



FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY-CHICAGO REGION

REPORT 18-030-9030

Ada S. McKinley Community Services, INC.

INTRODUCTION

The Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission reviewed the care and services of a consumer with mental health needs that received services from Ada S. McKinley. The complaint is that adequate and humane care was not assured when sensitive information was revealed to the client.

Substantiated findings would violate protections under the Mental Health and Developmental Disabilities Code (450 ILCS 5/1-101.2; 102a) and the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110/4).

Ada S. McKinley is an outpatient consumer community-based facility that has three primary areas of services: Child Development & Youth; Employment and Community Support; and Behavioral Health & Clinical. The majority of the clients served are youth that are at-risk for hospitalization. Ada S. McKinley services roughly 4,000 clients in a calendar year. Relevant policies were reviewed as was the consumer's record with proper authorization.

COMPLAINT SUMMARY

It was reported that during a routine psychological exam the 14-year-old consumer with a mental health diagnosis was exposed to delicate information due to a staff member's oversight. An intern therapist left her personal notes open in the consumer's full view when she momentarily left the room, revealing the identity of his real father. Directly after the exam the consumer's guardian spoke with the staff, informing the staff of concerns about the exposure. The very next day it was reported to the supervising physician that the exposure caused a decline in the consumer's condition.

FINDINGS

Ada S. McKinley Record Review:

The consumer visited the facility per the notes on March 26, 2018. The consumer was there for a psychological evaluation, the evaluation lasted approximately five hours. The psychological evaluation was conducted by an intern, and there are no agency notes that detail the interaction between the intern, guardian and consumer related to the incident.

On March 27, 2018 the consumer's guardian met with the Behavioral Health Services Manager to discuss concerns of what the guardian considered a confidentiality breach during the psychological evaluation. The manager and the guardian spoke at length for roughly thirty minutes. The manager offered to have another staff complete the psychological evaluation. The manager even offered more counseling options and monitoring of the consumer. The manager then informed the consumer's guardian that the issue would be addressed and followed up with the administration staff at Ada S. McKinley. The consumer's guardian, per the notes, indicated that she would like to continue with the intern and current services.

On March 27, 2018 the consumer and the assigned therapist met at the consumer's home. The purpose of the meeting was community support. The meeting lasted roughly three hours according to the record. The therapist encouraged the consumer to speak about learning the confidential information, the consumer declined. The therapist also encouraged the consumer's guardian to speak with administration at Ada S. McKinley about the breach of confidentiality.

The record reflects that the psychological exam was completed on March 28, 2018. The record also indicates that a subsequent meeting with the training director and the behavioral services manager was scheduled for April 10, 2018 at 10:00 a.m. There are no notes detailing what occurred during that meeting.

The HRA also reviewed the individual treatment plan that was included in the record. The service plan or individual treatment plan was finalized on March 2, 2018. The guardian and the consumer participated in the development of the treatment plan as evidenced by their signatures. There is no mention in the plan that information about the consumer's biological father should be withheld from him.

Guardian's Record Review:

On May 3, 2018 the guardian provided the HRA with a copy of a letter that was sent to the Vice President of Program Operations at Ada S. McKinley. The letter concurs that the breach of confidential information occurred on March 26, 2018. The letter confirms that the guardian and the Behavioral Health Services Manager did meet on March 27, 2018. The letter reaffirms the timeline established by the review of the records at Ada S. McKinley.

Site Visit and Interviews:

The HRA conducted a site visit to Ada S. McKinley on July 30, 2018. The HRA interviewed the manager of the behavioral health department, the assigned therapist, the director of quality assurance and the assigned intern. During the interview the HRA asked the staff to explain the environment of the meeting during the psychological evaluation on March 26, 2018.

The intern indicated that the guardian was interviewed as well as the consumer during this session. The intern stated that the consumer maintained a “flat affect,” during the entire process. The intern admitted that she did leave the room and upon returning she was notified that the consumer went through the case notes that had references to the father’s identity. The intern stated she was “distracted,” as this has never happened to her before. The intern and the consumer met, and the consumer confirmed that the case record had been read.

The intern stated that she offered and encouraged the guardian and the consumer to attend family therapy. The intern indicated that she completed the psychological exam the next day. The intern further stated that the consumer did not seem distressed or upset, she maintained that the consumer continued to have a “flat affect.” The intern also stated that she was counseled by her manager immediately after the situation.

The behavioral health manager informed the HRA that she offered additional family therapy due to the breach in confidentiality. The manager stated that the guardian seemed satisfied with this initially. The manager indicated that the guardian decided to stop the therapy after two sessions. The manager also increased sessions with therapist, to two times a week with consumer. The manager stated that there has not been a noticeable change in condition of the consumer. The manager then forwarded the guardian’s concerns to the administration.

The assigned therapist informed the HRA that the consumer’s mood has not noticeably declined since he discovered the information about his father. The therapist stated that the consumer’s only issues has been that his medication causes drowsiness. The therapist also confirmed that the visitations have increased from once a week to two times a week.

The HRA spoke at length with the director of quality assurance about the breach. The director indicated that the guardian was contacted and offered more therapy sessions with the therapist. The director stated they met as a team with the intern and handled the situation internally. The director also maintained that there has never been a breach of confidentiality in her tenure. The director states they met with the Department of Children and Family Services on this same issue.

Policy Review:

The HRA conducted a policy review of the Confidentiality of Information policy at Ada S. McKinley. Under the policy: “All employees, consultants and volunteers shall be responsible and

accountable for preventing unauthorized disclosure of Agency documents and information to which they have direct and indirect access and for safeguarding the same.” The policy further states: “Upon written request, clients who are twelve (12) years of age or older shall be permitted to inspect and copy any and all of their records ...”

CONCLUSION

Breach of confidentiality causing a decline:

Under the Mental Health Code, a recipient of services shall be provided adequate and humane care and services, pursuant to an individual services plan. (405 ILCS 5/2-102a). Adequate and humane care and services is defined as those reasonably calculated to prevent a decline in one’s clinical condition so that he is not a danger to himself or others. (405 ILCS 5/1-101.2). The Confidentiality Act allows any recipient aged twelve years or older to inspect his record upon request. (740 ILCS 110/4).

The facility has documentation that confirms there was a breach in its Confidentiality Policy. The subsequent site visit with the HRA confirmed the breach. The intern indeed left her notes with the sensitive information exposed for a few moments, which the HRA sees as a mistake and not an intended rights violation. The consumer is over twelve years old and has access to his record and all its contents, and, there were several people, including the guardian, who remained in the room and did not prevent him from reading the notes while the intern was away.

In addition, while the father’s identity was something the guardian wanted hidden from the consumer, it was not an agreement or problem issue written within the service plan nor was the disclosure the cause of any decline in his condition according to the clinicians who care for him. The only violation that may have occurred was in not having the young man’s written signature before reading his record per McKinley’s policy. That was not possible given the mistake. The error was immediately addressed by counseling the intern and supporting the consumer and his family with additional therapy sessions to address the matter. A rights violation is unsubstantiated.

SUGGESTIONS

The HRA concluded a records review and would advise the staff at Ada S. McKinley to add an entry for the meeting that occurred on April 10, 2018. The HRA would also propose verbally notifying parents, guardians and approved representatives that consumers over the age of twelve (12) can request to see their own records. The HRA would also suggest creating a document that implicitly informs parents, guardians and approved representatives that consumers over the age of twelve (12) can request to see their own records per request.

