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**FOR IMMEDIATE RELEASE**

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**East Central Regional Human Rights Authority  
Individual Advocacy Group  
Report of Findings  
Case #20-060-9014**

The East Central Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission (IGAC) voted to pursue an investigation of Individual Advocacy Group (IAG) in Champaign after receiving the following complaints of possible rights violations:

**Complaints:**

- 1. Inadequate staff training and oversight.**
- 2. Inadequate rights restriction process.**
- 3. Inadequate incident reporting.**

If the allegations are substantiated, they would violate protections under the Mental Health and Disabilities Code (405 ILCS 5/2-201) and the Illinois Administrative Code (59 Illinois Administrative Code 115.320)

**Complaint Summary:** The East Central HRA wanted to address concerns from a response the agency received regarding case #20-060-9003 from IAG. Within that response, it was stated that policies are professional documents that are part of (the providers) annual consents packet, and they are available from professional personnel but not in the possession of direct support staff at any time. The response also stated that there is no such thing as a restriction of rights form and that all restriction approval is documented by checking a box at the end of the behavior service plan. Additionally, the response indicated that that incident report forms are internal forms ensuring follow through among personnel. Internal forms denote which members of the IDT and supervisory teams should have been contacted but have nothing to do with the guardian.

**Investigation**

The HRA proceeded with the investigation. To pursue the matter, the HRA conducted a site visit via WebEx and program representatives were interviewed. Relevant practices and policies were reviewed.

**Interviews:**

On September 29<sup>th</sup>, 2020 at 1:30 pm, the HRA met with IAG staff members, including: The Director of Operations. The meeting occurred via WebEx. The meeting began with introductions, a review of HRA procedures was not reviewed as staff stated they were aware of HRA procedures from previous report #20-060-9003 which this report stemmed from.

The staff provided some general information about IAG. IAG has several regions in Illinois and one in Washington D.C. In Champaign, IAG has 3 CILA houses. The CILA houses are staffed 24 hours a day by 4 to 5 staff in each home. There are typically 3 different shifts from 7am-3pm, 3pm-11pm and 11pm-7am. All staff receive Direct Support Professional (DSP) training, at a minimum, and some get additional training to be Qualified Intellectual Disability Professionals (QIDP). Staff also participates in a minimum of 80 hours of shadowing of other employees. Staff receives annual training on Human Rights and Abuse and Neglect. The staff interviewed reported that IAG has a Human Rights Committee that meets monthly to review psychotropics and rights restrictions. Each case is reviewed by the committees quarterly. Staff reported the Human Rights Committee can arrange for emergency consultations as needed.

Staff stated that all new employees are given a complete manual on policy and procedures at orientation. Staff stated that any time there are updates to the policy or procedures, staff are sent the updates. They are required to sign a document at orientation that states they have received, and are responsible for reviewing and understanding, the policy and procedures. Staff stated the policy and procedures are also located in every regional office and CILA house for review. Staff stated that there are monthly audits conducted by the house manager and quarterly audits conducted by corporate that verify the policy and procedures are in every regional office and CILA home. Staff participates in quality control to verify they can demonstrate how to do their work. There are monthly QIDP meetings. Staff is trained on right restrictions and the corporate quarterly audits list right restrictions.

IAG staff stated behavioral analysts write the behavioral support plans and the plan is reviewed by the behavioral management committee. Staff stated that the guardian must approve of the rights restriction. Staff said if the guardian does not approve of the rights restriction then the staff work with the guardian on alternative measures. Rights restrictions are never put in place without the verbal or written consent of the guardian. Staff stated once the guardian approves of the plan it is sent to the Human Rights Committee for review. IAG staff stated the behavioral management plan will include the reason for the rights restriction, how long the rights restriction will be in place and what measures are needed to remove the restriction. IAG staff stated the guardian is given annually a list of their rights. Staff stated copies are also kept in each house for the guardian or individual to review upon their request.

IAG staff stated there is a difference in an incident that needs to be reported versus an incident that is documented and tracked. Staff stated they have internal behavioral tracking sheets for incidents that need to be monitored and documented. Staff stated there is a Critical Incident Reporting and Analyst Systems (CIRAS) reporting form that they follow for reportable incidents per Illinois Department of Human Services (DHS). The CIRAS reporting form also lists critical incidents that must be reported and defines these incidents. IAG staff follows the CIRAS reportable incidents form for reporting. The CIRAS reporting form is completed with the details

of the incident, who was notified, and how contact was made. IAG staff stated this form is completed and given to another staff member to report on the DHS website. IAG staff stated if an incident meets the criteria to be reported to the Office of Inspector General (OIG), then the incident is reported. IAG staff stated if an incident does not meet the criteria to be reported, there is an internal report. Staff stated the internal report is given to anybody that needs to be aware, such as the house manager, regional director, and the behavioral analyst. The regional director then notifies the guardian. Staff stated the behavioral analyst looks for any pattern in behavior.

IAG requests guardians fill out a contact preference form annually. The contact preference form indicates the frequency and method by which the guardian would like to be contacted. IAG staff stated this preference form does not restrict when the guardian should be contacted. Staff reported that for unusual incidents such as illness or other atypical occurrences, will be reported to the guardian within 24 hours of the incident.

Staff said there may have been a misunderstanding on what was being asked with the response letter from case #20-060-9003. Staff stated the person that wrote the letter was not in the first meeting and may not have understood what was being asked. Staff stated IAG has an internal form that asks the guardian how often and by what means they would like communication for everyday updates. Staff stated the form is not to restrict when the guardian is contacted for emergencies.

### **Records Reviews:**

IAG provided the HRA with the following documentation:

- 1) Forms used to document staff training.
- 2) Initial Direct Support Professional training records for staff in Champaign region. The core competency verification indicates the person has completed all courses for DSP training and demonstrated all competencies. Additional documentation of class attendance, CPR certification, and safety care certification is included.
- 3) Documentation of staff training or recent retraining on Implementation Strategies Programs (ISP) and Behavior Support Programs (BSP) for person in support in the Champaign Region.
- 4) Documentation that staff are provided copies of all policies and procedures.
- 5) Policies and procedures related to staff training, restriction of rights process, and incident reporting.

### **Policy Reviews:**

IAG policy and procedure on staff training states that “all employees need to complete all state and IAG required training classes and up to 80 hours of on the job training prior to their 120<sup>th</sup> day of employment. QIDP employees are required, within their first fiscal year, to complete 40

hours of DHS QIDP training modules. Every fiscal year thereafter, the QIDP must have 12 hours of CEU's, 6 of these hours will need to be obtained from outside the agency.”

IAG direct support person training program included training in: Core Competency Verification Lists First Aid and CPR along with 6 Modules including Introduction to Developmental Disabilities, Human Rights, Abuse and Neglect Prevention Recognition and Intervention, Human Interaction and Communication, Service Plan Development and Basic Health and Safety which has 6 sections: Introduction of Basic Health and Safety, Human Growth and Development, Vital Signs, Wellness, Assisting with Activities of Daily Living, and Environmental and Individual Safety. IAG policy states that trainees must satisfactorily demonstrate knowledge in all DSP informational competencies listed on DHS website. The DHS website for DSP training went further in detail on the required models of training.

IAG policy and procedure on rights restriction states “the rights guaranteed either by the constitution or by the agency cannot be violated- or set aside- unless by approval of the Interdisciplinary Team, the Human Rights Committee, and the individual’s guardian (if applicable). This process should occur only when or if the individual’s safety is at risk, or the consequences of particular actions could result in physical or emotional harm for the individual or other individuals within the environment.” The policy also reads that “IAG has a Human Rights Committee whose purpose is to ensure the rights of each person being served. Any person who feels his/her rights have been violated should immediately contact a member of the Human Rights Committee who will then convey the information to the Individual Advocate or other Administrative Staff. Each alleged or suspected violation of an individual’s rights will be investigated and, if verified, corrective action taken.”

IAG policy and procedure on incident reporting states that “a reportable incident includes behavioral, medical, employee-related, miscellaneous, and medication-related occurrences which involve an IAG client or employee.” Many examples are provided in the policy including, noncompliance, running away, physical aggression, destruction of property, criminal conduct, emergency medical care, and the involvement of law enforcement. The policy also states that “the IAG personnel involved in the incident are required to immediately notify the house manager or director and that person will notify the consumer’s emergency contact, guardian, representative, or public agency financially responsible for the consumer’s care.” The incident reporting form denotes a specific place for persons contacted. IAG policy and procedure further outlines the process for investigating, reporting, and tracking of incidents

## **Conclusions**

### **Complaint 1: Inadequate staff training and oversight**

The Illinois Administrative Code (Ill. Admin. Code tit. 59, § 115.320) regarding Training states “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. 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: A) Cardiopulmonary resuscitation (CPR), Heimlich maneuver and first aid; 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; C) Safety, fire, and disaster procedures; 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; G) The type, dosage, characteristics, effects and side effects of medications prescribed for individuals. The agency shall assure that there is sufficient training in this area to provide coverage during expected and unexpected absences of caregivers by others who have been determined competent; H) Screening for involuntary muscular movement, which may be indicative of tardive dyskinesia; 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; M) The techniques associated with monitoring and regulating hot water temperatures prior to and during an individual's use to ensure safe hand-washing, hair-washing, bathing and showering procedures.”

According to the documentation provided to the HRA, IAG utilizes the Department of Human Services DSP training program which includes all the training categories listed in 59 Il Admin Code 115.320.

Based on the findings above the East Central Human Rights Authority concludes the complaint is **unsubstantiated**. No recommendations or suggestions are being made in relation to this complaint.

### **Complaint 2: Inadequate rights restriction process.**

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-201) states that “(a) Whenever any rights of a recipient of services that are specified in this Chapter are restricted, the professional responsible for overseeing the implementation of the recipient's services plan shall be responsible for promptly giving notice of the restriction or use of restraint or seclusion and the reason therefor to (1) the recipient and, if such recipient is a minor or under guardianship, his parent or guardian. The professional shall also be responsible for promptly recording such restriction or use of restraint or seclusion and the reason therefor in the recipient's record (2) a person designated under subsection (b) of Section 2-200 upon commencement of services or at any later time to receive such notice; (3) the facility director; (4) the Guardianship and Advocacy Commission, or the agency designated under An Act in relation to the protection and advocacy of the rights of persons with developmental disabilities, and amending Acts therein named,

approved September 20, 1985,<sup>1</sup> if either is so designated; and (5) the recipient's substitute decision maker, if any. The professional shall also be responsible for promptly recording such restriction or use of restraint or seclusion and the reason therefor in the recipient's record. (b) The facility director shall maintain a file of all notices of restrictions of rights, or the use of restraint or seclusion for the past 3 years. The facility director shall allow the Guardianship and Advocacy Commission, the agency designated by the Governor under Section 1 of An Act in relation to the protection and advocacy of the rights of persons with developmental disabilities, and amending Acts therein named, approved September 20, 1985, and the Department to examine and copy such records upon request. Records obtained under this Section shall not be further disclosed except pursuant to written authorization of the recipient under Section 5 of the Mental Health and Developmental Disabilities Confidentiality Act.”

IAG Policy and Procedure on Rights Restriction states “the rights guaranteed either by the constitution or by the agency cannot be violate- or set aside- unless by approval of the Interdisciplinary Team, the Human Rights Committee, and the individual’s guardian (if applicable). This process should occur only when or if the individual’s safety is at risk, or the consequences of particular actions could result in physical or emotional harm for the individual or other individuals within the environment. IAG has a Human Rights Committee whose purpose is to ensure the rights of each person being served. Any person who feels his/her rights have been violated should immediately contact a member of the Human Rights Committee who will then convey the information to the Individual Advocate or other Administrative Staff. Each alleged or suspected violation of an individual’s rights will be investigated and, if verified, corrective action taken.”

Upon reviewing the Code in comparison to the facility policy regarding rights restrictions, the HRA concludes that they vary greatly. The HRA understands that the facility adds rights restrictions to the individual’s treatment plan and the individual is notified, but the policy does not provide other mechanisms under 405 ILCS 5/2-200 & 201. Notification of any restricted right under Chapter II is required to be given to the recipient and any guardian, and to the IGAC and any other agency or person if so designated by the recipient (405 ILCS 5/2-200 & 2-201). Additionally, the restrictions must be recorded in the record and maintained by the facility for three years (405 ILCS 2-201). The HRA did not review where these are covered within the policy. Also, as the policy stands, there is no mechanism for an urgent rights restriction for an individual, such as an immediate need to restrict phone usage due to harassment, etc. IAG did not provide the HRA any copies of rights restriction forms. Furthermore, IAG policy and procedures did not state that IAG has or utilizes a rights restriction form.

Based on the findings notated above the East Central Human Rights Authority concludes the complaint is **substantiated**. The Human Rights Authority makes the following recommendations:

1. IAG update their CILA Policy and Procedures on violation of rights to include 405 ILCS 5/2-201.
2. IAG ensure that all Restriction of Rights notices are properly completed, approved, and provided to all required parties as per 405 ILCS 5/2-201.

3. IAG to have and maintain a file of all notices of restrictions of rights for the last 3 years per 405 ILCS 5/2-201(b).
4. IAG to ensure all staff are notified and provided an updated copy of the CILA Policy and Procedures on violation of rights.

The HRA respectfully requests that IAG provide the HRA with evidence that CILA Policy and Procedure on violation of rights has been updated and that staff has been trained. Furthermore, the HRA respectfully requests that IAG provide the HRA with a copy of the rights restriction form.

### **Complaint 3 Inadequate incident reporting:**

Illinois Administrative Code (59 Illinois Administrative Code 115.320) states “g) Unusual incidents 1) The agency shall have written policies and procedures for handling, investigating, reporting, tracking and analyzing unusual incidents through the agency's management structure, up to and including the authorized agency representative. The agency shall ensure that employees demonstrate their knowledge of, and follow, such policies and procedures. Unusual incidents shall include, but are not limited to, the following: A) Sexual assault; B) Abuse or neglect; C) Death; D) Physical injury; E) Assault; F) Missing persons; G) Theft; and H) Criminal conduct. 2) Within 24 hours of occurrence the agency shall report any incident which is subject to the Criminal Code of 1961 [720 ILCS 5] to the local law enforcement agencies. 3) The agency shall ensure that suspected instances of abuse or neglect against individuals in programs which are licensed by the Department are reported to the Office of Inspector General (Section 6.2 of the Abused and Neglected Long Term Facility Residents Reporting Act [210 ILCS 30-6.2].” The Mental Health and Disabilities Code (405 ILCS 5/2-102) states “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 Probate Act (755 ILCS 5/11a-23) states “(b) Every health care provider and other person (reliant) has the right to rely on any decision or direction made by the guardian, standby guardian, or short-term guardian that is not clearly contrary to the law, to the same extent and with the same effect as though the decision or direction had been made or given by the ward. Any person dealing with the guardian, standby guardian, or short-term guardian may presume in the absence of actual knowledge to the contrary that the acts of the guardian, standby guardian, or short-term guardian conform to the provisions of the law. A reliant shall not be protected if the reliant has actual knowledge that the guardian, standby guardian, or short-term guardian is not entitled to act or that any particular action or inaction is contrary to the provisions of the law.”

IAG policy and procedure on incident reporting illustrates multiple incidents that are reportable and directly states that “the director or designee will notify the CILA client’s emergency contact

person, guardian, representatives, or public agency financially responsible for the individual's care." IAG policy and procedure further outlines the process for investigating, reporting, and tracking of incidents

After completing the interviews, records reviews, and assessing applicable mandates, there is no evidence to support the complaint.

Based on the findings above the East Central Human Rights Authority concludes the complaint is **unsubstantiated**. No recommendations or suggestions are being made in relation to this complaint.

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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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