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**FOR IMMEDIATE RELEASE**

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**REPORT OF FINDINGS- 17-040-9009  
ST. COLETTA'S OF ILLINOIS, INCORPORATED  
HUMAN RIGHTS AUTHORITY- South Suburban Region**

INTRODUCTION

The South Suburban Regional Human Rights Authority (HRA), a division of the Illinois Guardianship and Advocacy Commission has completed its investigation into an allegation concerning St. Coletta's of Illinois, Incorporated. The complaint stated that residents are denied rights and privileges solely because of their status as a service recipient. If substantiated, this allegation would be a violation of the Illinois Administrative Code (59 Ill. Admin. Code Part 115 et seq.) Standards for Community Integrated Living Arrangements, and the Mental Health and Developmental Disabilities Code (the Code) (405 ILCS 5/100 et seq.).

According to the St. Coletta's of Illinois website, this agency was founded by the Sisters of St. Francis of Assisi to serve children and adults with developmental disabilities and those with short term needs. It stated that services will be provided in a Christian environment regardless of race, religion, or economic background. Through training, residential and educational programs designed to explore, physical, mental, social and spiritual well-being. Each individual will be given the opportunity to grow in the least restrictive setting, which meets his or her needs and abilities.

Located in Tinley Park, this agency manages 24 Community Integrated Living Arrangements (CILA) with a population of approximately 155 residents and has one 16-bed intermediate care facility and a school for persons with developmental disabilities.

METHODOLOGY

To pursue the investigation, the complaint was discussed with the agency's administration including the Executive Director. The HRA reviewed, with written consent, records of four adult residents who receive services through the agency's CILA program. The complaint was discussed with the residents' guardians. The HRA was provided with incident reports that were not part of the record reviewed. Relevant policies were also reviewed.

COMPLAINT STATEMENT

The complaint stated that the agency has a blanket policy that prohibits all clients from engaging in consensual sexual relations. It was reported that residents A and B and residents C

and D have a close personal relationship with each other respectively. It was reported that all four residents have unsupervised passes in the community and sometimes express themselves sexually as couples in the washrooms of shopping malls. It was reported that residents A and B have been reprimanded for engaging in sexual behaviors and that all four residents have expressed a desire to continue having consensual sexual relations.

## FINDINGS

### Information from interviews and program policies

Resident A's "Individual Service Plan" signed by the resident and his girlfriend (resident B) was updated on February 29<sup>th</sup>, 2016. His service plan documented that the 44-year old individual has been a client of the agency since he was 13 years old. He is diagnosed with Bipolar Disorder, Impulse Control Disorder and Mild Intellectual Disability. He is verbal and able to communicate his needs and wants. He does not require the staff's assistance with bathing, dressing and toileting. He has a job and likes spending time with his girlfriend and selective housemates. He has a good relationship with his girlfriend and would like to live with her someday. He is allowed intermittent unsupervised time in the community based on his behavior in the home. It was documented that a copy of the service plan was provided to his guardian three days after the treatment staffing was held. There were no incident reports found in the resident's record reviewed.

Resident B's "Individual Service Plan" signed by the guardian and the resident was updated on February 1<sup>st</sup>, 2017. Her service plan documented that the 40-year old individual has been a client of the agency since she was 27 years old. She is diagnosed with Bipolar Disorder, Impulse Control Disorder and a Mild Intellectual Disability. She is verbal and able to communicate her needs and wants. She is able to read and write and keeps a journal. She is able to complete her daily hygiene tasks independently and is ready for work on time. She likes working and spending time alone with her boyfriend (resident A). She is prescribed birth control medication for her heavy menses and would like to learn more about possible side effects of her medications. She has ninety minutes of unsupervised time in the community monthly. Her services plan indicated that she needs to follow the agency's policy on unsupervised time including signing in and out, going to the planned destination, etc. Her unsupervised time may be amended by her Community Support Team and guardian at any time. Any violations of the use of unsupervised time will result in the loss of unsupervised time for 56 programming days according to the agency's policy.

Resident B's service plan documented that her behavioral management plan targeted problems such as inappropriate sexual behavior. There was one incident report found in her record reviewed. According to the incident report, resident B was sitting on the table and resident A was standing between her legs and "engaging in inappropriate sexual behavior" at the day training program in 2015. It was documented that resident B was moved to a supervised area and started screaming that she was not doing anything wrong when she was counseled about her inappropriate behavior. Additionally, the HRA reviewed three incident reports involving intimacy that were not part of her record. The first incident report documented that the resident was observed kissing a boy during a community outing in 2013. She was reportedly counseled and told that her behavior was inappropriate. According to the second incident report, the

resident said that her “breast was bleeding” and that her blood-stained shirt was in her bedroom in 2015. It was documented that the resident was standing in the hallway bathroom with her breasts fully exposed when the staff person went to see her shirt. The shirt in question was not found and she was told to cover herself. According to the third incident report, a client told an employee that resident A and B were having sex in the washroom at the day training program in 2016. The employee reportedly went to the washroom and looked underneath the toilet stall door and saw resident A and B and resident B’s pants were on the floor. It was recorded that resident B came out of the toilet stall as requested and closed the door as she exited. Then, resident A came out of the toilet stall as requested and walked out of the washroom. There was no documentation of any corrective action taken concerning the incident.

Resident C’s “Individual Service Plan” signed by the resident was updated on May 2<sup>nd</sup>, 2016. His service plan documented that the 37-year old individual has been a client of the agency since he was 12 years old. He is diagnosed with Schizoaffective Disorder, Impulse Control Disorder and Mild to Moderate Intellectual Disability. He is verbal and able to make his needs known and has worked at a store in the community for many years. He likes going to the movies with his peers and his girlfriend (resident D). He enjoys talking to his girlfriend on the phone and seeing her at the workshop and would like to see her more often. He has unsupervised time in the community. His behavioral management plan targeted areas such as physical aggression and sexually explicit language. It was documented that a copy of the service plan was provided to his guardian four days after the treatment staffing was held. There were no incident reports found in the resident’s record reviewed.

Resident D’s “Individual Service Plan” signed by the guardian and the resident was updated on February 4<sup>th</sup>, 2016. Her service plan documented that the 29-year old individual has been a client of the agency since she was 21 years old. She is diagnosed with Bipolar Disorder, Impulse Control Disorder and Mild Intellectual Disability. She is verbal and able to make her needs known easily. She likes spending time with her boyfriend (resident C) and would like to marry him one day so that they can take care of each other. She would like to be able to do things that make her happy. She had unsupervised time in the community weekly based on her behavior and requires supervision when she goes out on a date with her boyfriend. She has a behavioral management plan that targeted problems such as aggression and unpredictable mood swings. There were no incident reports found in the resident’s record reviewed.

At the site visit, the agency’s administration provided the HRA with a form entitled “General Rules of Conduct” signed by all four residents whose record were reviewed. It stated that residential clients with unacceptable conduct will usually be counseled or a behavioral management program will be developed to improve their performance. Suspension or termination may occur depending upon the frequency and/or seriousness of the person’s conduct. The agency’s general rules of conduct includes:

- Clients should not use inappropriate or abusive language during attending hours.
- Clients should exhibit appropriate behaviors during attending hours. Behaviors considered to be inappropriate are running in the facility, intimate

sexual behaviors, destructive behaviors involving personal property, and physical and verbal aggression.

- Clients are not allowed to use inappropriate language and, to possess, use or sell illegal drugs or alcohol beverages.

The rules of conduct forms were signed by resident B in 2005 and residents A, C and D in 2009. Additionally, the HRA was provided with a copy of St. Coletta's "Programming General Rules of Conduct," which is a revised version of the general rules of conduct. The agency's revised rules of conduct includes those previously mentioned. Also, it stated that the agency does not provide residential services to married couples. The agency is a member of the Roman Catholic Church and follows the requirement of sexual abstinence outside of marriage. There was no date indicating when the general conduct rules form was revised by the agency. However, the St. Coletta's Executive Director told the Authority that the agency's general rules of conduct was revised after talking to a representative with the Illinois Department of Human Services, the Division of Developmental Disabilities in October of 2017. She reported that the Department's representative told her that the agency should clearly state its position on sexual relations in the policy rules. She said that the nuns responsible for overseeing the agency stand firmly on the Catholic Church position concerning abstaining from sexual relations unless married.

The staff further reported that residents should not receive consequences such as loss of unsupervised time for being sexually inappropriate. The assigned therapist would discuss sexuality with any resident who is interested in this subject matter because the agency wants clients to be safe. Moving to a different agency would be discussed with any resident wanting to have consensual sexual relations with another adult resident after counseling was provided. Additionally, the Office of State Guardian (OSG) caseworkers assigned to the four residents told the HRA that their wards should be able to sexually express themselves. One of the caseworkers said that she told a staff person that her wards could not be punished for engaging in consensual sexual relations. Both of the caseworkers were reportedly informed by a staff person that there was no risk of their wards being discharged from the agency concerning this issue.

The St. Coletta's "Admissions and Intake" policy reviewed by the agency on July 2011 ensures that informed decisions are made throughout the process by individuals referred for services and their family members or guardians. It stated that they will receive an organized orientation to the agency and its programs. The agency's Chairperson of the Admissions/Discharge Committee will mail specific documentation such as the "General Rules of Conduct" and the annual consents to the individual or guardian for completion prior to admission, if accepted to the program.

According to the agency's "Assessment Process" policy, all consumers shall have a battery of assessments completed annually. These assessments will include an "Interest Survey" which is designed specifically for integrating the consumer's choices in his or her program. The agency's "Individual Service Plan" policy stated that initial goals shall be developed by using the identification of priority needs information of the consumer. These goals will consists of six areas: 1) independent living, 2) community integration, 3) education, 4) personal, 5) medication management, and, 6) economic self-sufficiency. There shall be direct evidence of the

individual's and guardian's participation in goal selection. A staffing will be held annually and the individual, the guardian and family will be invited.

According to the St. Coletta's "Consumer Rights" policy, the agency protects the rights and dignity of its consumers in a manner that is consistent with Chapter 2 of the Mental Health and Developmental Disabilities Code. It stated that consumers have the right to express their choice in the kind of activities, programming and life goals that they wish to have addressed while receiving services from the agency. Consumers are entitled to adequate and humane care and services in the least restrictive environment pursuant to an individual services plan. The staff will make every effort to encourage the consumer's and guardian's participation in program development. It states that consumers have the right to know the rules of the agency and how they must conduct themselves. The agency's Admissions Coordinator will review the general rules, as well as the specific rules of the person's program. Consumers will be informed why it is important that they follow the rules while participating in their programs.

## CONCLUSION

According to the 59 Illinois Administrative Code 115.200,

(c) Services shall be oriented to the individual and shall be designed to meet the needs of the individual with input and participation of his or her family as appropriate.

(d) Based on their needs, individuals shall receive supervision and supportive services which may range from continuous to intermittent. CILAs shall be designed to promote optimal independence in daily living, economic self-sufficiency and integration into the community through the interdisciplinary process.

Section 115.220 (c) (8) states that the community support team shall be directly responsible for providing personal support and assistance to the individual in gaining access to vocational training, educational services, legal services, employment opportunities, and leisure, recreation, religion and social activities.

According to the Mental Health and Developmental Disabilities Code, Section 5/2-100,

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.

Section 5/2-102 (a) states that,

Services shall be provided 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. .... In determining whether 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.

Section 5/2-201 of the Code states, whenever any rights of a recipient of services are restricted, the recipient shall be promptly given notice of the restriction.

The Authority substantiates the complaint stating that residents are denied rights and privileges solely because of their status as a service recipient. The HRA reviewed records of four residents who have been clients in the agency's CILA program for many years and are now interested in expressing their sexuality as adult humans. One of them (resident B) reportedly has access to birth control because of her heavy monthly menses. The incidents reports indicated that resident B was counseled for kissing a boy. Two incidents reports suggested that residents A and B were sexually active with each other. One of them indicated that resident A was screaming that she did not do anything wrong when she was counseled for having sex at a day training program. The agency's administration told the Authority that residents who are caught engaging in sexual acts are not reprimanded. The staff said that residents wanting to pursue self-determination and sexual expression would be counseled by their assigned therapist. The faith-based agency is not willing to refer residents to community providers as required by CILA regulations, whether for related educational or personal health needs; their only option is being transferred to another agency if they choose to exercise their rights to sexual expression while in the agency's program.

The St. Coletta's "Programming Rules of Conduct" policy prohibits all residential clients from engaging in sexual relations does not provide for resident's autonomy, individualized needs, and total care planning. This violates Section 115.200 (c) (d) of the 59 Illinois Administrative Code and Sections 5/2-100 and 5/2-102 (a) of the Code and the program policies on assessments, service planning and consumer rights in regard to choices in programming in the least restrictive environment. The Authority cannot substantiate a rights violation concerning the federal guidelines for Home Community Based Programs regarding the person-centered planning process effective in March of 2014 because the final waiver requires participants to comply with them by March 17, 2019. However, federal rules will continue to include a treatment planning process that begins with the discovery of a service recipient's individualized needs, preferences and choice. Additionally, there are no federal or state mandates on this issue in which a disability service provider's religious affiliation supersedes the rights of service recipients with disabilities.

## RECOMMENDATIONS

1. St. Coletta's "Programming Rules of Conduct" policy does not promote self-determination regarding human sexuality, based on individualized needs and resident's and significant others participation in total care planning. The agency shall revise its policy to reflect self-determination concerning this matter.
2. The agency shall follow the 59 Illinois Administrative Code, Sections 115.200 (c) and (d), and program policies mentioned above regarding choices in treatment planning and autonomy.
3. Ensure that the Mental Health and Developmental Disabilities Code, Sections 5/2-100 and 5/2-102 (a) are followed. If there are concerns or needs of a sexual nature, ensure that they are addressed in the treatment planning process.

## SUGGESTION

1. The HRA noted that in a couple of instances, service plans were provided to guardians after the treatment planning meetings were held. The HRA reminds St. Coletta's that a treatment plan is to be developed with the participation of the guardian as per the Code.

## COMMENT

In August of 2011, the Authority substantiated a complaint (case #11-040-9004) involving consensual sexual relations among the agency's clients. The case was referred to the Illinois Department of Human Services for enforcement because the service provider did not accept the HRA's recommendations to correct the problem pursuant to the 59 Illinois Administrative Code. There was no response provided to the HRA concerning the enforcement request. The current case involves the same issue, and reveals an on-going serious problems among individuals with disabilities being treated differently because they are recipients of services. The HRA acknowledges that many individuals who have intellectual or developmental disabilities may not be able to fully understand the consequences of sexual intimacy such as pregnancy and diseases related to sexual activities. However, they are not asexual and need information to protect themselves from risky sexual behaviors. Additionally, the Authority notes that impending federal rules for home and community based services requires person-centered plans to be developed by the person and Independent Service agents, complete with their own stated goals and desires, with complimenting implementation strategies to be developed by the service provider. St. Coletta will have to address any resident's expressed interest in sexuality and human relationships when these plans are in place, if not already done.

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## **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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**ST. COLETTA'S OF ILLINOIS'  
RESPONSE TO  
IGAC RECOMMENDATIONS  
CASE #17-040-9009**

1. St. Coletta's has revised its Programming Rules of Conduct to be more specific as far as public displays of sexual behavior. Sexual acts in public or in a work setting are not generally accepted behavior for any person. The rules are now more specific.
  
2. The agency shall follow the 59 Illinois Administrative Code with respect to choices in treatment planning designed to meet the needs of the individual with input from the family or guardian. St. Coletta's will give access to department approved materials for sex education and related resources. St. Coletta's of Illinois appreciates the department's understanding of religious and faith based perspective being included when addressing sex education.
  
3. St. Coletta's will ensure that concerns or needs of a sexual nature will be addressed in the treatment plan.

Dated: July 6, 2018



## PROGRAMMING GENERAL RULES OF CONDUCT

### RESIDENTIAL SERVICES

- Personal hygiene should be maintained in an acceptable manner and should not be bothersome or offensive to others
- Persons served are not to use inappropriate or abusive language
- Persons served should exhibit appropriate behaviors. Behaviors considered to be inappropriate are: running in the facility, intimate and sexual behaviors in public, destructive behaviors involving personal property, and physical and verbal aggression toward self or others
- An attendance record should be maintained that is consistent with the established expectancies of the person served's funding source
- Persons served should be willing participants in programming and production activities
- St. Coletta's facilities are smoke free environments. Persons served are not allowed to smoke within the facility
- Persons served are not allowed to possess, use or sell illegal drugs or alcohol while in the facility or transport vehicles
- St. Coletta's of Illinois is a member of the Roman Catholic Church and thereby follows the doctrine of sexual abstinence outside of marriage. Residential accommodations to married couples are outside the service area offered by St. Coletta's of Illinois

### VOCATIONAL SERVICES

1. Persons served with unacceptable conduct during their enrollment will normally be counseled regarding their conduct or will have a behavior management program developed to improve their performance. Suspension or termination can be imposed depending upon the frequency and/or seriousness of the conduct
2. Clothing should be comfortable, in good repair, and meet the demands of the persons served production assessment. Halter tops, tank tops and shorts are not to be worn. As the need arises, permission for special attire can be obtained from the Director of Vocational Services
3. Sandals and open-toed shoes are not to be worn during attending hours
4. Persons served are not allowed to have food or beverages in programming or production areas unless approved by their immediate supervisor
5. Persons served are not allowed to have personal items such as radios, books, games, etc. in programming or production area unless approved by their immediate supervisor. St. Coletta's is not responsible for the loss or damage of a person served's personal possessions
6. St. Coletta's prohibits the solicitation or sales of fund-raising items by persons served during attending hours

DATE: \_\_\_\_\_

PERSON SERVED SIGNATURE:

\_\_\_\_\_

(PRINT NAME)

GUARDIAN SIGNATURE:

\_\_\_\_\_

(PRINT NAME)