



FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case #17-090-9025
Gateway Services

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving complaints of possible rights violations involving services at Gateway Services. The allegations were as follows:

1. Inadequate staff training regarding recipient care and treatment.

If found substantiated, the allegations would violate The Illinois Department of Human Services (DHS) Rule 115 (59 Il Admin Code 115).

Complaint Statement

This complaint stems from a situation investigated in the Illinois Department of Human Services Office of Inspector General (OIG) report 1017-0190 where a Direct Support Professional (DSP) took residents for a walk and she yelled and used profanity towards a resident who was trailing the group. The HRA is reviewing staff training adequacy regarding care and treatment of residents.

Interview with staff (6/26/2017)

Staff began the interview by explaining that new Direct Support Personnel (DSP) receive training for certification and no staff can be employed without the Office of Inspector General (OIG) Rule 50 training on abuse and neglect reporting. The facility also has additional abuse and neglect training and training on interacting with residents. Rule 50 training is biannual and there is also Crisis Prevention Institute (CPI) training in between the Rule 50 training. If there is a home with specific behavior needs, they will provide additional CPI training. There is a home where an individual has significant behavioral challenges and those were covered at staff trainings. The facility uses communication modules from the College of Direct Support for some trainings. This training provides guidance on how to act in different scenarios, like when

residents have inappropriate behaviors or refuse directions. Body language and non-verbal communication is also covered. The College of Direct Support is the first training and there is an introduction to disabilities, human rights, health and safety, and service plan development. They have to finish each task to proceed and it is time limited to 120 days, but the goal is to complete training in 90 days including on-the-job training. This is an Illinois Department of Human Services approved curriculum. New staff also receive on-the-job training and work with supervisors on different jobs. Those trainings involve tasks like sitting with an individual and communicating. Supervisors must sign off that on the job training occurred. New staff are not left alone with residents until they are approved on the healthcare worker's registry, which requires a specific amount of classroom hours and on the job training. When there is a new employee, the supervisors and other staff have to agree that they are a good match. Supervisors will judge if a person needs additional training in areas and provide feedback as they work through training. Historically, staff will realize quickly if there is a bad match. Sometimes new staff complete the classroom training and do not like the job or are unable to succeed in the position. In the day program, supervisors are observing constantly and in the CILA homes, the supervisors are always available. In the home, staffing depends on the number of residents. The facility has homes with a large population of residents using wheelchairs so they have extra staffing. One home has three ambulatory residents so there is one staff present. Classroom and on the job training occur simultaneously. Supervisors and other DSPs monitor new staff to ensure they complete training no sooner than 21 days, after which they are considered independent. OIG training and facility health classes must be repeated by new hires with previous DSP experience. The healthcare registry is checked prior to employment.

If there is a personality clash between a resident and a staff person, the staff person is moved to a different home or environment. Residents have talked to supervisors and stated that a staff member was not helpful, and they relocated staff. One manager covers a home and then supervisors float between the three homes. They go to a home every other night during second shift. If there is an issue at one home, they may not make it but staff have supervisors' phone numbers if needed. Other supervisors cover if a supervisor has a day off. The hierarchy of care starts with the DSP, and then there is a team supervisor then a director or manager. The facility performs annual evaluations and satisfaction surveys with individuals and reviews the grievance procedure. Staff can initiate the grievance process and ask the resident if they want to start a complaint. The individual can fill out a complaint themselves or request assistance. If the incident is OIG reportable, then OIG is contacted. For the grievance process, the resident can contact the case manager who will try to resolve the complaint, and if they cannot the director is contacted. If the director does not resolve the complaint, then they can contact the Chief Executive Officer and then the operations committee. Through the entire process, residents are provided contact information for other agencies. Office of Inspector General (OIG) contact information is posted by all the phones in the building and in every home. The OIG is reviewed at each Individual Support Plan (ISP) meeting. They also provide contact information for Adult Protective Services. Staff said that they revised the steps to the grievance process two years ago and they have had one grievance in that time which was resolved internally. Behavior plans are covered with the entire staff and the facility works with a behavior analyst group as well as their Human Rights Committee to promote the least restrictive environment possible. Guardians are kept informed on what the residents are going through and give input on respective behavior plans. They make sure the guardian approves of treatments concerning the residents.

There is a staff Code of Conduct in the handbook and that is reviewed with staff. When new policy is introduced, all staff are made aware and trained at an in-service training. There are monthly house meetings where new issues are covered, such as if there is a new behavior program for a resident. Since the training is under the direction of DHS, they have some outside training that staff can attend if they express interest and sometimes there is supervising training provided. They also have an attorney on retainer who provides webinars. As far as disciplinary measures, a coaching statement and a discussion about what happened or what was seen and heard, are provided to the employee to address a problem first and any reoccurrence initiates the disciplinary process. The disciplinary process is oral, written, “full, fair and final” and then termination. If you are a “No call, no show” for work then you are at a “full, fair and final” level. Everything depends on the situation, so if the issue is bad enough, levels can be skipped. This is all outlined in policy and the actions for termination are outlined as well.

As far as the incident within the OIG report, that staff member had gone through all the training and disciplinary steps. Depending on the situation, they try to separate the staff from the individual so they are not working together. This is so there are no more continued allegations and for the individual’s safety. That was done in this case. The staff person went through the OIG investigation and there was another allegation that occurred at the same time. She was then put on administrative leave. The second allegation was a physical altercation. The staff person was then in a verbal altercation with the OIG investigator and they decided to terminate her. Staff are trained to be truthful and respectful with investigations.

Training records are kept for the staff. The Rule 50 training covers reporting other staff members and reporting anonymously. If an incident is not OIG reportable, the agency maintains a whistle blower policy and they can report to their supervisor. They have had staff feel uncomfortable doing that and instead spoke with Human Resources. They can also take the next step in the chain of command. In house, administration has had staff come to them directly requesting that their names be withheld with administration pursuing with the alleged perpetrator by saying it is not important who called.

FINDINGS

Complaint #1 - Inadequate staff training regarding recipient care and treatment.

The OIG report that the HRA referenced with this investigation has findings that a DSP used “demeaning and intimidating words” and yelled at a resident when she was trailing behind during a walk which resulted in emotional distress by the resident. The OIG considered this to be mental abuse. The response from the facility stated that the employee was disciplined with a written warning for the inappropriate actions.

The HRA began by reviewing the facility DSP Training Program Requirements which is mandatory and is provided by the College of Direct Support. There are four modules listed that are provided by the college and they are “Intro to Developmental Disabilities,” “Human Rights,” “Health and Safety,” and “Service Plan Development and Implementation.” These modules are to total 20 hours of training. There is an additional 20 hours that includes orientation, OIG, abuse and neglect, health and safety, CPR/first aid, and training on an electronic case record/documentation system. The training consists of showing staff how to access client information and how to document specific notes/reports (GER – incident report; general documentation; ISP data – program goal progress, etc.). There is 24 hours of optional training

that includes CPI and medication administration. There are also mandatory on the job trainings that are listed in 4 sections and then another optional section. In the mandatory sections, there is training for the communication process, documentation, individual preferences, introduction to service plans, recognizing and reporting maltreatment, how attitudes affecting living environments, “Creating & Maintaining a Trust-Producing, Healthy, Engaging Environment,” respectful interactions, and supporting individual rights. There are also more specific optional on the job trainings that include communication with pictures, wheelchair to chair transfer, grief, friendship circles, daily interaction, denture care, and creating a behavior dictionary.

The HRA reviewed a DSP training two-year review approval letter from the Illinois Department of Human Services to Gateway Services which reads “This letter is to confirm that your organization’s DSP training program is approved for the two-year period: 2/1/2016 to 2/1/2018.” The DHS website states that “The College of Direct Support online classroom curriculum teaches all required DSP competencies ...” and then goes on to state that it is not structured like the DHS approved curriculum so they may not mix online and instruction lead sessions for the 40 hour classroom training requirement. The facility provided a grid indicating the date of employees most recent OIG trainings that reads employees need the training every two years and, according to the grid, all employees appear to be up-to-date. The grid also tracks CPR/First Aid training which is every two years and CPI training which is completed yearly (although some staff do not have a date for the next training like other staff).

The facility Code of Conduct section in the staff handbook requires “Respectfulness. We will treat others as we would like to be treated. Unless we can say something good about the other person, we will say nothing at all. If we have to criticize, it will be to help, not to punish. We will make every effort to support and affirm each other.” There is also a Code of Ethical Conduct list which states “I will treat everyone with respect and dignity and not impose my personal values, standards, or opinions on others thus respecting the value and dignity of all.” The list also reads “I will assure the rights and responsibilities of all” and “I will respect the differences of others and do my best to create and maintain a climate of loyalty, trust, and mutual respect where all can be successful.” Another part states that “I will strive to speak to everyone in a friendly, positive, courteous and enthusiastic manner.”

The HRA reviewed another Code of Conduct section of the handbook titled “Conduct Toward Persons Served” that reads “Persons served are always to be treated with consideration and respect, recognizing their dignity, right to privacy and confidentiality.” The section also states that staff have an obligation to report “Anytime you become aware or suspect unethical or illegal behavior in the work setting it should be reported.” The HRA reviewed the facility abuse reporting policy which requires that “The President/CEO shall ensure that all employees (which includes owners/operators, contractors, subcontractors and volunteers) are trained upon hire, and at least biennially thereafter, and are held responsible for carrying out the designated duties set forth in Rule 50 and this policy. The policy proceeds to state that “If an employee witnesses, is told of, or suspects an incident of physical abuse, sexual abuse, mental abuse, financial exploitation, neglect or a death has occurred, the employee or agency shall report the allegation to the OIG Hotline.”

The HRA reviewed the facility rights statement which states “You have the right to be treated fairly without regard to your race, ethnic background, national origin, religion, sex, age, disability or financial standing.” The rights also read “You have the right to be free from physical, sexual, and mental abuse or neglect. If you think someone has treated you badly, or has taken advantage of you, you should tell someone you trust so that the problem can be resolved.

Any incidents of abuse or neglect shall be reported to the appropriate Office of the Inspector General.”

The facility provided multiple incident reports which were reviewed by the HRA. In summary, many of the reports included statements referencing the training that was used, primarily the CPI training. Also, some of the actions taken in the incidents followed residents’ behavior plans. A random example of an incident report summary reads “When this staff arrived on shift, he [resident] was dozing off at the table. This staff said ‘good morning’ and he woke up. He then started to spit at staff. Staff got onto the computer and he walked up from behind and hit this staff. Staff got up and did not engage. He followed staff/co-staff around spitting and hitting. He hit the walls/windows. He continued to escalate and another individual would not stay on the couch. Due to him still escalating, staff and co-staff used the CPI transport position to separate him from the environment. He got to the garage and sat in his chair.” The actions taken said that they “Followed behavior plan. Made sure other individuals were safe. Used CPI the correct way.” There are other instances when the facility staff contacted OIG and that was also documented in the reports.

The HRA reviewed copies of attendance sheets for trainings. The HRA reviewed in-service training sign-in sheets for 2015-2016 which included trainings that covered choking risk, stool sample checks for a specific individual (name redacted), electronic documentation training, pre-operation order training for a specific individual (name redacted), refrigerated medical lock boxes, medication errors, nonviolent crisis intervention and other trainings specific to residents. The HRA was also provided in-service training attendance sheets for 2016-2017 which covered a resident’s post-operation corneal transplant, a new small oxygen conservator, house lifts, another resident’s post-operation medication, training to treat alcoholism, vehicle training, an individual’s C-pap care, Q-strait seatbelt for transportation, and behavior data sheets among others. The HRA was also provided training on policy and procedure for 2015 – 2017 which covered topics such as OIG, abuse and neglect, orientations, general policies and procedures, a revised smoking policy, team supervisor training, and then training specific to employees. There are also attendance sheets for 2015 – 2016 staff training on resident treatment and care. These trainings included on-the-job training trainers, webinar on the Illinois Department of Child and Family Services (DCFS) mandated reporting, Qualified Intellectual Disabilities Professional Training, creative job development strategies, updates on the new Home and Community Based Service requirements, new Center for Medicare and Medicaid Services regulations, proper clinical documentation, understanding the support services team, assistive technology, use of restrictive interventions/protective rights, medication administration, health class, supporting healthy relationships, non-violent crisis intervention, communication supports, health and safety, and legal and ethical issues in providing behavioral health care among others.

The CILA regulations require “d) Training 1) Direct service employees and any other compensated persons with responsibility for direct care of individuals served shall demonstrate competence in training areas listed in subsections (d)(1)(A) through (M) as a part of an orientation program. Anyone specified in this subsection (d)(1) without previous experience in direct service to individuals shall receive training and demonstrate competence prior to unsupervised responsibility for direct service unless trained employees are on site and available for on-the-job training. Direct service providers as specified above who have completed training in the below mentioned areas, and demonstrated competence as documented in their records, shall not be required to repeat that training as part of their orientation. Anyone specified in this subsection (d)(1) who has not demonstrated competence shall receive training until he or she can

demonstrate competence in the following areas, as recorded in his or her records. All direct service employees and any other compensated persons, regardless of staffing model, shall receive training and demonstrate competence as documented in employee records in the following training areas: ... B) Concepts of treatment, habilitation and rehabilitation including behavior management, normalization, age appropriateness and psycho-social rehabilitation depending on the needs of the individuals served or to be served; ... D) Abuse, neglect and unusual incident prevention, handling and reporting; E) Individual rights in accordance with Chapter II of the Code and maintaining confidentiality in accordance with the Confidentiality Act; F) The nature and structure of the individual integrated services plan; ... I) Development and implementation of an individual integrated services plan; J) Formal assessment instruments used and their role in the development of the services plan; K) Documentation and recordkeeping requirements with reference to the services plan; L) Other training which relates specifically to the type of disability or treatment and intervention techniques being used specific to individuals living in CILAs geared toward assisting employees to execute objectives obtained in the services plans; .. 2) After completion of training specified in subsection (d)(1) of this Section, each direct service employee shall participate in ongoing employee development activities as outlined in the agency's employee development plan" (59 Il Admin Code 115.320). Rule 50 reads "2) All employees, as defined in Section 50.10, shall be trained in Part 50 requirements upon being hired and at least biennially thereafter" (59 Il Admin Code 50.20).

Compliant #1 Conclusion

After reviewing the documentation provided by the facility and mandates regarding the training of staff, the HRA finds no evidence that there is inadequate staff training. The facility appears to be following the CILA requirements (59 Il Admin Code 115.320), including ongoing employee development. Additionally, it appears that the facility is training staff on Rule 50 abuse/neglect training and then refreshing the training biennially according to OIG regulations (59 Il Admin Code 50.20). Because of this, the HRA finds this complaint **unsubstantiated** but offers the following **suggestions**:

- In the interview, there was the statement that "Depending on the situation, they try to separate staff from the resident" but Rule 50 reads that the Authorized Representative "2) Remove accused employees from having contact with individuals at the facility or agency when there is credible evidence supporting the allegation of abuse, pending the outcome of any further investigation, prosecution or disciplinary action against the employee" (50 Il Admin Code 50.30). The HRA suggests the facility immediately begin compliance with this procedure if they are not already doing so.
 - Even though the HRA reviewed that there was training specific to the individual as per CILA regulations (59 Il Admin Code 115.320 (d) (1) (B)), this training does not seem to appear listed in the DSP training requirements. The HRA suggests this is added to that document.
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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.



December 21, 2017

Gene Seaman, HRA Coordinator
Human Rights Authority
401 Main St., Ste. 620
Peoria, IL 61602

RE: HRA No. 17-090-9025

Dear Mr. Seaman & Committee Members:

We have received the findings in the above-referenced case and thank you for your time in completing this investigation.

We understand that the HRA found this complaint unsubstantiated. After reviewing the suggestions, we have taken these under consideration. In cases where there is an allegation of abuse, Gateway Services does, in fact, remove the accused employee(s) from having contact with individuals when there is credible evidence supporting the allegation of abuse. It is possible, however, that we did not clearly communicate this. We absolutely want to ensure compliance with OIG in all situations.

As it pertains to training specific to the individual(s) per CILA regulations, we plan to list this with the DSP training requirements. You can be assured that all staff are trained in "concepts of treatment, habilitation and rehabilitation including behavior management, normalization, age appropriateness and psycho-social rehabilitation depending on the needs of the individuals served or to be served" as defined in the CILA rule.

Again, thank you for your time and thoroughness related to this case. It remains our goal to exceed the expectations of those who receive services and their families, and this includes not only ensuring their safety, security, and well-being but also empowering each individual to exercise his or her rights in all situations.

If you have further questions or need to reach me at any time, please call (815) 875-4548 Ext. 228 or email twright@gateway-services.org.

Sincerely,

Tracy Wright
CEO

An affiliated chapter of



*A Not-For-Profit Organization serving individuals with disabilities in
Bureau, Marshall, and Putnam counties*

United Way
Participating Agency

