to disciplinary action up to and including termination.

If you wish to discuss the application of the Code of Conduct to your specific duties and responsibilities or if you are aware of an alleged violation of our Code of Conduct, please contact your supervisor. If you are not able to discuss this with your supervisor, you should contact his/her supervisor, using the chain of command. If you are not comfortable with this process, please contact Human Resources.

CONCLUSION

The complaint states that the facility does not ensure the provision of adequate and humane services when hospital administration and staff discriminate against and make publicly derogative statements about patients with developmental disabilities and are insensitive to their needs. Without examining records, it is difficult to determine if patients with ID received different or discriminatory treatment in service delivery; therefore, the HRA cannot confirm that hospital administration and staff discriminate against patients with DD or ID. However, based on corroborating witness statements, the HRA does **substantiate** that hospital staff made publicly derogative statements about patients with developmental disabilities which were insensitive to their needs. The physician admittedly “spoke strongly” when addressing the ID population with the outside agency during the Community Collaboration. Furthermore, the witnesses indicated that there was a sign-in sheet and surveys were distributed although the HRA was told by the hospital that there were no such related documents. The HRA contends that the physician as well as administrators who observed the physician during the incident under investigation violated the hospital’s Code of Conduct and related reporting requirements. The Code not only requires professional, ethical and positive behavior giving primary consideration to the welfare of the patient, it also charges all employees with ensuring that the Code is followed, including bringing concerns and Code violations to the forefront.

The Hospital Licensing Act states that no hospital shall may maintain a list of individuals that may not be admitted for treatment at the hospital, this would include individuals with ID being singled out as a group denied admission. Hospital Licensing Requirements state that when the hospital does not provide the services required by a patient or a person seeking necessary medical care, an appropriate referral shall be made.

The HRA also takes this opportunity to share the following comments and observations:

- During the interview, hospital staff made the statement that patients with ID are always admitted to the fragile unit due to their need of assistance with activities of daily living

(ADL's) and their need to be "watched very closely". The HRA felt this statement stereotypes individuals with ID as patients with ID/DD have individualized needs and varied levels of functioning. Units are separated by level of acuity, symptoms, level of cognitive functioning, sexual abuse history and level of functioning. The term "General Population" was also referenced and again suggests differences versus individualized needs.

- Patient Rights are listed in the Patient Handbook that reportedly every patient receives upon admission. However, there are staples holding the multipage handbook together and the HRA questions whether this booklet with staples would be allowed on the behavioral health unit.
- The HRA coordinator observed, during the site visit, a member of hospital management (who was sitting directly to her right) doodling on a paper and writing "blah, blah, blah" as the discussions occurred. The HRA considers this observed behavior by a hospital administrator to be a blatant disregard for the investigative process.

Although actual discrimination was not confirmed by the HRA, the HRA reminds the hospital that the Illinois Human Rights Act states that it is unlawful to discriminate based on disability, including denial of public services. The Medical Patient Rights Act states that everyone has the right to sound medical care. The Americans with Disabilities Act limits a physician's ability to refuse a patient based on disability, as recognized by the Supreme Court. And finally, The Rehabilitation Act of 1973 deems that there should be no service denial or discrimination if the providing entity is receiving any financial federal assistance.

RECOMMENDATIONS

The HRA recommends:

- 1. All employees and volunteers receive ongoing training related to the Code of Conduct Policy and ensure that there is a confidential reporting mechanism in place in order for employees to report their concerns without fear of repercussions or retaliation.**
- 2. To help ensure compliance with the Code of Conduct specific to the ID/DD population, conduct on-going training on the needs of patients with ID to include a mandatory annual review for all BHS volunteers and employees, including physicians. Ensure that the training is scenario and competency based consistent with other trainings.**

3. Initial training for current staff must include “sensitivity training” to eliminate any overt biases related to the care of those with IDs.

The HRA also suggests the following:

1. Touchette employ an ADA Coordinator to ensure the effective implementation of the Americans with Disabilities Act (ADA). In fact, The Americans with Disabilities Act (ADA) calls for every public entity that employs 50 or more persons to designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the ADA (Regulation §35.107). The State entity must make the name, office address, and telephone number of the ADA Coordinator readily available to all interested individuals.
2. Seek a consultant to work with volunteers, social workers, therapists, technicians/ assistants, nurses, and physicians on issues/unique needs related to patients with IDs during admissions.
3. Develop a policy and procedure to meet communication needs of nonverbal ID patients, to include signed speech and picture boards, including electronic technology (tablets and apps). This should focus on collaboration with family or staff of the patient’s residential setting to ensure consistency. Failure to address the communication needs of ID patients who may act out/”meltdown” if the ID patients are unable to communicate with staff and become frustrated because of the lack of effective communication.
4. Ensure that information regarding the rights of patients and access to the local Human Rights Authority is posted in common areas of the three in-patient care units on bulletin boards and in the outpatient suite.
5. Disability Awareness Training for Disability Professionals is available from the National Institute of Health.
6. Consider a review of this issue by the hospital’s ethics committee.

RESPONSE

Notice: The following page(s) contain the provider response. Due to technical requirements, some provider responses appear verbatim in retyped format.

REGIONAL HUMAN RIGHTS AUTHORITY

HRA CASE Numbers 16-070-9009

SERVICE PROVIDER: Alton Mental Health Center

Pursuant to Section 23 of the Guardianship and Advocacy Act (20 ILCS 3955/1 *et seq.*), we have received the Human Rights Authority report of findings.

IMPORTANT NOTE

Human Rights Authority reports may be made a part of the public record. Reports voted public, along with any response you have provided and indicated you wish to be included in a public document will be posted on the Illinois Guardianship and Advocacy Commission Web Site. (Due to technical requirements, your response may be in a verbatim retyped format.) Reports are also provided to complainants and may be forwarded to regulatory agencies for their review.

We ask that the following action be taken:

☒ We request that our response to any recommendation/s, plus any comments and/or objections be included as part of the public record.

☐ We do not wish to include our response in the public record.

☐ No response is included.

Sulbawa Day
NAME

Chief Operating Officer
TITLE

2/21/2018
DATE

February 21, 2018

Illinois Guardianship and Advocacy Commission
Metro East Regional Human Rights Authority
4500 College Avenue
Suite 100
Alton, Illinois 62002-5051

Re: HRA Case #16-070-9009

Dear Mr. Pintar:

On January 25th, we received your letter dated January 16, 2018 regarding the above HRA Case number. Touchette Regional Hospital (TRH) has been serving the healthcare needs of area residents since 1958. We strive to make the difference in the lives of anyone regardless of any social class, financial class, gender, race, age, culture, sexual orientation or intellectual /developmental disability. It is our objective to treat every person with respect and dignity.

We have read your recommendations and suggestions from the site visit. We appreciate and value the services that the Human Rights Authority Office provide and take this review very seriously. As such, TRH has implemented the following:

- The Hospital has and continues to conduct annual compliance training covering the confidential reporting process for employees to report concerns without fear of repercussion or retaliation. Included in the annual competency training is cultural competence, diversity and population specific care which covers all aspects of anyone's differences including individuals with disabilities. We will enhance the disability awareness trainings to include scenarios and sensitivity training with the "people first language" given to all employees and volunteers. As recommended, the Code of Conduct policy will be included in the annual training for all employees and volunteers.
- Reviewing consultation service options

- The Hospital interpreter policy was updated and added a statement to include communication use for nonverbal ID/DD patients includes picture diagram board and/or technology is used in collaboration with the patient's family and/or support person for consistency in communication.
- The Hospital has always posted Patient Rights information in which includes access to HRA in all of the common patient care and outpatient areas.
- Adding National Institute of Health as a training resource.
- This case has been reviewed by the Hospital's Ethics Committee.

We continue to serve every person without discrimination. Again, we thank you for your service. If you have any questions, please feel free to contact me at 618-332-5400 or email sday@touchette.org.

Sincerely,

Sulbrena Day, RN, PhD

Sulbrena Day, RN, PhD
Chief Operating Officer

February 21, 2018

Illinois Guardianship and Advocacy Commission
Metro East Regional Human Rights Authority
4500 College Avenue
Suite 100
Alton, Illinois 62002-5051

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