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East Central Human Rights Authority
Report of Findings
Case 10-060-9011
Moultrie County Beacon

The East Central Regional Human Rights Authority (HRA), a division of the Illinois Guardianship and Advocacy Commission, accepted for investigation the following allegations concerning residential health services at Moultrie County Beacon (MCB) located in Sullivan, Illinois.

Complaints:

1. **Care is inadequate because nursing is unavailable for medication direction to staff and guardian. Nurse on call is unresponsive to paging.**
2. **Nursing does not address prescriptions timely to manage pain of resident.**
3. **A resident does not receive sufficient nursing care after hospital discharge.**
4. **Nursing staff brought small children to the CILA after resident's immediate discharge from hospital and her children were allowed to observe patient being examined, and to go through patient's personal belongings.**
5. **There is a lack of guardian notification of resident illness.**
6. **The agency conducts inadequate investigations of resident/guardian grievances.**

If found substantiated, the allegations represent violations of the Mental Health and Developmental Disabilities Code (405 ILCS 5/1 et seq.), the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110/4 et seq. and The Probate Act of 1975 (755 ILCS 5/11a-23).

Per the website: "The Medical Services Department serves the consumer by providing a supervised medication program in accordance with the Medical Practice Act of 1987, the Illinois Nursing and Advanced Practice Act, and Rule 116. The purpose of this is to ensure the safety of consumers in programs funded by the Department of Human Service (DHS) by regulating the storage, distribution, and administration of medications.

The Medical Staff provide consumers with complete nursing assessments, schedule annual physicals, eye exams, dental exams, and labs as ordered by the physician. Staff also provide transportation as needed to appointments, close monitoring and supervision of

medications, screening for side effects of medications, clinics for flu/pneumonia vaccines and a link between the consumer and the physician.

The Department offers 24 hour, 7 days per week accessibility for medical issues that arise.

The MCB provides professionals to care for consumers that have experience with the developmentally disabled and mentally ill population."

The HRA proceeded with the investigation having received written authorization to review the consumer's record. To pursue the matter the HRA visited the facility where the program representatives were interviewed. Relevant practices, policies and sections of the consumer's record were reviewed. The HRA met with the Administrator, the Director of Residential Programming, the Director of Medical Programming, Director of Day Programming, the Director of Clinical Services Director of Nursing, direct care and social work staff. At this time the Moultrie County Beacon has 6 CILA homes with 4 to 7 consumers living in each home. 70 individuals are served by the day training program.

COMPLAINT STATEMENT

Per the complaint, on 10/30/09 the consumer had an endoscopic retrograde test (ERCP) to determine if she had a gall bladder stone. It showed that she had an enlarged liver and spleen. Her liver profile was high. The test was completed because the consumer had complained of horrible gas pains.

On 11/06/09 the consumer reportedly had extreme pain that showed she was having a gall bladder attack during the night. No staff at the house recognized that there may be a problem. Allegedly, staff did not call an ambulance; only Tylenol and Maalox were given. Her guardians were not consulted until the next day. One of the guardians who live just minutes away could have been called at any time. This guardian told the nurse to call an ambulance at any time and asked that she be called any time the resident had an attack. When this guardian went to the CILA home to check on the consumer, she found out that the consumer had not eaten all day. The consumer had not drunk any liquids during this time. The consumer had also vomited at the workshop that day and twice the night before. The guardian did not understand why the consumer was at the workshop when she was sick.

When the guardian asked the staff why the nurse was not called, it was allegedly explained to her that when staff called the nurse, the nurse would yell at them for waking her up. This nurse had not checked on the consumer. This guardian requested to be notified anytime the consumer was in pain or if she has any kind of issue.

The complaint states the guardian called the medical doctor to see if she could have the consumer seen sooner. The agency had taken the consumer to the appointments with the physician on 11/09/09 and on 11/13/09. The guardian transported the consumer to surgery. Her gall bladder was removed on 11/20/09.

According to the complaint, the consumer was to return home on 11/22/09. Per the consumer's physician, her gall bladder had been in terrible shape and she had numerous gall

stones. Per the physician, the consumer must have had many gall bladder attacks. There was much scar tissue on the gall bladder. Due to the consumer's fragile condition, the physician could not do a laparoscopy but had to do the traditional surgery which was much more invasive. It also required a longer recovery with more care from all providers. The consumer left the hospital with numerous stitches and a drainage tube for the bile. From 11/20/09 to 11/22/09 no one from the CILA or nursing called to check on the welfare of the consumer during her hospitalization. Beacon staff did not call the hospital to get updated information when the consumer would be discharged.

As per the complaint, the guardian called the CILA home on 11/22/09, the morning that consumer was being discharged. The guardian could not reach the nurse on call. House staff called, hospital staff called, and the guardian called the nurse on call. There was no response. There were medications to be picked up and there were specific directives of care the consumer would need due to just having surgery. Reportedly it took 3.5 hours for hospital staff the nurse on call to respond to her pages. The nurse stated she had turned her phone off, because she was at church. The nurse told staff to tell the guardian to pick up the consumer's medications at Walgreens on her way home. Staff informed the nurse that the guardian should not pick up prescription medications at Walgreens because these medications must be prepared by a local pharmacy who would prepare the medications specifically for the consumer with disabilities.

When the guardian and the consumer arrived at the house, the nurse allegedly showed up with her two children. She brought them in to the resident's room and the children watched their mother examine the consumer. The children ran through the house and went though the consumer's movies as per the complaint.

The nurse reportedly stated that she would not fill the Vicodin prescription, since the consumer had some already even though it was a different prescribed strength, which the patient would need for her recovery. Staff let the nurse know that it would be a medication error for them to give the patient more medication than what was on current script. Per staff, the nurse stated, I guess I will have to bring you a label.

The complaint states that the following Wednesday night, the MCB nursing staff failed to check on the consumer. Staff called the guardian to let her know she was not doing very well. The guardian had to insist that the resident be transferred by ambulance to the emergency room.

After the consumer was transferred by ambulance, she was hospitalized for several days. During her second hospitalization, the consumer needed a nasogastric intubation (NG Tube) that was placed through the consumer's nose, past the throat, and down into the stomach. The NG tube was placed due to a large gall bladder leak, there was a stint installed. When the consumer had returned to the CILA, her surgery site had become infected. It was suspected that MCB nursing staff were not attending to the stint. When staff said the consumer needed an evaluation the nurse refused to come down to check on her as per the complaint.

Allegedly on 12/04/09 the nurse was paged by MCB staff at 1:30 am, 6:48 am, 7:00 am, and 7:40 am, because the consumer was in chronic pain. Once again it was the same nurse that consistently ignored her pages. A staff member drove to the office in person, had to wait for the corporate office to open and informed the nursing office this patient had not received pain

medications. Then medications were administered at 9:01 am. The consumer was in pain for over 7 hours. There was concern about the rights of this consumer as well as other consumers who would have listened to the consumer suffering all night.

Findings

In regard to the incidents, MCB management stated there were some changes made internally due to budget cuts which left staff very dissatisfied. Management reported that the nurse in the complaint had an unfriendly personality and staff did not like her. Management had investigated the incident and reported that the nurse wasn't as nice or as thorough as she should have been. The nurse claimed she didn't receive the middle of the night phone calls. The staff working said she did receive the calls. When the nurse was commuting to work she left the agency phone at home. Staff didn't feel that they needed to call anyone else. As far as what actually happened, the consumer woke up because of another patient, was asked if she needed anything, she said yes, then went to bed before the pill was administered. There had been numerous complaints about the nurse from staff. The nurse was discharged after the incident.

The HRA asked how many nurses were employed at this time and was told there was a registered nurse, 2 licensed practical nurses and 1 assistant. There was also a registered nurse consultant that covers on-call or for special situations.

In regard to questions about frequency of nurse contacts with consumers, nurses see some consumers daily Monday through Friday. Weekends are dependent on need. Licensed Practical Nurses deliver medications 3 times per day. They make visual assessments whenever they are in contact with consumers. After hours there is an on-call nurse 24 hours per day, 7 days a week. The Director of Medical Programming always has a phone and is available. 2 other nurses rotate being on call. There is also a back up plan if one is not available and there is an emergency call list of those to call. It has all contact information for the nurse on call, the House Manager, the Director of Residential Services, the Director of Medical Services and the Executive Director.

When asked what the policy is for guardian notification, the agency's staff stated that guardians complete a document stating what they want notified about. The process with this consumer is that they always call the guardian located in the same town as the consumer. Nursing as well calls the guardian in town. There is a guardian notification document completed and documented on file for this consumer that is available to all staff to contact the guardian. There is a traveling log that goes between the home and the main office.

Per MCB staff, this facility does have a grievance policy and at this time the consumer has not filed a grievance nor has anyone on behalf of the consumer. Each consumer receives a grievance form and is explained the grievance procedure every year. It is signed and witnessed. This is completed at intake. Office of Inspector General (OIG) contact information is located by every phone. All residents have access to phones and computers. Phones are portable. Confidential reporting may easily occur. A complaint was made to the OIG. Per the OIG report, findings were unsubstantiated with recommendations. The director of clinical services is responsible for OIG investigations at the Moultrie County Beacon. The HRA requested any incident reports completed regarding the dates mentioned. There are also quality assurance measures such as a resident complaint form and a resident satisfaction survey.

Staff members explained that MCB does have an active, internal human rights committee and an active behavioral management committee; the committees could not discuss the issues until the OIG finishes its investigation.

When asked how MCB will accommodate a resident that is being discharged from the hospital the HRA was advised that the nurse maintains contact with the consumer while in the hospital. They try not to discharge on weekends or after hours. Even though the nurse was not there the home health care worker was there. Home health handled the entire medical care from discharge.

The HRA asked about administering pro re nata (PRN) medications, meaning "when necessary" and was advised that each consumer has a PRN protocol. This requires a nurse's approval to administer PRN medications.

Per staff when there is an accident or illness, there is a phone interview completed with the nurse. They generally will call an ambulance if it is bad. They assess all accidents, if they are serious they will contact 911 regardless, if it's small they base it on the guardian's wishes.

MCB staff explained that when consumers are ill, they do not attend the day program, the consumer will stay at home with a staff member. This resident was home for 6 weeks recovering from surgery. Home health care visited daily to provide follow up care for the consumer's recovery.

There is a visitor policy that a visitor of a staff member, may only stay for 15 minutes. The nurse's children should not have been allowed to see the consumer examined or go through the consumer's belongings.

Per the allegation the consumer had not eaten all day on 11/06/09, when asked what happens if a consumer is not eating, the HRA was told that type of information is passed amongst the staff and they try to assess and address what is going on with that individual.

When asked what training upon employment is in place to assist staff in providing adequate and humane care the HRA was informed that the DHS direct service personnel (DSP) classroom curriculum is taught. There is DHS training for recognizing and reporting abuse and neglect of adults with disabilities. There are at least weekly in-service trainings that are provided to staff. This includes refresher training on abuse/neglect, resident rights, and mandatory abuse and neglect reporting. There is training on the administration of daily medications and what to do if a resident is running low on medications. There is training and policy for assisting a resident who may need medical attention. Staff are trained to assist residents who may need medical attention and PRN medication.

We observed an outside area and a general area for consumers to relax, watch television and participate in group activities. On the walkways there were poster boards that listed toll free phone numbers of advocacy agencies and resident rights as well as activity calendars and notices of upcoming events in which consumers could participate.

Policy Reviews

The HRA reviewed the current policy regarding visitors in the CILA home that was in the *Residential Policy and Procedure Handbook* (no date), that addresses visitors on page 19. It stated that "Family and Friends of employees may visit but should limit the visit to 30 minutes unless authorized by the immediate supervisor." Employees are responsible for the conduct and safety of their visitors. There was also a memo from the director of residential services which referred to a discussion with a worker from DHS Bureau of Accreditation and Licensure and Certification who stated that he was unaware of any visitors rule but an agency would be "dinged" if a consumer complained.

The HRA reviewed the *Guardian Request Form for Incident Notification* document completed on 12/09/09. It listed both a day, home and cell number for the guardian who was located in the same town as the resident. There were also 2 email addresses for the guardian that agency staff could use to send written reports. The guardian requested to be notified by phone and by a written report. A written report would be requested when there is an incident, and there were no certain conditions of an incident that only needed to be reported.

The HRA was provided a copy of the *Moultrie County Beacon, Inc. Emergency Call List (no date)*. The agency created this document after staff could not reach the nurse on call. This document reminded staff in an emergency to call the local ambulance. The number of the local ambulance company is posted at the top in large print. It advised employees when contacting medical services staff after hours to check the calendar and call the nurse on call. It advised staff to always leave a voice mail message and wait 15 minutes. If no response, staff are to leave another voice mail message, and wait 15 minutes. If there is no response from the second call, staff are to contact a house manager. If unable to reach a house manager staff are to leave a voice mail message. If staff are unable to reach the House Manager, they are to call the Director of Residential Services and leave a voice message. If staff are unable to reach the Director of Residential Services, they are to call the Director of Medical services and then call the Executive Director if no response.

The HRA reviewed the *Moultrie County Beacon Inc. Policy and Procedure for Administration of as needed (PRN) Medications* (12/09). "Policy: To ensure that as needed (PRN) medications are administered to consumers as prescribed, accurate, and safely and in accordance with the Mental Health and Developmental Disabilities Administrative Act (20ILCS1705) and DHS Rule 116." This policy explains further to direct care staff the protocol for PRN administration which must be written and approved by a nurse –trainer and prescribing practitioner for each individual. It lists 7 steps that direct care staff need to follow in order to administer (PRN) medications. The last 2 instructions under this policy are:

"6. If PRN medication was given document the administration in the communication book. In the case of unrelieved pain, agitation, fever, illnesses notify the on-call nurse within the hour.

7. PRN medications that state, 'must call nurse prior to administration' may only be given after notifying the on call nurse.'"

The HRA reviewed the *Human Rights Committee Policy and Procedures (11/03)* on page 2 it states: "The Committee shall review:

- Any allegation of abuse or neglect to any recipient and ensure that the facility acted prudently in cases of suspected abuse or neglect
- Any allegation by recipients, staff, parents or guardians of rights violations
- Recipient grievances
- Confidentiality and privacy issues"

The HRA was advised that the Human Rights Committee did not discuss the incidents, after the investigation was finished by the OIG; the incident was not discussed because there were no findings.

In *The Consumer Handbook* (6/06) on page 16 under health policy it states:

- "That a consumer should stay home if there are more than 2 episodes of vomiting.
- Diarrhea that continues after treatment with PRN order of antidiarrheals.
- Severe abdominal pain
- Any combination of above."

DHS Introduction to Basic Health & Safety Module 6 – Section 1 Direct Service Personnel (DSP) Notebook N-01-01-10 pg 37: "One of your responsibilities will be to report your observations in progress notes. Any medically-related issue which comes up on your shift must be communicated to the nurse and/or other staff. Remember to be objective when reporting and report only the facts."

Record Reviews

The HRA reviewed the record of the consumer and followed the events regarding the dates of the complaints. Evidence documented from universal notes (UN), general observation notes (ON), the medicine administration record (MAR), Nursing notes, and the OIG report concerning this consumer were comprised to create the following timeline of events:

10/30/09
(No time documented) the consumer went for testing regarding her gall bladder. Testing showed that a stone had passed and the consumer will need to have her gall bladder removed.

10/31/09
(No time documented) family members had taken the consumer out for dinner and stated she had really over eaten. The consumer was vomiting in the bathroom later.

11/05/09
(No time documented) the consumer went out to eat Chinese food with housemates.
8:30 pm the consumer received Maalox for stomach pain.
11:50 pm the nurse was contacted because the consumer continued to cry out in pain. She advised staff to give the consumer Tactinal for stomach pain and to have warm towels rolled up and applied to stomach.

11/06/09
1:00 am the consumer continued to cry out in pain and vomited.
1:30 am she vomited. She had a loose BM. The consumer had about 20 minutes of sleep.
4:00 am she vomited again.
4:30 am the consumer refused Maalox.
5:00 am she rested until 6:00 am, it was documented that she had no fever.
6:00 am the consumer was crying and holding her stomach. Staff gave her a warm towel. She complained the whole morning, refused breakfast. Then she went back to bed with a towel.
6:15 am the consumer received Maalox for stomach pain.
Staff had to wake her up for regular morning medications.
The consumer did not want to go to the day program but she did go.
At the day program it was documented that the consumer had a stomach ache and went to the nurse. The consumer told the nurse she had Chinese food for supper last night that's why her stomach was hurting.
When the consumer came home to her CILA, she had not eaten lunch.
The nurse brought new medications.
3:45 pm the consumer received Promethazine for nausea and Vicodin for pain.
4:30 pm the consumer went to sleep. She refused supper.
8:00 pm staff woke her up at for regular medications. Her guardian was with her and she ate a little and went back to bed.

The HRA was not provided any documentation showing staff contacted the nurse, notified the guardian or completed an incident or accident report on 11/06/11.

11/22/09
1:00 pm the nurse examined the patient and documented that new prescription orders had been given.
2:43 pm the nurse rechecked the consumer for abdominal pain.
6:00 pm staff document that consumer would only eat a few crackers and water. That Vicodin is being given every 4 hours.
10:30 Vicodin had been given

11/23/09
2:30 am Vicodin was given.
6:30 am Vicodin is given and it is documented that the consumer had a rough night and has been in lot of pain
12:00 pm it is documented that consumer was able to eat a few bites of ham, noodles, mashed potatoes, and some cake for lunch. MCB nurse gave Vicodin and Prilosec. The consumer is not complaining of much discomfort and pain as yesterday. That the consumer was walking around, staff had to advise consumer to allow staff to assist her before going outside for the next few days until she gains her strength back.
6:00 pm Vicodin was given for pain.

11/24/09
12:30 am Ibuprofen was given for a little pain in the consumer's ribs.

It was documented that she slept through the night. In the am it was documented that the visiting nurse came to see the consumer advised staff to give consumer Milk of Magnesia for constipation and Tylenol for the shoulder pain from lifting herself.
12:30 pm Tylenol was given for shoulder pain.
6:45 pm Tylenol was given for shoulder pain per direction of nurse.
9:45 pm and 10:10 pm consumer was having loose BM's and wanted medication to slow it down staff explained that the medication for constipation was working to clear her system.

11/25/09
12:00 am to 4:00 am it is documented consumer had a rough night and difficulty sleeping. The consumer complained she couldn't go to sleep.
(No time documented) it is documented that consumer had seen her physician and she will need to go back for another appointment to get the drain and staples removed at a later date. Consumer had eaten supper and went to bed.
6:45 pm consumer was in pain where the staples and gauze from her surgery. Staff advised by nurse to give Tylenol. Guardian arrived and called nurse, there was a concern that there could have been a possible blood clot in drain bag.
8:15 pm Blood pressure of consumer is 151/100 p.109. Consumer was very verbal about pain, paramedics called.
8:45 pm the consumer left for hospital by ambulance. Consumer was hospitalized until about noon on 11/29/09.

12/01/09
11:00 am staff talked with visiting nurse and discovered that the consumer was to be on a low fat/low cholesterol diet. Staff contacted MCB's nurses and asked for a copy of the diet as well as any other information from the consumer's hospital stay to be sent to the home, due to the fact that the CILA staff had not received any instructions by nurses for discharge care and the folder that was sent home with instructions from the hospital, had been sent to the MCB's office per the nurse's instructions. It was documented that staff were trained by visiting nurse on what to watch for in drainage tube and went to contact the MCB's nurse to "milk" the tube.

12/04/09
1:30 am another consumer had awakened requesting pain medication. The staff asked the consumer regarding this report, did she need pain medication and she indicated she did. She then went back to sleep.
6:48 am the consumer had awakened a second time and she requested pain medication. The record shows that staff attempted again to contact the nurse.
7:00 am CILA staff attempted to contact the nurse.
7:30 am CILA staff attempted to contact the nurse.
8:30 am MAR shows the consumer did receive pain medication. The record documents that staff had repeatedly attempted to contact the nurse on call who did not respond to her pages. The nurse left the agency cell phone at home, when she arrived at work at 8:30 am management had advised her that the CILA staff had attempted to call her. She gave permission to the staff at the CILA to administer the pain medication. The nurse denied receiving any phone calls from staff and the staff insisted they called the nurse.

2/09/10
OIG report 1210-177 submits report to agency, the allegation against the nurse is unsubstantiated regarding the incidents of 12/04/09, but recommended the following: "The agency review and revise the medical administration policies and procedures to ensure all medications are administered appropriately as prescribed and as needed, according to rule 59 Illinois Mental Health Code, Chapter 1, Part 116."

3/4/10
MCB responds to OIG report 1210-177 under *Service Provider Response*: "All medication administration policies and procedures have been reviewed. PRN protocols have been written for each consumer. The nursing on-call protocol has been revised and posted in all relevant consumer and staff areas. Corrective action has been taken with LPN. Changes began and implemented on 12/04/09. All were completed on 3/4/10." It also listed the Director of Nursing at MCB who would oversee the corrective action.

CONCLUSIONS

1. **Care is inadequate because nursing is unavailable for medication direction to staff and guardian. Nurse on call is unresponsive to paging.**
2. **Nursing does not address prescriptions timely to manage pain of resident.**
3. **A resident does not receive sufficient nursing care after hospital discharge.**

A week prior to the incidents on 11/06/09, the consumer had been diagnosed with having gall bladder attacks and had been scheduled for surgery. From what is documented by the staff of MCB, this consumer had been in chronic pain, had vomited more than twice, had loose BM's, had been up most of the night in pain, had eaten nothing and was sent to the day program which actually violated the MCB ***Consumer Handbook*** on page 16, under the health policy which states:

- "That a consumer should stay home if there are more than two episodes of vomiting.
- Diarrhea that continues after treatment with PRN order of antidiarrheals.
- Severe abdominal pain
- Any combination of above."

The HRA was not provided with any guardian notifications documented through these dates except about a staffing meeting that was rescheduled due to the consumer's pending surgery. There were no incident or accident reports in the record regarding this time period. Based on the documentation provided, the nurse was called on 11/05/09 at 11:50 pm. It does not appear that CILA staff contacted either the nurse or the guardian when the consumer was up vomiting all night on 11/06/09. The next contact with the nurse was when the consumer went to the day program and initiated a visit to the nurse herself.

The nurse followed up to see the consumer on 11/06/09 at 3:45 pm. Based on what is documented in the record it does not appear that the nurse, the staff at the CILA home, the day program staff or management consulted a physician, or the guardians to assist the consumer. The consumer's medical history of passing a gall bladder stone and having an upcoming surgery to

have her gall bladder removed should have triggered someone to seek medical assistance immediately for the consumer. If, as the complaint alleges, the staff at the CILA home were afraid to wake the nurse up, because she would yell at them, the needs of the consumer should have outweighed that concern. *Moultrie County Beacon Inc. Policy and Procedure for Administration of as needed (PRN) Medications* (12/09). 6: "If PRN medication was given document the administration in the communication book. In the case of unrelieved pain, agitation, fever, illnesses notify the on-call nurse within the hour." Staff should have followed this policy and contacted the nurse on-call within an hour of the consumer's unrelieved pain.

Per the complaint the nurse did not check on the consumer in the hospital and from the evidence she was not prepared for the consumer's discharge. Nursing should have been providing direction which would have included advising CILA staff of discharge instructions regarding diet and the specifics of care for that consumer upon her release from the hospital. She would have followed up on medications prescribed at discharge to provide adequate pain management and recovery. She should have had child care prearranged so that she could have focused on the consumer. It was very probable that her unsupervised children did not enhance the consumer's recovery. This same nurse failed to respond to her pages from 1:30 am to 7:30 am on 12/04/09.

On 12/01/09 staff found out 2 days after the second hospitalization for complications related to the consumer's surgery, that the consumer should have been on a low fat/low cholesterol diet since her gall bladder had been removed on 11/20/09. Fortunately a staff member had the wisdom to contact Moultrie County Beacon's corporate office to get a copy of discharge instructions so that staff could start providing the diet that the consumer needed. The nurse actually impeded the consumer's care by having the only copy of the instructions for discharge care sent to the MCB's office and not following up with staff.

Based on the documentation on11/06/09, 12/01/09, and 12/04/09 this consumer did not receive adequate and humane care according to the Mental Health Code (5/1-101.2): "Adequate and humane care and services, means services reasonably calculated to result in a significant improvement of the condition of a recipient of services". There was not adequate care to prevent neglect which is defined by the Mental Health Code (5/1-117.1): "Neglect means the failure to provide adequate medical or personal care or maintenance to a recipient of services, which failure results in physical or mental injury to a recipient or in the deterioration of a recipient's physical or mental condition." The Mental Health Code (5/2-112) states: "Every recipient of services in a mental health or developmental disability facility shall be free from abuse and neglect." Based on this evidence the following complaints have been substantiated:

1. **Care is inadequate because nursing is unavailable for medication direction to staff and guardian. Nurse on call is unresponsive to paging.**
2. **A resident does not receive sufficient nursing care after hospital discharge.**
3. **Nursing does not address prescriptions timely to manage pain of resident.**

The HRA does not make recommendations regarding these 2 complaints because MCB had initiated the following corrective action in providing care to consumers:

1. The nurse is no longer employed by this agency.

2. The agency has followed OIG's recommendations by having all medication administration policies and procedures reviewed. PRN protocols have been written for each consumer. The nursing on-call protocol has been revised and posted in all relevant consumer and staff areas. Changes began and implemented on 12/04/09. All were completed on 3/4/10. Moultrie County Beacon Inc. Policy and Procedure for Administration of as needed (PRN) Medications (12/09) states "Policy: To ensure that as needed (PRN)medications are administered to consumers as prescribed , accurate, and safely and in accordance with the Mental Health and Developmental Disabilities Administrative Act (20ILCS1705) and DHS Rule 116." This policy explains further to direct care staff the protocol for PRN administration which must be a written and approved by a nurse – trainer and prescribing practitioner for each individual. It lists seven steps that direct care staff needs to follow in order to administer (PRN) medications. The final instruction under this policy is "7. PRN medications that state, 'must call nurse prior to administration' may only be given after notifying the on call nurse.'"

   The HRA was provided a copy of the *Moultrie County Beacon, Inc. Emergency Call List (no date)*. The agency created this document after staff could not reach the nurse on call. This document reminded staff in an emergency to call the local ambulance. The number of the local ambulance company is posted at the top in large print. It advised employees when contacting medical services staff after hours to call the nurse on call and check the calendar and then if no response there is protocol for making contacts to other agency staff until contact is made and direction is received.

Suggestions:

1. Follow the (DHS) Introduction to Basic Health & Safety Module 6 – Section 1 Direct Service Personnel (DSP) Notebook N-01-01-10 pg 37 "Any medically-related issue which comes up on your shift must be communicated to the nurse and/or other staff."

2. Train staff to follow the *Moultrie County Beacon Inc. Policy and Procedure for Administration of as needed (PRN) Medications* (12/09). 6: "If PRN medication was given document the administration in the communication book. In the case of unrelieved pain, agitation, fever, illnesses notify the on-call nurse within the hour."

3. Have direct service personal review and follow the MCB ***Consumer Handbook*** health policy that should provide direction for staff for when a consumer should stay home.

4. Have the Human Rights Committee review the incidents that happened particularly on 11/06/09, 11/22/09, 12/01/09, and 12/04/09. On 12/04/09 OIG may not have had findings but it did have recommendations. There were allegations of abuse or neglect to a recipient that should be discussed.

5. Discuss consumer rights at the next human rights training regarding adequate and humane care, if this has not been completed already. The HRA can fully appreciate that staff may have had to deal with a hostile nurse, but the rights of the consumer to receive adequate and humane care should have superseded the discomfort of dealing with a nurse's negative behavior. The HRA also understands that this nurse might not have responded to a staff member's attempt to page her, but staff must protect the consumer's right which may mean going to a higher authority in the agency and reporting neglect and/or rights violations to appropriate third party agencies. The HRA commends the staff person who had followed up with the agency on 12/01/09 to provide the correct diet to the consumer.

Complaint 4. Nursing staff brought small children to the CILA after resident's immediate discharge from hospital and her children were allowed to observe patient being examined, and to go through patient's personal belongings. There was no evidence in the record that this occurred, however management and staff shared policy, but did not acknowledge or deny that it happened. The complaint documented that it did happen. It is a reasonable assumption that a consumer would have been very weak and in physical pain after having surgery. The consumer would have needed rest and medical care from a professional nurse whose focus should have been on the consumer. Unless children are the consumer's visitors, they should not have access to a consumer, a consumer's room or a consumer's personal property. The children of staff should not accompany staff who are providing consumer care, should not be allowed to view consumer examinations, and should not have access to consumer rooms or property. They should not have accompanied the nurse when she came to provide care for the consumer as per Mental Health Code and Confidentiality Act provisions related to privacy, visitation and personal property. The failure of the nurse to take action to protect the consumer's personal belongings and respect the consumer's privacy did not adhere to MCB's policy that employees are responsible for conduct and safety of their own children and visitors.

According to the Administrative Code, Title 59, Chapter 1 sect, 115.250 it states: "2) The right of individuals to confidentiality shall be governed by the Confidentiality Act." Since this nurse was no longer employed at the agency, the HRA could not interview her about this situation. Staff did not document on notes this incident. It is probable that this complaint did happen but based on a lack of evidence **4. Nursing staff brought small children to the CILA after resident's immediate discharge from hospital and her children were allowed to observe patient being examined, is not substantiated.**

MCB does have policies that are appropriate regarding visitors. The HRA makes following suggestions:

Suggestions:

1. Have the Human Rights Committee review the allegations of incidents that happened on 11/22/09 regarding confidentiality and privacy issues.

2. Discuss the rights of the consumer such as privacy and confidentiality at the next human rights training if this has not been completed including protocol and examples related to

visitors, the family of staff, etc.

3. Discuss internal reporting mechanisms should staff observe the inappropriate behavior of other staff. Follow the (DHS) Introduction to Basic Health & Safety Module 6 – Section 1 Direct Service Personnel (DSP) Notebook N-01-01-10 pg 37 "Any medically-related issue which comes up on your shift must be communicated to the nurse and/or other staff."

4. Review the amount of time staff visitors are allowed to be in residents' homes as per the *Residential Policy and Procedure Handbook* (no date).

The HRA does not want to impede the consumers' right to receive visitors with the consumer's and guardian's consent. There should not be an issue with a staff member, family member or a friend of a consumer who has permission from the employer and the consumer/guardian to bring children to visit a consumer and of course the visitor must be responsible for the conduct and safety of their children.

Complaint 5. There is a lack of guardian notification of resident illness.

The HRA was not provided with any guardian notifications documented through 11/06/09 through 12/04/09 except about a staffing meeting that was rescheduled due to the consumer's pending surgery. There were no accident or injury reports through this time either. The *(DHS) Introduction to Basic Health & Safety Module 6 – Section 1 Direct Service Personnel (DSP) Notebook N-01-01-10 pg 37*: "One of your responsibilities will be to report your observations in progress notes. Any medically-related issue which comes up on your shift must be communicated to the nurse and/or other staff. Remember to be objective when reporting and report only the facts." The Probate Act of 1975 (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. "

Mental Health Code 2-102, Care and services; psychotropic medication; religion states: "(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."

Title 59. Mental Health Chapter I. Subpart B 115.250 Individual rights and confidentiality state: "To ensure that individuals' rights are protected and that all services provided to individuals comply with the law, agencies licensed to certify CILAs shall assure that a written statement, in a language the individual understands, is given to each individual and guardian specifying the individual's rights. a) Employees shall inform individuals entering a

CILA program of the following: 5) Every individual receiving CILA services has the right to be free from abuse and neglect."

It was the consumer's right to have her guardians notified especially on 11/06/09, that she had been vomiting, in pain, and exhibiting serious symptoms related to her pending surgery. One of the guardians should have been contacted to intervene on behalf of the consumer.

From the record it does appear that the guardians were at the CILA during some of this time period when the events of the complaint had taken place, but there was no documentation of notification of the guardians either in notes or on the *Guardian Request Form for Incident Notification.* Staff either did not notify the guardians or did not document that they had notified them. Based on this evidence provided, the **Complaint 5. There is a lack of guardian notification of resident illness is substantiated.**

Recommendation:

Follow the Illinois Probate Act and the Mental Health Code with regard to guardian participation in treatment decisions. Moultrie County Beacon does have a system in place for guardian notification, but staff need to adhere to it. Staff need to be trained when to notify the guardian and documentation needs to take place on the document provided by MCB and in notes per the *(DHS) Introduction to Basic Health & Safety Module 6 – Section 1 Direct Service Personnel (DSP) Notebook N-01-01-10 pg 37.* In this particular case guardian notification was crucial because staff did not notify nursing on 11/06/09. Neither was the nurse as responsive as she should have been during the consumer's recovery.

6. The agency conducts inadequate investigations of resident/guardian grievance.

Per MCB staff, this facility does have a grievance policy and at this time this resident has not filed a grievance nor has anyone on behalf of the resident. Each consumer receives a grievance form every year. It was signed and witnessed upon receipt. The guardians did verbally complain. **115.250 Individual rights and confidentiality state: "**To ensure that individuals' rights are protected and that all services provided to individuals comply with the law, agencies licensed to certify CILAs shall assure that a written statement, in a language the individual understands, is given to each individual and guardian specifying the individual's rights. c) Individuals or guardians shall be permitted to present grievances and to appeal adverse decisions of the agency and other service providers up to and including the authorized agency representative. "

A complaint was made to the OIG. Per the OIG report, findings were unsubstantiated with recommendations. The HRA reviewed the OIG report. Pursuant to Title 59: Mental Health Chapter I: Department of Human Services Part 50 Office of Inspector General Investigations of Alleged Abuse or Neglect in State-Operated Facilities and Community Agencies Section 50. e: "No person shall interfere with or obstruct an OIG interview or investigation." MCB could not conduct an investigation while the OIG was investigating the incidents. The MCB Human Rights Committee could not discuss the complaints until the OIG investigation was completed. It did not review after the investigation was completed.

There is nothing in the regulations that require a written complaint to investigate a guardian/consumer complaint. The agency did not pursue a review of the verbal complaints recognizing that the OIG was also investigating. Based on the evidence provided the complaint, **6. The agency conducts inadequate investigations of resident/guardian grievance is substantiated.**

Recommendation: Ensure that consumer and guardian grievances, including verbal complaints are addressed consistent with the CILA rules.

Suggestion: Have the Human Rights Committee review the complaints regarding this report and the OIG report.

The HRA acknowledges the cooperation of Moultrie County Beacon during the course of its investigation.

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 NO. 10-060-9011

SERVICE PROVIDER: Moultrie County Beacon

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:

X 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.

Susan Rauch
NAME

EXECUTIVE DIRECTOR
TITLE

6-16-2011
DATE

Moultrie County Beacon, Inc.
Lighting the way for people with disabilities

June 16, 2011

Response to G&A Human Rights Case #10-060-9011

My biggest issue regarding the findings against our agency involves the picture that has been painted of our agency and our services. As I read the report I pondered how one inadequate employee could decimate the reputation of a very good agency in such a short period of time. The answer is – she can't. [redacted] does not live on an island with one person left to care for her; she has a team. One member of that team clearly dropped the ball and did not meet the required standards to continue her employment with our agency. I make no excuses for her conduct.

However, I continue to believe that the quality of service [redacted] received was far better than what this report would indicate. The rest of her team did not sit back and ignore [redacted] needs, but they were working at a disadvantage. The Director of Residential Services was off on medical leave from November 18th until December 2nd. I had just hired a new Director of Medical Services; her first day was December 1st. Our two LPN's had been with us less than 5 months and the training they received from the previous RN was not as it should have been. The House Manager at the CILA home harbored a grudge against the 2 new LPN's; she had recently lost her position in the medical unit due to budget cuts, and was a close friend of the previous LPN's. In a nutshell, we were in a state of disarray. [redacted] became the victim of the above mentioned circumstance. To further add to the mix, the [redacted] is fed a steady stream of complaints from residential staff about the LPN and her attitude regarding the care of her [redacted] I don't dispute that some complaints were warranted, but I am certain there was a fair amount of embellishment going on as well.

I do believe that the LPN failed to answer her page on 12/4, and I certainly believe that those calls were placed. However, [redacted] had not gotten up that night because she was in pain. She was awakened by another consumer. She went back to bed and slept the rest of the night.

[redacted] was visited by staff while she was hospitalized and phone calls were made to check on her condition. [redacted] post operative care was provided by Home Health Nursing and by the DSP's in the home. They continued to do their job and care for [redacted] The LPN in question clearly failed in her duties but the rest of the team did not fail. With regard to the infection [redacted] received from her stint, I do not think that the statement "It was suspected that MCB nursing staff were not attending to the stint" was warranted. Again, follow-up nursing care was provided by [redacted]. I remember our nurses making numerous calls to this organization on [redacted] behalf.

401 West Water Street, PO Box 406 Sullivan, Illinois 61951 phone 217.728.7396 fax 217.728.2217 www.mcbeacon.org

In closing, I need to restate my feeling that our entire service structure has been unfairly attacked because of one weak link. We have a very strong nursing unit although in November of 2009 we did not. We have a highly efficient training program, although it was not represented by the LPN in question. And, our after care program for those recuperating from a hospitalization is exceptional. Remember, these events took place in November and December of 2009. They in no way represent our level of service or the competency of our nursing staff.

Respectfully submitted,

Susan Rauch

Susan Sullivan Rauch
Executive Director

Moultrie County Beacon, Inc.
Plan of Correction
Human Rights Authority No. 10-060-9011 **June 22, 2011**

Per your report submitted to us on May 26, 2011, following 18 months of investigation, numerous site visits and submission of documents and cooperation by all staff and administrators from the Moultrie County Beacon, Inc. our Plan of Correction is submitted as follows:

Complaint 5: There is a lack of guardian notification of resident illness.

- "The HRA was not provided with any guardian notifications documented through 11/6/09 through 12/4/09 except about a staffing meeting that was rescheduled due to the consumer's pending surgery. There were no accident or injury reports through this time either." The DHS Introduction to Basic Health & Safety Module 6 – Section 1 Direct Service Personnel (DSP) Notebook N-01-01-10 pg. 37 was referenced in regard to training staff to report observations in progress notes, communication to the nurse and/or other staff. The Probate Act of 1975 (755 ILCS 5/11 a-23) was referenced related to "every health care provider and other person (reliant) has the right to rely on any decision or direction made by the guardian....that is not contrary to law," the Mental Health Code 2-102 (a) A recipient of services shall be provided with adequate and human care and services in the least restrictive environment, pursuant to the 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....," Title 59: Mental Health Chapter I. Subpart B 115.250 5.) .....Every individual has the right to be free from abuse and neglect."

- Citing the above regulations that the agency is mandated to adhere to, the investigation report states:

  "It was the consumer's right to have her guardians notified especially on 11/6/09, that she had been vomiting, in pain, and exhibiting serious symptoms related to her pending surgery. One of the guardians should have been contacted to intervene on behalf of the consumer. From the record it does appear that the guardians were at the CILA during some of this time period when the events of the complaint had taken place, but there was no documentation of notification of the guardians either in notes or on the Guardian Request Form for Incident Notification. Staff either did not notify the guardians or DID NOT DOCUMENT THAT THEY HAD NOTIFIED THEM. (Writers emphasis) Based on this evidence provided, the Complaint 5. There is a lack of guardian notification of resident illness is substantiated."

- The Record Review on page 7 and 8 of the investigative report lists the events that were documented during the course of 11/6/09 including the updating of charting started at 1:00 a.m., 1:30 a.m., 4:00 a.m., 4:30 a.m., 5:00 a.m., 6:00 a.m., 6:15 a.m., continuing after day program, where she was seen by nursing staff, then continuing upon return to the CILA after day program at 3:45 p.m., 4:30 p.m., and concluding at 8:00 p.m. where the documentation notes that "staff woke her up at for regular medications. HER GUARDIAN WAS WITH HER (writer emphasis) and she ate a little and went back to bed. The notation in the investigative report states,

  "The HRA was not provided any documentation showing staff contacted the nurse, notified the guardian or completed and incident or accident report on 11/06/11 (error on report)."

However from the above review of the documentation the guardian was in attendance at the CILA at 8:00 p.m. The agency may not have documented that the guardian was notified of the individual's illness, but there was either ownership and oversight from the guardian themselves that led to their involvement that day or the agency notified them of the issues, but failed to document that they had done so.

Plan of Corrective Action: This agency complies to the DHS Training Requirements for Direct support Persons (DSPs) working in the community residential and day program settings. This program includes a minimum of 40 hours of classroom instruction in Introduction to Developmental Disabilities, Human Rights, Abuse and Neglect Prevention, Recognition and Intervention, Human Interaction and Communication, Service Plan Development and Implementation, First Aid and CPR, and Basic Health and Safety. The training then continues on through 80 hours of on the job training (OJT) to prepare staff for performance of their job duties. These OJT's are observed, monitored and documented upon through a Competency Based Task analysis/Assessment. These same newly hired DSP's have been screened through the Illinois State Police Criminal Background Check and the Health Care Worker Registry to ensure that they have no disqualifying conditions for their employment prior to hire and training. As an agency we take pride in our training program and the educational opportunities that new DSP's have prior to their interaction and supervision with the individuals we serve.

That said, and pursuant to the agencies DHS Training Requirements that include the DHS Introduction to Basic Health and Safety Module 6 – Section 1 Direct Service Personnel (DSP) Notebook N-01-01-10, emphasis will be made on the need to document every instance of interaction with an individual's guardian and the wishes they convey to staff. A notation and reminder will be included on MCB Form 506 Universal Documentation that reminds staff of a need to contact the nurse and guardian in the event of any medically related issue of the individual and document this in U-Notes.

See Attachment A - revised U-Notes document

Complaint 6: The agency conducts inadequate investigations of resident/guardian grievance.

Pursuant to Title 59: Mental Health, Chapter I: Department of Human Services, Part 115 Standards and Licensure Requirements for Community-Integrated Living Arrangements Section 115: 250 Individuals Rights and Confidentiality:

> "To ensure that individuals' rights are protected and that all services provided to individuals comply with the law, agencies licensed to certify CILA's shall assure that a written statement, in a language the individual understands, is given to each individual and guardian specifying the individual's rights. All individuals enrolled in the Medicaid DD Waiver shall be given a written copy of DHS Medicaid Home and Community Based Services DD Waiver, Rights of Individuals."; c) Individuals or guardians shall be permitted to present grievances and to appeal adverse decisions of the agency and other service providers up to and including the authorized agency representative."

- The Moultrie County Beacon, Inc. presents at least yearly, and more often upon request, the Department of Human Services Medicaid Home and Community-Based Services DD Waiver, Rights of Individuals (IL462-1201 (R-5-08); the Department of Human Services Notice of Individual's Right to Appeal IL462-1202 (R-9-08); the Moultrie County Beacon, Inc. Statement of Consumer's Rights, Form 104; the Moultrie County Beacon, Inc. Grievance Procedure, Form 105. (ATTACHED) These forms are signed and verified to have been read by the consumer, or in the

event of a legal guardian, the guardian signature is secured. These statements are kept in the consumer's file for verification by supervisory agencies that this requirement has been met and individuals and/or their guardians have been notified of this process for ensuring procurement of their rights and responsibilities.

- The individuals and/or their guardians are given a Consumer Handbook at intake into their program at the Moultrie County Beacon, Inc. that includes a copy of a Consumer Complaint Form, MCB Form 105.2 along with a permanent copy of their Consumer Rights and Grievance Procedure for reference. This Consumer Complaint Form can be completed at any time there is an issue that needs resolution. Updates to the Consumer Handbook are distributed as they are made.

- The guardians involved in this investigation by the Human Rights Authority were appointed by the [redacted] Circuit Court in [redacted] as Co-Guardians of the Estate and Person of the disabled person in question. This would mean that the rights statements and grievance procedures were presented and signed by them at the very least four (4) times prior to this situation. Each year the individuals we serve and/or the guardians are assessed of their satisfaction with services in their day program, residential home, with their staff and QSP, with medical services, transportation among other issues in an effort to uncover discuss, and deal with any dissatisfaction.

- The Office of Inspector General was conducting an investigation into a complaint made to them of which the findings were unsubstantiated with recommendations that were not only followed but were addressed prior to their report. An investigation into the guardian's dissatisfaction with the events was conducted, although a verbal complaint or initiation of the grievance process by them was never initiated at our agency. The guardian's in this instance pursued another course of action, which of course they had every right to pursue. Our agency staff and administration fully cooperated with the OIG's investigation of abuse or neglect and were satisfied with the outcome of their investigation.

Plan of Corrective Action: DSP staff, QSP staff and Administrative staff will make every effort to emphasize the rights of individuals to pursue grievances or complaints to their satisfaction. When assessing satisfaction with services, at all times, staff will ensure that a complaint will be addressed pursuant to the grievance policy to the satisfaction or conclusion of the problem.

The investigative report of the Regional Human Rights Authority of the Illinois Guardianship and Advocacy Commission along with the Office of Inspector General findings will be reviewed with the Moultrie County Beacon, Human Rights Committee at their next meeting scheduled for August 18th at 1:30 p.m. as was your suggestion.

Respectfully Submitted,

Susan Rauch

Susan Rauch
Executive Director
Moultrie County Beacon, Inc.

Betty Lewis

Betty Lewis,
Administrative Assistant

Attachments:

A. Moultrie County Beacon, Inc. Universal Documentation, updated 6/2011

1. DSP Training Requirements
2. DHS Introduction to Basic Health & Safety Module 6 – Section 1 Direct Service Personnel (DSP) Notebook N-01-01-10 pg. 37
3. Probate Act of 1975
4. Mental Health and Developmental Disabilities Code Article II. Procedures
5. Title 59: Mental Health Chapter I: Department of Human Services Part 115 Standards and Licensure Requirements for Community-Integrated Living Arrangements, Section 115.250 Individual Rights and Confidentiality
6. State of Illinois Department of Human Services Rights of Individuals
7. State of Illinois Department of Human Services Notice of Individual's Right to Appeal-English Version
8. Moultrie County Beacon, Inc. Statement of Consumer Rights
9. Moultrie County Beacon, Inc. Grievance Procedure
10. Moultrie County Beacon, Inc. Consumer Complaint Form

Responses:

Susan Rauch, Executive Director

[redacted], R.N., Director of Medical Services

[redacted], QSP

[redacted], LCPC, Director of Clinical Services

[redacted] QSP, Director of DT STARS

[redacted], Director of Residential Services

Response to Guardianship and Advocacy Commission
HRA No. 10-060-9011
June 15, 2011
[redacted] RN, Director of Medical Services

In my review of documentation of the above mentioned case the following was noted. In addition to nursing oversight provided by the Moultrie County Beacon, [redacted] was ordered [redacted] by the hospital prior to discharge. [redacted] services provided medical assessments, training to CILA staff, performed medical treatments (dressing changes and wound care) and facilitated transition from hospital to home. [redacted] meets consumer acute medical transitional needs as the CILA is not a medical model facility. CILA nursing provides oversight and has a supportive role. At the time of the described incident, [redacted] had two nursing supports available for medical needs. [redacted] provides 24/7 availability and a folder with their number was available to all in the CILA. Moultrie County Beacon Nursing provided oversight.

[redacted]
[redacted] RN
Moultrie County Beacon Inc
Director of Medical Services

June 6, 2011
Response to [redacted] investigation

I am writing to provide my input regarding the response that was received concerning [redacted] investigation. I was working at the [redacted] CILA home as a Direct Service Provider during the time period that [redacted] was having all the serious pain, gallbladder surgery and recovery. Reading through this investigation report really upset me because of the way it makes our agency look as a whole, when the fault should not have fallen on all of us. When reading through the complaint statement I see a statement that suggests that [redacted] had not eating or drank any liquids, the entire day on November 6th. When reading back over the u-notes from that day I see that it reads she refused breakfast, supper, and came home with her lunch. During this period of time, we were working on an informal program to positively reinforce [redacted] from stealing food without asking and she had boxes of snacks at the Workshop and the CILA for her to have throughout the day. She could have eaten some of these and it just wasn't recorded. Also she took medication three times that day so she had to have consumed at least an 8 oz. glass of water during each setting because that was the size of glasses the house has and each girl is required to fill the glass with water for medication pass. I also remember when [redacted] refused what was on the supper menu, because she was afraid she would throw up again, we accommodated her by making toast, malt-o-meal, and scrambled eggs.

There was also a statement written that [redacted] went to the hospital and no one from the CILA or nursing called to check on her. I personally drove to the hospital to check on [redacted] one evening and visited with both of her [redacted] when they were in the room with her.

The day that [redacted] was discharged from the hospital I was working at the CILA and took the call from [redacted] I repeatedly tried to call the nurse with no success and it did take quite a while for [redacted] to get in touch with the nurse and I remember the discussions about [redacted] medication being filled at Walgreen's.

I was also working on November 25th when [redacted] was in so much pain. I called the nurse, but I also called [redacted] the [redacted] in town, because the [redacted] had specifically asked to be kept updated on [redacted] situation when she came home from the hospital. [redacted] came right over to check on [redacted]. After some discussions we were uncomfortable with her vocalizations of pain and [redacted] stated that she wanted her to go to the hospital. When we were unable to get the nurse on call, we called the House Manager. There were several days that I stayed late, came in early, and took phone calls, when off the clock, about what I thought staff should do about [redacted] current situations.

During this time there were several incidents of myself sitting with [redacted], while she cried about her pain, or in the bathroom holding her hand when she was having difficulties having a BM. I also took responsibility for giving her sponge baths when she was unable to get into the shower, and changing her dressings over the open sight again and again so she could shower and clean herself up.

During this time we did have a lot of frustrations with one particular nurse but we, by no means took the option of not calling whether we got our heads bit off or not! There were some of us who took [redacted] situation very seriously and did our very best to look after her and keep her comfortable during this difficult time.

If you have any other questions, please don't hesitate to let me know.

[redacted]

[redacted] QSP
Qualified Service Provider
Moultrie County Beacon

The Moultrie County Beacon's Licensed Practical Nurse referenced in the investigative report simply failed in her professional duties while working for the agency. Her lack of professional attitude in handling the situation is now clear, her nursing knowledge is questionable at best, and therefore her inability to care for those in need is now apparent. This information came forward due to her inept handling of one consumer's serious health situation, as well as her ability to provide consistent and professional communication to the staff, consumer and the consumer's family.

Due to this, six separate complaints relevant to one consumer are registered with the HRA. All six complaints are written in a manner that paints the problem as being systemic and agency-wide instead of related to this one LPN and one series of events that she helped create. A moot point to some, but we know and agree that having this be completely public is necessary. However, let me make it clear to anyone reading my response that the solution to anything like this occurring again has been assured because this LPN no longer works for the Moultrie County Beacon.

In my three years as the Director of Clinical Services, the Office of Inspector General Liaison, and the Crisis Intervention Trainer at the Moultrie County Beacon, I can state that any instances in the past where a Beacon staff member has acted in this manner has led to their immediate suspension or termination. In working at 3 different agencies over 13 years, and as a testament to the administration of the Beacon, when such instances arise here, they are dealt with quickly, fairly and directly.

If this information had been brought to the attention of any Director or to anyone within the administration from the very beginning, I am certain this would have been addressed appropriately, and measures would have been put into place to keep the cascade of events from happening altogether. The grievance procedure and policy that is in place was not utilized by the guardian, and communication between the guardian and the agency (other than the LPN in question) did not occur. The Moultrie County Beacon and this guardian are very familiar with one another, and it is a shame that this was not addressed in the manner it should have been. We are all very sad and sorry that this happened to anyone, let alone one of our consumers. There are many people at the Beacon that work very hard, with empathy and caring, and it would be a shame to have the isolated actions of a former employee negatively influence the agency's status as a whole.

Sincerely,

[redacted]

Moultrie County Beacon, Inc.
Director of Clinical Services
[redacted]

June 3, 2011

To Whom It May Concern:

I am writing in response to the letter or findings regarding Case Number 10-060-9011. As an employee of the Moultrie County Beacon for 15 years I am writing to say that this letter, although said to be of truth, does not represent the Moultrie County Beacon agency. The Moultrie County Beacon represents our clients in an Advocative, professional, and compassionate manner on a daily basis. The person or persons who were involved in this matter are clearly not representatives of our agency and were quickly removed as professionals who would represent our agency. This kind of behavior is unacceptable, and is and was not tolerated. The client in which this series of events discusses is a part of our agency family, and should have never endured any kind of maladaptive treatment. The Moultrie County Beacon represents all of our clients with the sincerest of nature as to their rights as human beings, and we are thought of as such, as this is clearly seen on a daily basis.

Sincerely

[redacted]

[redacted] QSP
Director of DT Stars

Response to Guardianship and Advocacy Commission
HRA No. 10-060-9011
June 2, 2011
[redacted], Director of Residential Services

As a Director of Residential Services for the Moultrie County Beacon I have always taken pride in the services that are provided by this agency to the consumers. The nursing services provided by the Beacon in comparison to other agencies that contract nurses, is exceptional. They spend time with the consumers on a daily basis during the week and then as needed on the weekends. The Beacon staff works as a team and there is a considerable amount of time discussing client's interests. Every team member acts as an advocate for the consumers and if another team member should happen to "drop the ball" usually someone else is able to pick up where they left off. That is why I was shocked with the allegations in the report. However, as I look at this scenario and the number of team members who were either new, on sick leave, vacation, or had not come to work yet during this time period, I can understand part of the problem. The LPN handling the case was a fairly new employee (less than six months and was a poor nurse), the consumers QSP was on vacation several days during the last couple weeks of November, the new Director of Nursing had not started at the Beacon and myself, the Director of Residential Services was on sick leave from November 18th-December 2nd.

As stated in the report many changes have been made. Not mentioned in the report is our daily "Hot Topic" Meeting with Nursing, QSP's and the Director of Residential Services. This meeting is to discuss primarily any medical issues such as overnight illness, medical appointments, med changes, etc… The Beacon will continue to improve their practices to best meet the needs of the consumers we serve.

[redacted]
Director of Residential Services

ATTACHMENT A

MOULTRIE COUNTY BEACON, INC.
UNIVERSAL DOCUMENTATION

Areas:

(A) Physical/Health
(B) Nutrition
(C) Dental
(D) Grooming & Hygiene
(E) Toileting
(F) Receptive or Expressive Language
(G) Recreation
(H) Maladaptive Behaviors
(I) Social Interactions
(J) Other

Date	Area	Documentation

In the event of any medically related issue the nurse and the guardian must be contacted and this must be documented in the U-Notes

ATTACHMENT 1

The DSP Training Requirements

Direct Support Persons (DSPs) working in community residential and day program settings must successfully complete a Department approved Direct Support Person (DSP) Training Program. Respite workers, job coaches, secretaries, and other support staff are exempt from this DSP Training requirement.

Other staff, such as QSPs and Executive Directors that spend 20% or more of their time in a direct care role must complete the DSP Training Program. Certified Nurse Aides on the Health Care Worker Registry must only complete an abbreviated DSP Training Program.

DSPs must have an Illinois State Police Criminal Background Check result. It must be submitted to the Illinois Department of Public Health, on or before the first day of DSP training. The background check cannot be more than one year old.

DSPs must successfully complete DSP Training within 120 days from the hire date, but must not be completed in less than 21 calendars days.

DSPs must have their DSP training reported to the Illinois Department of Public Health, through Southern Illinois University-Carbondale within 30 days of successfully completing the DSP training program and to have their designation as a DSP (Developmental Disabilities Aide) added to the Health Care Worker Registry.

DSP Training Program Approval Process

Agencies can either choose to adopt the Department's DSP training program or use an agency developed DSP training program. The information presented in this course will assist an agency with the approval process for both the Department's training curriculum or an agency developed training curriculum. An agency representative **must** attend the *DSP Course Coordinator Training* session.

Today's training will include information on the processes required for either adopting the Department's approved curriculum or developing your own agency's program.

Classroom Training

Each program shall include a minimum of forty (40) hours of classroom instruction, excluding breaks and lunches.

Those hours must be allocated to each module in the following increments:

Module Name	Allocated Hours
Introduction to Developmental Disabilities	4
Human Rights	4
Abuse and Neglect Prevention, Recognition and Intervention	3
Human Interaction and Communication	4
Service Plan Development and Implementation	4
First Aid and CPR	6
Basic Health and Safety	15
TOTAL ALLOCATED HOURS	40

Agencies wishing to provide more that 40 hours of classroom instruction may allocate additional hours in a way that best fits their specific training needs.

Agencies that use their own curriculum or rewrite the Department's curriculum must have it reviewed and approved by the Department to ensure that it meets all content requirements.

The classroom curriculum used must cover all of the informational competencies listed on the DSP Core Competency Area Checklist (see next page for the DSP Core Competency Area Checklist IL462-1286).

DSP Training Program Core Competency Area Checklist (IL462-1286)

This document identifies the required competencies for the DSP Core Training. Trainers should use the checklist to ensure that DSPs have the requisite knowledge and abilities to perform their duties. Each competency area should be initialed by both the DSP and reviewer upon the DSP successfully demonstrating competency. The entire checklist should be filed in the personnel/training file of each DSP that is trained and placed on the Health Care Worker Registry. All areas of the cover page should be completed.

****IMPORTANT NOTE****
Training completion date should match DSP Training Roster Form that is sent to Southern Illinois University-Carbondale (SIU-C).

What are OJT and CBTA?

OJT - On-The–Job Training

An OJT is a set of activities or observations that the DSPs engage in to prepare them for performing certain job duties or competencies. OJTs give the DSP an opportunity to practice what they have learned in class. With OJT the individual performs his/her duties under the supervision of someone else who is qualified to do the job. Instructors should look for opportunities to reinforce the interventional competencies through OJTs. Once an opportunity for OJT is identified the process of competency based task analysis is begun to breakdown the competency. Four steps usually included in the OJT process are:

- ✓ **SHOW** – the OJT trainer SHOWs the trainee the task to be completed
- ✓ **TELL** – the OJT trainer Tells the trainee what is to be done; breaking the task down into easily understood steps
- ✓ **DO** – the trainee DOES the task
- ✓ **CHECK** – the OJT trainer CHECKs the trainee performance

CBTA - Competency Based Task Analysis/Assessment

During the *analysis* portion, the agency breaks down employee tasks into steps which are necessary to complete their duties. The *assessment* portion involves observing, monitoring and documenting the individual's performance in the execution of these steps.

Appendix 3

The Appendix 3 was written to assist agencies in satisfying requirements for eighty hours of on-the-job training. The on-the-job training activities in the Appendix 3 cover all the interventional competencies listed on the DSP Core Competency Area Checklist (IL462-1286). Agencies may adopt the entire Appendix 3 for use in their agency. The Appendix 3 can be found on the DHS web site **www.dhs.state.il.us**

Modification of the OJTs/CBTAs is encouraged to fit the need of the individual agency and persons served by that agency. If an agency makes any changes (or deletions) to the on-the-job training activities in Appendix 3, they must submit the materials for review to the Bureau of Quality Management with a completed copy of the Interventional Competency Evaluation Form.

All changes made to the Department's curriculum or any agency written curriculum materials must be submitted to the Bureau of Quality Management, along with a completed copy of the Informational Competency Evaluation Form. To obtain a copy of this form, please use the fillable PDF form on the DHS web site http://www.dhs.state.il.us under "*for* Provider", "Forms" "Numerical" and IL462-1285.

ATTACHMENT 2

Assessing Health Needs

People with developmental disabilities have the same health issues that anybody else does. They have colds, the flu, stomach aches, etc. Your role regarding the symptoms of an illness that an individual may display involves listening, questioning, observing and documenting.

Listening: Listen to what people say, such as:

- My stomach hurts
- I have a headache
- I don't feel well
- My tooth hurts

Questioning: You might ask questions, such as:

- Are you sick?
- Does it hurt somewhere? Show me.
- Can you tell me about it?

Observing: You might notice the following:

- Groaning
- Holding stomach/head, etc.
- Throwing up
- Discolored skin
- Change in behavior

Documenting:

Subjective vs. Objective Documentation

Objective Documentation is writing what you can see, hear, touch or smell.

Subjective Documentation is given by the individual, family members, or others. They include experiences, such as feelings they have or what the individual describes to you, such as pain.

One of your responsibilities will be to report your observations in progress notes. Any medically-related issue which comes up on your shift must be communicated to the nurse and/or other staff. Remember to <u>be objective</u> when reporting and report only the <u>facts</u>.

ATTACHMENT 3

Illinois Compiled Statutes

Information maintained by the Legislative Reference Bureau
Updating the database of the Illinois Compiled Statutes (ILCS) is an ongoing process. Recent laws may not yet be included in the ILCS database, but they are found on this site as Public Acts soon after they become law. For information concerning the relationship between statutes and Public Acts, refer to the Guide.

Because the statute database is maintained primarily for legislative drafting purposes, statutory changes are sometimes included in the statute database before they take effect. If the source note at the end of a Section of the statutes includes a Public Act that has not yet taken effect, the version of the law that is currently in effect may have already been removed from the database and you should refer to that Public Act to see the changes made to the current law.

ESTATES
(755 ILCS 5/) Probate Act of 1975.

(755 ILCS 5/Art. XIa heading)

ARTICLE XIa

GUARDIANS FOR DISABLED ADULTS

(755 ILCS 5/11a-1) (from Ch. 110 1/2, par. 11a-1)

Sec. 11a-1. Developmental disability defined.) "Developmental disability" means a disability which is attributable to: (a) mental retardation, cerebral palsy, epilepsy or autism; or to (b) any other condition which results in impairment similar to that caused by mental retardation and which requires services similar to those required by mentally retarded persons. Such disability must originate before the age of 18 years, be expected to continue indefinitely, and constitute a substantial handicap.

(Source: P.A. 80-1415.)

(755 ILCS 5/11a-2) (from Ch. 110 1/2, par. 11a-2)

Sec. 11a-2. "Disabled person" defined.) "Disabled person" means a person 18 years or older who (a) because of mental deterioration or physical incapacity is not fully able to manage his person or estate, or (b) is a person with mental illness or a person with a developmental disability and who because of his mental illness or developmental disability is not fully able to manage his person or estate, or (c) because of gambling, idleness, debauchery or excessive use of intoxicants or drugs, so spends or wastes his estate as to expose himself or his family to want or suffering, or (d) is diagnosed with fetal alcohol syndrome or fetal alcohol effects.

(Source: P.A. 95-561, eff. 1-1-08.)

(755 ILCS 5/11a-3) (from Ch. 110 1/2, par. 11a-3)

Sec. 11a-3. Adjudication of disability; Power to appoint guardian.

(a) Upon the filing of a petition by a reputable person or by the alleged disabled person himself or on its own motion,

the court may adjudge a person to be a disabled person, but only if it has been demonstrated by clear and convincing evidence that the person is a disabled person as defined in Section 11a-2. If the court adjudges a person to be a disabled person, the court may appoint (1) a guardian of his person, if it has been demonstrated by clear and convincing evidence that because of his disability he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning the care of his person, or (2) a guardian of his estate, if it has been demonstrated by clear and convincing evidence that because of his disability he is unable to manage his estate or financial affairs, or (3) a guardian of his person and of his estate.

(b) Guardianship shall be utilized only as is necessary to promote the well-being of the disabled person, to protect him from neglect, exploitation, or abuse, and to encourage development of his maximum self-reliance and independence. Guardianship shall be ordered only to the extent necessitated by the individual's actual mental, physical and adaptive limitations.

(Source: P.A. 93-435, eff. 1-1-04.)

(755 ILCS 5/11a-3.1)

Sec. 11a-3.1. Appointment of standby guardian.

(a) The guardian of a disabled person may designate in any writing, including a will, a person qualified to act under Section 11a-5 to be appointed as standby guardian of the person or estate, or both, of the disabled person. The guardian may designate in any writing, including a will, a person qualified to act under Section 11a-5 to be appointed as successor standby guardian of the disabled person's person or estate, or both. The designation must be witnessed by 2 or more credible witnesses at least 18 years of age, neither of whom is the person designated as the standby guardian. The designation may be proved by any competent evidence. If the designation is executed and attested in the same manner as a will, it shall have prima facie validity. Prior to designating a proposed standby guardian, the guardian shall consult with the disabled person to determine the disabled person's preference as to the person who will serve as standby guardian. The guardian shall give due consideration to the preference of the disabled person in selecting a standby guardian.

(b) Upon the filing of a petition for the appointment of a standby guardian, the court may appoint a standby guardian of the person or estate, or both, of the disabled person as the court finds to be in the best interest of the disabled person. The court shall apply the same standards used in determining the suitability of a plenary or limited guardian in determining the suitability of a standby guardian, giving due consideration to the preference of the disabled person as to a standby guardian. The court may not appoint the Office of State Guardian, pursuant to Section 30 of the Guardianship and Advocacy Act, or a public guardian, pursuant to Section 13-5 of this Act, as a standby guardian, without the written consent of the State Guardian or public guardian or an authorized representative of the State Guardian or public guardian.

(c) The standby guardian shall take and file an oath or affirmation that the standby guardian will faithfully discharge the duties of the office of standby guardian according to law, and shall file in and have approved by the court a bond binding the standby guardian so to do, but shall not be required to file a bond until the standby guardian assumes all duties as guardian of the disabled person under Section 11a-18.2.

(d) The designation of a standby guardian may, but need not, be in the following form:

DESIGNATION OF STANDBY GUARDIAN

[IT IS IMPORTANT TO READ THE FOLLOWING INSTRUCTIONS:

A standby guardian is someone who has been appointed by the court as the person who will act as guardian of the disabled person when the disabled person's guardian dies or is no longer willing or able to make and carry out day-to-day care decisions concerning the disabled person. By properly completing this form, a guardian is naming the person that the guardian wants to be appointed as the standby guardian of the disabled person. Signing the form does not appoint the standby guardian; to be appointed, a petition must be filed in and approved by the court.]

1. Guardian and Ward. I, (insert name of designating guardian), currently residing at (insert address of designating guardian), am the guardian of the following disabled person: (insert name of ward).

2. Standby Guardian. I hereby designate the following person to be appointed as standby guardian for my ward listed above: (insert name and address of person designated).

3. Successor Standby Guardian. If the person named in item 2 above cannot or will not act as standby guardian, I designate the following person to be appointed as successor standby guardian for my ward: (insert name and address of person designated).

4. Date and Signature. This designation is made this (insert day) day of (insert month and year).

Signed: (designating guardian)

5. Witnesses. I saw the guardian sign this designation or the guardian told me that the guardian signed this designation. Then I signed the designation as a witness in the presence of the guardian. I am not designated in this instrument to act as a standby guardian for the guardian's ward. (insert space for names, addresses, and signatures of 2 witnesses)

(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/11a-3.2)

Sec. 11a-3.2. Short-term guardian.

(a) The guardian of a disabled person may appoint in writing, without court approval, a short-term guardian of the disabled person to take over the guardian's duties, to the extent provided in Section 11a-18.3, each time the guardian is unavailable or unable to carry out those duties. The guardian shall consult with the disabled person to determine the disabled person's preference concerning the person to be appointed as short-term guardian and the guardian shall give due consideration to the disabled person's preference in

choosing a short-term guardian. The written instrument appointing a short-term guardian shall be dated and shall identify the appointing guardian, the disabled person, the person appointed to be the short-term guardian, and the termination date of the appointment. The written instrument shall be signed by, or at the direction of, the appointing guardian in the presence of at least 2 credible witnesses at least 18 years of age, neither of whom is the person appointed as the short-term guardian. The person appointed as the short-term guardian shall also sign the written instrument, but need not sign at the same time as the appointing guardian. A guardian may not appoint the Office of State Guardian or a public guardian as a short-term guardian, without the written consent of the State Guardian or public guardian or an authorized representative of the State Guardian or public guardian.

(b) The appointment of the short-term guardian is effective immediately upon the date the written instrument is executed, unless the written instrument provides for the appointment to become effective upon a later specified date or event. A short-term guardian appointed by the guardian shall have authority to act as guardian of the disabled person for a cumulative total of 60 days during any 12 month period. Only one written instrument appointing a short-term guardian may be in force at any given time.

(c) Every appointment of a short-term guardian may be amended or revoked by the appointing guardian at any time and in any manner communicated to the short-term guardian or to any other person. Any person other than the short-term guardian to whom a revocation or amendment is communicated or delivered shall make all reasonable efforts to inform the short-term guardian of that fact as promptly as possible.

(d) The appointment of a short-term guardian or successor short-term guardian does not affect the rights in the disabled person of any guardian other than the appointing guardian.

(e) The written instrument appointing a short-term guardian may, but need not, be in the following form:

APPOINTMENT OF SHORT-TERM GUARDIAN

[IT IS IMPORTANT TO READ THE FOLLOWING INSTRUCTIONS:

By properly completing this form, a guardian is appointing a short-term guardian of the disabled person for a cumulative total of up to 60 days during any 12 month period. A separate form shall be completed each time a short-term guardian takes over guardianship duties. The person or persons appointed as the short-term guardian shall sign the form, but need not do so at the same time as the guardian.]

1. Guardian and Ward. I, (insert name of appointing guardian), currently residing at (insert address of appointing guardian), am the guardian of the following disabled person: (insert name of ward).

2. Short-term Guardian. I hereby appoint the

following person as the short-term guardian for my ward: (insert name and address of appointed person).

3. Effective date. This appointment becomes effective: (check one if you wish it to be applicable)

( ) On the date that I state in writing that I am no longer either willing or able to make and carry out day-to-day care decisions concerning my ward.

( ) On the date that a physician familiar with my condition certifies in writing that I am no longer willing or able to make and carry out day-to-day care decisions concerning my ward.

( ) On the date that I am admitted as an in-patient to a hospital or other health care institution.

( ) On the following date: (insert date).

( ) Other: (insert other).

[NOTE: If this item is not completed, the appointment is effective immediately upon the date the form is signed and dated below.]

4. Termination. This appointment shall terminate on: (enter a date corresponding to 60 days from the current date, less the number of days within the past 12 months that any short-term guardian has taken over guardianship duties), unless it terminates sooner as determined by the event or date I have indicated below: (check one if you wish it to be applicable)

( ) On the date that I state in writing that I am willing and able to make and carry out day-to-day care decisions concerning my ward.

( ) On the date that a physician familiar with my condition certifies in writing that I am willing and able to make and carry out day-to-day care decisions concerning my ward.

( ) On the date that I am discharged from the hospital or other health care institution where I was admitted as an in-patient, which established the effective date.

( ) On the date which is (state a number of days) days after the effective date.

( ) Other: (insert other).

[NOTE: If this item is not completed, the appointment will be effective until the 60th day within the past year during which time any short-term guardian of this ward had taken over guardianship duties from the guardian, beginning on the effective date.]

5. Date and signature of appointing guardian. This appointment is made this (insert day) day of (insert month and year).

Signed: (appointing guardian)

6. Witnesses. I saw the guardian sign this instrument or I saw the guardian direct someone to sign this instrument for the guardian. Then I signed this instrument as a witness in the presence of the guardian. I am not appointed in this instrument to act as the short-term guardian for the guardian's ward. (insert space for names, addresses, and signatures of 2 witnesses)

7. Acceptance of short-term guardian. I accept this appointment as short-term guardian on this (insert day)

day of (insert month and year).

Signed: (short-term guardian)

(f) Each time the guardian appoints a short-term guardian, the guardian shall: (i) provide the disabled person with the name, address, and telephone number of the short-term guardian; (ii) advise the disabled person that he has the right to object to the appointment of the short-term guardian by filing a petition in court; and (iii) notify the disabled person when the short-term guardian will be taking over guardianship duties and the length of time that the short-term guardian will be acting as guardian.

(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/11a-4) (from Ch. 110 1/2, par. 11a-4)

Sec. 11a-4. Temporary guardian. Prior to the appointment of a guardian under this Article, pending an appeal in relation to the appointment, or pending the completion of a citation proceeding brought pursuant to Section 23-3 of this Act, the court may appoint a temporary guardian upon a showing of the necessity therefor for the immediate welfare and protection of the alleged disabled person or his estate on such notice and subject to such conditions as the court may prescribe. In determining the necessity for temporary guardianship, the immediate welfare and protection of the alleged disabled person and his or her estate shall be of paramount concern, and the interests of the petitioner, any care provider, or any other party shall not outweigh the interests of the alleged disabled person. The temporary guardian shall have all of the powers and duties of a guardian of the person or of the estate which are specifically enumerated by court order. The court order shall state the actual harm identified by the court that necessitates temporary guardianship. The temporary guardianship shall expire within 60 days after the appointment or whenever a guardian is regularly appointed, whichever occurs first. Except pending the disposition on appeal of an adjudication of disability, no extension shall be granted. However, the ward shall have the right any time after the appointment of a temporary guardian is made to petition the court to revoke the appointment of the temporary guardian.

(Source: P.A. 89-396, eff. 8-20-95; 90-250, eff. 7-29-97.)

(755 ILCS 5/11a-5) (from Ch. 110 1/2, par. 11a-5)

Sec. 11a-5. Who may act as guardian.

(a) A person is qualified to act as guardian of the person and as guardian of the estate of a disabled person if the court finds that the proposed guardian is capable of providing an active and suitable program of guardianship for the disabled person and that the proposed guardian:

(1) has attained the age of 18 years;

(2) is a resident of the United States;

(3) is not of unsound mind;

(4) is not an adjudged disabled person as defined in this Act; and

(5) has not been convicted of a felony, unless the court finds appointment of the person convicted of a

felony to be in the disabled person's best interests, and as part of the best interest determination, the court has considered the nature of the offense, the date of offense, and the evidence of the proposed guardian's rehabilitation. No person shall be appointed who has been convicted of a felony involving harm or threat to an elderly or disabled person, including a felony sexual offense.

(b) Any public agency, or not-for-profit corporation found capable by the court of providing an active and suitable program of guardianship for the disabled person, taking into consideration the nature of such person's disability and the nature of such organization's services, may be appointed guardian of the person or of the estate, or both, of the disabled person. The court shall not appoint as guardian an agency which is directly providing residential services to the ward. One person or agency may be appointed guardian of the person and another person or agency appointed guardian of the estate.

(c) Any corporation qualified to accept and execute trusts in this State may be appointed guardian of the estate of a disabled person.

(Source: P.A. 94-579, eff. 8-12-05.)

(755 ILCS 5/11a-6) (from Ch. 110 1/2, par. 11a-6)

Sec. 11a-6. Designation of Guardian.) A person, while of sound mind and memory, may designate in writing a person, corporation or public agency qualified to act under Section 11a-5, to be appointed as guardian or as successor guardian of his person or of his estate or both, in the event he is adjudged to be a disabled person. The designation may be proved by any competent evidence, but if it is executed and attested in the same manner as a will, it shall have prima facie validity. If the court finds that the appointment of the one designated will serve the best interests and welfare of the ward, it shall make the appointment in accordance with the designation. The selection of the guardian shall be in the discretion of the court whether or not a designation is made.

(Source: P.A. 81-795.)

(755 ILCS 5/11a-7) (from Ch. 110 1/2, par. 11a-7)

Sec. 11a-7. Venue.) If the alleged ward is a resident of this State, the proceeding shall be instituted in the court of the county in which he resides. If the alleged ward is not a resident of this State, the proceeding shall be instituted in the court of a county in which his real or personal estate is located.

(Source: P.A. 80-1415.)

(755 ILCS 5/11a-8) (from Ch. 110 1/2, par. 11a-8)

Sec. 11a-8. Petition. The petition for adjudication of disability and for the appointment of a guardian of the estate or the person or both of an alleged disabled person must state, if known or reasonably ascertainable: (a) the relationship and interest of the petitioner to the respondent; (b) the name, date of birth, and place of residence of the respondent; (c) the reasons for the guardianship; (d) the name

and post office address of the respondent's guardian, if any, or of the respondent's agent or agents appointed under the Illinois Power of Attorney Act, if any; (e) the name and post office addresses of the nearest relatives of the respondent in the following order: (1) the spouse and adult children, parents and adult brothers and sisters, if any; if none, (2) nearest adult kindred known to the petitioner; (f) the name and address of the person with whom or the facility in which the respondent is residing; (g) the approximate value of the personal and real estate; (h) the amount of the anticipated annual gross income and other receipts; (i) the name, post office address and in case of an individual, the age, relationship to the respondent and occupation of the proposed guardian. In addition, if the petition seeks the appointment of a previously appointed standby guardian as guardian of the disabled person, the petition must also state: (j) the facts concerning the standby guardian's previous appointment and (k) the date of death of the disabled person's guardian or the facts concerning the consent of the disabled person's guardian to the appointment of the standby guardian as guardian, or the willingness and ability of the disabled person's guardian to make and carry out day-to-day care decisions concerning the disabled person. A petition for adjudication of disability and the appointment of a guardian of the estate or the person or both of an alleged disabled person may not be dismissed or withdrawn without leave of the court.

(Source: P.A. 89-396, eff. 8-20-95; 90-796, eff. 12-15-98.)

(755 ILCS 5/11a-8.1)

Sec. 11a-8.1. Petition for standby guardian of disabled person. The petition for appointment of a standby guardian of the person or the estate, or both, of a disabled person must state, if known: (a) the name, date of birth, and residence of the disabled person; (b) the names and post office addresses of the nearest relatives of the disabled person in the following order: (1) the spouse and adult children, parents and adult brothers and sisters, if any; if none, (2) nearest adult kindred known to the petitioner; (c) the name and post office address of the person having guardianship of the disabled person, and of any person or persons acting as agents of the disabled person under the Illinois Power of Attorney Act; (d) the name, post office address, and, in case of any individual, the age and occupation of the proposed standby guardian; (e) the preference of the disabled person as to the choice of standby guardian; (f) the facts concerning the consent of the disabled person's guardian to the appointment of the standby guardian, or the willingness and ability of the disabled person's guardian to make and carry out day-to-day care decisions concerning the disabled person; (g) the facts concerning the execution or admission to probate of the written designation of the standby guardian, if any, a copy of which shall be attached to or filed with the petition; (h) the facts concerning any guardianship court actions pending concerning the disabled person; and (i) the facts concerning the willingness of the proposed standby guardian to serve, and in the case of the Office of State Guardian and any public guardian, evidence of a written acceptance to serve signed by the State Guardian or public guardian or an authorized representative of the State Guardian or public guardian,

consistent with subsection (b) of Section 11a-3.1.

(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/11a-9) (from Ch. 110 1/2, par. 11a-9)

Sec. 11a-9. Report.)

(a) The petition for adjudication of disability and for appointment of a guardian should be accompanied by a report which contains (1) a description of the nature and type of the respondent's disability and an assessment of how the disability impacts on the ability of the respondent to make decisions or to function independently; (2) an analysis and results of evaluations of the respondent's mental and physical condition and, where appropriate, educational condition, adaptive behavior and social skills, which have been performed within 3 months of the date of the filing of the petition; (3) an opinion as to whether guardianship is needed, the type and scope of the guardianship needed, and the reasons therefor; (4) a recommendation as to the most suitable living arrangement and, where appropriate, treatment or habilitation plan for the respondent and the reasons therefor; (5) the signatures of all persons who performed the evaluations upon which the report is based, one of whom shall be a licensed physician and a statement of the certification, license, or other credentials that qualify the evaluators who prepared the report.

(b) If for any reason no report accompanies the petition, the court shall order appropriate evaluations to be performed by a qualified person or persons and a report prepared and filed with the court at least 10 days prior to the hearing.

(c) Unless the court otherwise directs, any report prepared pursuant to this Section shall not be made part of the public record of the proceedings but shall be available to the court or an appellate court in which the proceedings are subject to review, to the respondent, the petitioner, the guardian, and their attorneys, to the respondent's guardian ad litem, and to such other persons as the court may direct.

(Source: P.A. 89-396, eff. 8-20-95.)

(755 ILCS 5/11a-10) (from Ch. 110 1/2, par. 11a-10)

Sec. 11a-10. Procedures preliminary to hearing.

(a) Upon the filing of a petition pursuant to Section 11a-8, the court shall set a date and place for hearing to take place within 30 days. The court shall appoint a guardian ad litem to report to the court concerning the respondent's best interests consistent with the provisions of this Section, except that the appointment of a guardian ad litem shall not be required when the court determines that such appointment is not necessary for the protection of the respondent or a reasonably informed decision on the petition. If the guardian ad litem is not a licensed attorney, he or she shall be qualified, by training or experience, to work with or advocate for the developmentally disabled, mentally ill, physically disabled, the elderly, or persons disabled because of mental deterioration, depending on the type of disability that is alleged in the petition. The court may allow the guardian ad litem reasonable compensation. The guardian ad litem may consult with a person who by training or experience is qualified to work with persons with a developmental

disability, persons with mental illness, or physically disabled persons, or persons disabled because of mental deterioration, depending on the type of disability that is alleged. The guardian ad litem shall personally observe the respondent prior to the hearing and shall inform him orally and in writing of the contents of the petition and of his rights under Section 11a-11. The guardian ad litem shall also attempt to elicit the respondent's position concerning the adjudication of disability, the proposed guardian, a proposed change in residential placement, changes in care that might result from the guardianship, and other areas of inquiry deemed appropriate by the court. At or before the hearing, the guardian ad litem shall file a written report detailing his or her observations of the respondent, the responses of the respondent to any of the inquires detailed in this Section, the opinion of the guardian ad litem or other professionals with whom the guardian ad litem consulted concerning the appropriateness of guardianship, and any other material issue discovered by the guardian ad litem. The guardian ad litem shall appear at the hearing and testify as to any issues presented in his or her report.

(b) The court (1) may appoint counsel for the respondent, if the court finds that the interests of the respondent will be best served by the appointment, and (2) shall appoint counsel upon respondent's request or if the respondent takes a position adverse to that of the guardian ad litem. The respondent shall be permitted to obtain the appointment of counsel either at the hearing or by any written or oral request communicated to the court prior to the hearing. The summons shall inform the respondent of this right to obtain appointed counsel. The court may allow counsel for the respondent reasonable compensation.

(c) If the respondent is unable to pay the fee of the guardian ad litem or appointed counsel, or both, the court may enter an order for the petitioner to pay all such fees or such amounts as the respondent or the respondent's estate may be unable to pay. However, in cases where the Office of State Guardian is the petitioner, consistent with Section 30 of the Guardianship and Advocacy Act, where an elder abuse provider agency is the petitioner, pursuant to Section 9 of the Elder Abuse and Neglect Act, or where the Department of Human Services Office of Inspector General is the petitioner, consistent with Section 45 of the Abuse of Adults with Disabilities Intervention Act, no guardian ad litem or legal fees shall be assessed against the Office of State Guardian, the elder abuse provider agency, or the Department of Human Services Office of Inspector General.

(d) The hearing may be held at such convenient place as the court directs, including at a facility in which the respondent resides.

(e) Unless he is the petitioner, the respondent shall be personally served with a copy of the petition and a summons not less than 14 days before the hearing. The summons shall be printed in large, bold type and shall include the following notice:

NOTICE OF RIGHTS OF RESPONDENT

You have been named as a respondent in a guardianship petition asking that you be declared a disabled person. If the court grants the petition, a guardian will be appointed for you. A copy of the guardianship petition is attached for your convenience.

The date and time of the hearing are:
The place where the hearing will occur is:
The Judge's name and phone number is:

If a guardian is appointed for you, the guardian may be given the right to make all important personal decisions for you, such as where you may live, what medical treatment you may receive, what places you may visit, and who may visit you. A guardian may also be given the right to control and manage your money and other property, including your home, if you own one. You may lose the right to make these decisions for yourself.

You have the following legal rights:

(1) You have the right to be present at the court hearing.

(2) You have the right to be represented by a lawyer, either one that you retain, or one appointed by the Judge.

(3) You have the right to ask for a jury of six persons to hear your case.

(4) You have the right to present evidence to the court and to confront and cross-examine witnesses.

(5) You have the right to ask the Judge to appoint an independent expert to examine you and give an opinion about your need for a guardian.

(6) You have the right to ask that the court hearing be closed to the public.

(7) You have the right to tell the court whom you prefer to have for your guardian.

You do not have to attend the court hearing if you do not want to be there. If you do not attend, the Judge may appoint a guardian if the Judge finds that a guardian would be of benefit to you. The hearing will not be postponed or canceled if you do not attend.

IT IS VERY IMPORTANT THAT YOU ATTEND THE HEARING IF YOU DO NOT WANT A GUARDIAN OR IF YOU WANT SOMEONE OTHER THAN THE PERSON NAMED IN THE GUARDIANSHIP PETITION TO BE YOUR GUARDIAN. IF YOU DO NOT WANT A GUARDIAN OF IF YOU HAVE ANY OTHER PROBLEMS, YOU SHOULD CONTACT AN ATTORNEY OR COME TO COURT AND TELL THE JUDGE.

Service of summons and the petition may be made by a private person 18 years of age or over who is not a party to the action.

(f) Notice of the time and place of the hearing shall be given by the petitioner by mail or in person to those persons, including the proposed guardian, whose names and addresses appear in the petition and who do not waive notice, not less than 14 days before the hearing.

(Source: P.A. 95-373, eff. 8-23-07; 96-1052, eff. 7-14-10.)

(755 ILCS 5/11a-10.1) (from Ch. 110 1/2, par. 11a-10.1)

Sec. 11a-10.1. Domestic Violence: Order of Protection. An order of protection, as defined in the Illinois Domestic Violence Act of 1986, as amended, may be issued in conjunction with a proceeding for adjudication of disability and appointment of guardian if the petition for an order of protection alleges that a person who is party to or the subject of the proceeding has been abused by or has abused a family or household member or has been neglected or exploited as defined in the Illinois Domestic Violence Act of 1986, as amended.

If the subject of the order of protection is a high-risk adult with disabilities for whom a guardian has been appointed, the court may appoint a temporary substitute guardian under the provisions of this Act. The court shall appoint a temporary substitute guardian if the appointed guardian is named as a respondent in a petition for an order of protection under the Illinois Domestic Violence Act of 1986, as amended. The Illinois Domestic Violence Act of 1986 shall govern the issuance, enforcement and recording of orders of protection issued under this Section.

(Source: P.A. 86-542.)

(755 ILCS 5/11a-10.2)

Sec. 11a-10.2. Procedure for appointment of a standby guardian or a guardian of a disabled person. In any proceeding for the appointment of a standby guardian or a guardian the court may appoint a guardian ad litem to represent the disabled person in the proceeding.

(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/11a-11) (from Ch. 110 1/2, par. 11a-11)

Sec. 11a-11. Hearing.

(a) The respondent is entitled to be represented by counsel, to demand a jury of 6 persons, to present evidence, and to confront and cross-examine all witnesses. The hearing may be closed to the public on request of the respondent, the guardian ad litem, or appointed or other counsel for the respondent. Unless excused by the court upon a showing that the respondent refuses to be present or will suffer harm if required to attend, the respondent shall be present at the hearing.

(b) (Blank)

(c) Upon oral or written motion by the respondent or the guardian ad litem or on the court's own motion, the court shall appoint one or more independent experts to examine the respondent. Upon the filing with the court of a verified statement of services rendered by the expert or experts, the court shall determine a reasonable fee for the services performed. If the respondent is unable to pay the fee, the court may enter an order upon the petitioner to pay the entire fee or such amount as the respondent is unable to pay. However, in cases where the Office of State Guardian is the petitioner, consistent with Section 30 of the Guardianship and Advocacy Act, no expert services fees shall be assessed against the Office of the State Guardian.

(d) In an uncontested proceeding for the appointment of a guardian the person who prepared the report required by Section 11a-9 will only be required to testify at trial upon order of court for cause shown.

(e) At the hearing the court shall inquire regarding: (1) the nature and extent of respondent's general intellectual and physical functioning; (2) the extent of the impairment of his adaptive behavior if he is a person with a developmental disability, or the nature and severity of his mental illness if he is a person with mental illness; (3) the understanding and capacity of the respondent to make and communicate responsible decisions concerning his person; (4) the capacity of the respondent to manage his estate and his financial

affairs; (5) the appropriateness of proposed and alternate living arrangements; (6) the impact of the disability upon the respondent's functioning in the basic activities of daily living and the important decisions faced by the respondent or normally faced by adult members of the respondent's community; and (7) any other area of inquiry deemed appropriate by the court.

(f) An authenticated transcript of the evidence taken in a judicial proceeding concerning the respondent under the Mental Health and Developmental Disabilities Code is admissible in evidence at the hearing.

(g) If the petition is for the appointment of a guardian for a disabled beneficiary of the Veterans Administration, a certificate of the Administrator of Veterans Affairs or his representative stating that the beneficiary has been determined to be incompetent by the Veterans Administration on examination in accordance with the laws and regulations governing the Veterans Administration in effect upon the date of the issuance of the certificate and that the appointment of a guardian is a condition precedent to the payment of any money due the beneficiary by the Veterans Administration, is admissible in evidence at the hearing.

(Source: P.A. 88-32; 88-380; 88-670, eff. 12-2-94; 89-396, eff. 8-20-95.)

(755 ILCS 5/11a-12) (from Ch. 110 1/2, par. 11a-12)

Sec. 11a-12. Order of appointment.)

(a) If basis for the appointment of a guardian as specified in Section 11a-3 is not found, the court shall dismiss the petition.

(b) If the respondent is adjudged to be disabled and to be totally without capacity as specified in Section 11a-3, and if the court finds that limited guardianship will not provide sufficient protection for the disabled person, his or her estate, or both, the court shall appoint a plenary guardian for the respondent's person or estate or both. The court shall enter a written order stating the factual basis for its findings.

(c) If the respondent is adjudged to be disabled and to lack some but not all of the capacity as specified in Section 11a-3, and if the court finds that guardianship is necessary for the protection of the disabled person, his or her estate, or both, the court shall appoint a limited guardian of the respondent's person or estate or both. The court shall enter a written order stating the factual basis for its findings and specifying the duties and powers of the guardian and the legal disabilities to which the respondent is subject.

(d) The selection of the guardian shall be in the discretion of the court, which shall give due consideration to the preference of the disabled person as to a guardian, as well as the qualifications of the proposed guardian, in making its appointment.

(Source: P.A. 89-396, eff. 8-20-95.)

(755 ILCS 5/11a-13) (from Ch. 110 1/2, par. 11a-13)

Sec. 11a-13. Costs in certain cases.) (a) No costs may be taxed or charged by any public officer in any proceeding for the appointment of a guardian or for any subsequent proceeding

or report made in pursuance of the appointment when the primary purpose of the appointment is as set forth in Section 11-11 or is the management of the estate of a mentally disabled person who resides in a state mental health or developmental disabilities facility when the value of the personal estate does not exceed $1,000.

(b) No costs shall be taxed or charged against the Office of the State Guardian by any public officer in any proceeding for the appointment of a guardian or for any subsequent proceeding or report made in pursuance of the appointment.

(Source: P.A. 80-1415.)

(755 ILCS 5/11a-14) (from Ch. 110 1/2, par. 11a-14)

Sec. 11a-14. Legal disabilities of ward.) (a) An order appointing a limited guardian of the person under this Article removes from the ward only that authority provided under Section 11a-17 which is specifically conferred on the limited guardian by the order.

(b) An order appointing a limited guardian of the estate under this Article confers on the limited guardian the authority provided under Section 11a-18 not specifically reserved to the ward.

(c) The appointment of a limited guardian under this Article shall not constitute a finding of legal incompetence.

(d) An order appointing a plenary guardian under this Article confers on the plenary guardian of the person the authority provided under Section 11a-17 and on the plenary guardian of the estate the authority provided under Section 11a-18.

(Source: P.A. 81-795.)

(755 ILCS 5/11a-14.1) (from Ch. 110 1/2, par. 11a-14.1)

Sec. 11a-14.1. Residential placement.) No guardian appointed under this Article, except for duly appointed Public Guardians and the Office of State Guardian, shall have the power, unless specified by court order, to place his ward in a residential facility. The guardianship order may specify the conditions on which the guardian may admit the ward to a residential facility without further court order. In making residential placement decisions, the guardian shall make decisions in conformity with the preferences of the ward unless the guardian is reasonably certain that the decisions will result in substantial harm to the ward or to the ward's estate. When the preferences of the ward cannot be ascertained or where they will result in substantial harm to the ward or to the ward's estate, the guardian shall make decisions with respect to the ward's placement which are in the best interests of the ward. The guardian shall not remove the ward from his or her home or separate the ward from family and friends unless such removal is necessary to prevent substantial harm to the ward or to the ward's estate. The guardian shall have a duty to investigate the availability of reasonable residential alternatives. The guardian shall monitor the placement of the ward on an on-going basis to ensure its continued appropriateness, and shall pursue appropriate alternatives as needed.

(Source: P.A. 90-250, eff. 7-29-97.)

(755 ILCS 5/11a-15) (from Ch. 110 1/2, par. 11a-15)

Sec. 11a-15. Successor guardian.) Upon the death, incapacity, resignation or removal of a guardian of the estate or person of a living ward, the court shall appoint a successor guardian or terminate the adjudication of disability. The powers and duties of the successor guardian shall be the same as those of the predecessor guardian unless otherwise modified.

(Source: P.A. 81-795.)

(755 ILCS 5/11a-16) (from Ch. 110 1/2, par. 11a-16)

Sec. 11a-16. Testamentary guardian.) A parent of a disabled person may designate by will a person, corporation or public agency qualified to act under Section 11a-5, to be appointed as guardian or as successor guardian of the person or of the estate or both of that person. If a conservator appointed under a prior law or a guardian appointed under this Article is acting at the time of the death of the parent, the designation shall become effective only upon the death, incapacity, resignation or removal of the conservator or guardian. If no conservator or guardian is acting at the time of the death of the parent, the person, corporation or public agency so designated or any other person may petition the court having jurisdiction over the person or estate or both of the child for the appointment of the one so designated. The designation shall be proved in the manner provided for proof of will. Admission of the will to probate in any other jurisdiction shall be conclusive proof of the validity of the designation. If the court finds that the appointment of the one so designated will serve the best interests and welfare of the ward, it shall appoint the one so designated. The selection of a guardian shall be in the discretion of the court, whether or not a designation is made.

(Source: P.A. 81-795.)

(755 ILCS 5/11a-17) (from Ch. 110 1/2, par. 11a-17)

Sec. 11a-17. Duties of personal guardian.

(a) To the extent ordered by the court and under the direction of the court, the guardian of the person shall have custody of the ward and the ward's minor and adult dependent children and shall procure for them and shall make provision for their support, care, comfort, health, education and maintenance, and professional services as are appropriate, but the ward's spouse may not be deprived of the custody and education of the ward's minor and adult dependent children, without the consent of the spouse, unless the court finds that the spouse is not a fit and competent person to have that custody and education. The guardian shall assist the ward in the development of maximum self-reliance and independence. The guardian of the person may petition the court for an order directing the guardian of the estate to pay an amount periodically for the provision of the services specified by the court order. If the ward's estate is insufficient to provide for education and the guardian of the ward's person fails to provide education, the court may award the custody of

the ward to some other person for the purpose of providing education. If a person makes a settlement upon or provision for the support or education of a ward, the court may make an order for the visitation of the ward by the person making the settlement or provision as the court deems proper. A guardian of the person may not admit a ward to a mental health facility except at the ward's request as provided in Article IV of the Mental Health and Developmental Disabilities Code and unless the ward has the capacity to consent to such admission as provided in Article IV of the Mental Health and Developmental Disabilities Code.

(a-5) If the ward filed a petition for dissolution of marriage under the Illinois Marriage and Dissolution of Marriage Act before the ward was adjudicated a disabled person under this Article, the guardian of the ward's person and estate may maintain that action for dissolution of marriage on behalf of the ward.

(b) If the court directs, the guardian of the person shall file with the court at intervals indicated by the court, a report that shall state briefly: (1) the current mental, physical, and social condition of the ward and the ward's minor and adult dependent children; (2) their present living arrangement, and a description and the address of every residence where they lived during the reporting period and the length of stay at each place; (3) a summary of the medical, educational, vocational, and other professional services given to them; (4) a resume of the guardian's visits with and activities on behalf of the ward and the ward's minor and adult dependent children; (5) a recommendation as to the need for continued guardianship; (6) any other information requested by the court or useful in the opinion of the guardian. The Office of the State Guardian shall assist the guardian in filing the report when requested by the guardian. The court may take such action as it deems appropriate pursuant to the report.

(c) Absent court order pursuant to the Illinois Power of Attorney Act directing a guardian to exercise powers of the principal under an agency that survives disability, the guardian has no power, duty, or liability with respect to any personal or health care matters covered by the agency. This subsection (c) applies to all agencies, whenever and wherever executed.

(d) A guardian acting as a surrogate decision maker under the Health Care Surrogate Act shall have all the rights of a surrogate under that Act without court order including the right to make medical treatment decisions such as decisions to forgo or withdraw life-sustaining treatment. Any decisions by the guardian to forgo or withdraw life-sustaining treatment that are not authorized under the Health Care Surrogate Act shall require a court order. Nothing in this Section shall prevent an agent acting under a power of attorney for health care from exercising his or her authority under the Illinois Power of Attorney Act without further court order, unless a court has acted under Section 2-10 of the Illinois Power of Attorney Act. If a guardian is also a health care agent for the ward under a valid power of attorney for health care, the guardian acting as agent may execute his or her authority under that act without further court order.

(e) Decisions made by a guardian on behalf of a ward shall be made in accordance with the following standards for

decision making. Decisions made by a guardian on behalf of a ward may be made by conforming as closely as possible to what the ward, if competent, would have done or intended under the circumstances, taking into account evidence that includes, but is not limited to, the ward's personal, philosophical, religious and moral beliefs, and ethical values relative to the decision to be made by the guardian. Where possible, the guardian shall determine how the ward would have made a decision based on the ward's previously expressed preferences, and make decisions in accordance with the preferences of the ward. If the ward's wishes are unknown and remain unknown after reasonable efforts to discern them, the decision shall be made on the basis of the ward's best interests as determined by the guardian. In determining the ward's best interests, the guardian shall weigh the reason for and nature of the proposed action, the benefit or necessity of the action, the possible risks and other consequences of the proposed action, and any available alternatives and their risks, consequences and benefits, and shall take into account any other information, including the views of family and friends, that the guardian believes the ward would have considered if able to act for herself or himself.

(f) Upon petition by any interested person (including the standby or short-term guardian), with such notice to interested persons as the court directs and a finding by the court that it is in the best interest of the disabled person, the court may terminate or limit the authority of a standby or short-term guardian or may enter such other orders as the court deems necessary to provide for the best interest of the disabled person. The petition for termination or limitation of the authority of a standby or short-term guardian may, but need not, be combined with a petition to have another guardian appointed for the disabled person.

(Source: P.A. 96-612, eff. 1-1-10.)

(755 ILCS 5/11a-17.1)

Sec. 11a-17.1. Sterilization of ward.

(a) A guardian of the person shall not consent to the sterilization of the ward without first obtaining an order from the court granting the guardian the authority to provide consent. For purposes of this Article XIa, "sterilization" means any procedure that has as its purpose rendering the ward permanently incapable of reproduction; provided, however, that an order from the court is not required for a procedure that is medically necessary to preserve the life of the ward or to prevent serious impairment to the health of the ward and which may result in sterilization.

(b) A guardian seeking authority to consent to the sterilization of the ward shall seek such authority by filing a verified motion. The verified motion shall allege facts which demonstrate that the proposed sterilization is warranted under subsection (f), (g) or (h) of this Section. The guardian ad litem will notify the ward of the motion in the manner set forth in subsection (c) of this Section.

(c) Upon the filing of a verified motion for authority to consent to sterilization, the court shall appoint a guardian ad litem to report to the court consistent with the provisions of this Section. If the guardian ad litem is not a licensed attorney, he or she shall be qualified, by training or

experience, to work with or advocate for persons with a developmental disability, mental illness, physical disability, or disability because of mental deterioration, depending on the type of disability of the ward that is alleged in the motion. The court may allow the guardian ad litem reasonable compensation. The guardian ad litem may consult with a person who by training or experience is qualified to work with persons with a developmental disability, mental illness, physical disability, or disability because of mental deterioration, depending on the type of disability of the ward that is alleged. The guardian ad litem may also consult with health care providers knowledgeable about reproductive health matters including sterilization, other forms of contraception, and childbirth. Outside the presence of the guardian, the guardian ad litem shall personally observe the ward prior to the hearing and shall inform the ward orally and in writing of the contents of the verified motion for authority to consent to sterilization. Outside the presence of the guardian, the guardian ad litem shall also attempt to elicit the ward's position concerning the motion, and any other areas of inquiry deemed appropriate by the court. At or before the hearing, the guardian ad litem shall file a written report detailing his or her observations of the ward; the responses of the ward to any of the inquiries detailed in this Section; the opinion of the guardian ad litem and any other professionals with whom the guardian ad litem consulted concerning the ward's understanding of and desire for or objection to, as well as what is in the ward's best interest relative to, sterilization, other forms of contraception, and childbirth; and any other material issue discovered by the guardian ad litem. The guardian ad litem shall appear at the hearing and testify, and may present witnesses, as to any issues presented in his or her report.

(d) The court (1) may appoint counsel for the ward if the court finds that the interests of the ward will be best served by the appointment, and (2) shall appoint counsel upon the ward's request, if the ward is objecting to the proposed sterilization, or if the ward takes a position adverse to that of the guardian ad litem. The ward shall be permitted to obtain the appointment of counsel either at the hearing or by any written or oral request communicated to the court prior to the hearing. The court shall inform the ward of this right to obtain appointed counsel. The court may allow counsel for the ward reasonable compensation.

(e) The court shall order a medical and psychological evaluation of the ward. The evaluation shall address the ward's decision making capacity with respect to the proposed sterilization, the existence of any less permanent alternatives, and any other material issue.

(f) The court shall determine, as a threshold inquiry, whether the ward has capacity to consent or withhold consent to the proposed sterilization and, if the ward lacks such capacity, whether the ward is likely to regain such capacity. The ward shall not be deemed to lack such capacity solely on the basis of the adjudication of disability and appointment of a guardian. In determining capacity, the court shall consider whether the ward is able, after being provided appropriate information, to understand the relationship between sexual activity and reproduction; the consequences of reproduction; and the nature and consequences of the proposed sterilization procedure. If the court finds that (1) the ward has capacity

to consent or withhold consent to the proposed sterilization, and (2) the ward objects or consents to the procedure, the court shall enter an order consistent with the ward's objection or consent and the proceedings on the verified motion shall be terminated.

(g) If the court finds that the ward does not have capacity to consent or withhold consent to the proposed sterilization and is unlikely to regain such capacity, the court shall determine whether the ward is expressing a clear desire for the proposed sterilization. If the ward is expressing a clear desire for the proposed sterilization, the court's decision regarding the proposed sterilization shall be made in accordance with the standards set forth in subsection (e) of Section 11a-17 of this Act.

(h) If the court finds that the ward does not have capacity to consent or withhold consent to the proposed sterilization and is unlikely to regain such capacity, and that the ward is not expressing a clear desire for the proposed sterilization, the court shall consider the standards set forth in subsection (e) of Section 11a-17 of this Act and enter written findings of fact and conclusions of law addressing those standards. In addition, the court shall not authorize the guardian to consent to the proposed sterilization unless the court finds, by clear and convincing evidence and based on written findings of fact and conclusions of law, that all of the following factors are present:

(1) The ward lacks decisional capacity regarding the proposed sterilization.

(2) The ward is fertile and capable of procreation.

(3) The benefits to the ward of the proposed sterilization outweigh the harm.

(4) The court has considered less intrusive alternatives and found them to be inadequate in this case.

(5) The proposed sterilization is in the best interest of the ward. In considering the ward's best interest, the court shall consider the following factors:

(A) The possibility that the ward will experience trauma or psychological damage if he or she has a child and, conversely, the possibility of trauma or psychological damage from the proposed sterilization.

(B) The ward is or is likely to become sexually active.

(C) The inability of the ward to understand reproduction or contraception and the likely permanence of that inability.

(D) Any other factors that assist the court in determining the best interest of the ward relative to the proposed sterilization.

(Source: P.A. 96-272, eff. 1-1-10.)

(755 ILCS 5/11a-18) (from Ch. 110 1/2, par. 11a-18)

Sec. 11a-18. Duties of the estate guardian.

(a) To the extent specified in the order establishing the guardianship, the guardian of the estate shall have the care, management and investment of the estate, shall manage the estate frugally and shall apply the income and principal of the estate so far as necessary for the comfort and suitable support and education of the ward, his minor and adult

dependent children, and persons related by blood or marriage who are dependent upon or entitled to support from him, or for any other purpose which the court deems to be for the best interests of the ward, and the court may approve the making on behalf of the ward of such agreements as the court determines to be for the ward's best interests. The guardian may make disbursement of his ward's funds and estate directly to the ward or other distributee or in such other manner and in such amounts as the court directs. If the estate of a ward is derived in whole or in part from payments of compensation, adjusted compensation, pension, insurance or other similar benefits made directly to the estate by the Veterans Administration, notice of the application for leave to invest or expend the ward's funds or estate, together with a copy of the petition and proposed order, shall be given to the Veterans' Administration Regional Office in this State at least 7 days before the hearing on the application.

(a-5) The probate court, upon petition of a guardian, other than the guardian of a minor, and after notice to all other persons interested as the court directs, may authorize the guardian to exercise any or all powers over the estate and business affairs of the ward that the ward could exercise if present and not under disability. The court may authorize the taking of an action or the application of funds not required for the ward's current and future maintenance and support in any manner approved by the court as being in keeping with the ward's wishes so far as they can be ascertained. The court must consider the permanence of the ward's disabling condition and the natural objects of the ward's bounty. In ascertaining and carrying out the ward's wishes the court may consider, but shall not be limited to, minimization of State or federal income, estate, or inheritance taxes; and providing gifts to charities, relatives, and friends that would be likely recipients of donations from the ward. The ward's wishes as best they can be ascertained shall be carried out, whether or not tax savings are involved. Actions or applications of funds may include, but shall not be limited to, the following:

(1) making gifts of income or principal, or both, of the estate, either outright or in trust;

(2) conveying, releasing, or disclaiming his or her contingent and expectant interests in property, including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entirety;

(3) releasing or disclaiming his or her powers as trustee, personal representative, custodian for minors, or guardian;

(4) exercising, releasing, or disclaiming his or her powers as donee of a power of appointment;

(5) entering into contracts;

(6) creating for the benefit of the ward or others, revocable or irrevocable trusts of his or her property that may extend beyond his or her disability or life;

(7) exercising options of the ward to purchase or exchange securities or other property;

(8) exercising the rights of the ward to elect benefit or payment options, to terminate, to change beneficiaries or ownership, to assign rights, to borrow, or to receive cash value in return for a surrender of rights under any one or more of the following:

(i) life insurance policies, plans, or benefits,

(ii) annuity policies, plans, or benefits,

(iii) mutual fund and other dividend investment plans,

(iv) retirement, profit sharing, and employee welfare plans and benefits;

(9) exercising his or her right to claim or disclaim an elective share in the estate of his or her deceased spouse and to renounce any interest by testate or intestate succession or by inter vivos transfer;

(10) changing the ward's residence or domicile; or

(11) modifying by means of codicil or trust amendment the terms of the ward's will or any revocable trust created by the ward, as the court may consider advisable in light of changes in applicable tax laws.

The guardian in his or her petition shall briefly outline the action or application of funds for which he or she seeks approval, the results expected to be accomplished thereby, and the tax savings, if any, expected to accrue. The proposed action or application of funds may include gifts of the ward's personal property or real estate, but transfers of real estate shall be subject to the requirements of Section 20 of this Act. Gifts may be for the benefit of prospective legatees, devisees, or heirs apparent of the ward or may be made to individuals or charities in which the ward is believed to have an interest. The guardian shall also indicate in the petition that any planned disposition is consistent with the intentions of the ward insofar as they can be ascertained, and if the ward's intentions cannot be ascertained, the ward will be presumed to favor reduction in the incidents of various forms of taxation and the partial distribution of his or her estate as provided in this subsection. The guardian shall not, however, be required to include as a beneficiary or fiduciary any person who he has reason to believe would be excluded by the ward. A guardian shall be required to investigate and pursue a ward's eligibility for governmental benefits.

(b) Upon the direction of the court which issued his letters, a guardian may perform the contracts of his ward which were legally subsisting at the time of the commencement of the ward's disability. The court may authorize the guardian to execute and deliver any bill of sale, deed or other instrument.

(c) The guardian of the estate of a ward shall appear for and represent the ward in all legal proceedings unless another person is appointed for that purpose as guardian or next friend. This does not impair the power of any court to appoint a guardian ad litem or next friend to defend the interests of the ward in that court, or to appoint or allow any person as the next friend of a ward to commence, prosecute or defend any proceeding in his behalf. Without impairing the power of the court in any respect, if the guardian of the estate of a ward and another person as next friend shall appear for and represent the ward in a legal proceeding in which the compensation of the attorney or attorneys representing the guardian and next friend is solely determined under a contingent fee arrangement, the guardian of the estate of the ward shall not participate in or have any duty to review the prosecution of the action, to participate in or review the appropriateness of any settlement of the action, or to participate in or review any determination of the appropriateness of any fees awarded to the attorney or attorneys employed in the prosecution of the action.

(d) Adjudication of disability shall not revoke or

otherwise terminate a trust which is revocable by the ward. A guardian of the estate shall have no authority to revoke a trust that is revocable by the ward, except that the court may authorize a guardian to revoke a Totten trust or similar deposit or withdrawable capital account in trust to the extent necessary to provide funds for the purposes specified in paragraph (a) of this Section. If the trustee of any trust for the benefit of the ward has discretionary power to apply income or principal for the ward's benefit, the trustee shall not be required to distribute any of the income or principal to the guardian of the ward's estate, but the guardian may bring an action on behalf of the ward to compel the trustee to exercise the trustee's discretion or to seek relief from an abuse of discretion. This paragraph shall not limit the right of a guardian of the estate to receive accountings from the trustee on behalf of the ward.

(e) Absent court order pursuant to the Illinois Power of Attorney Act directing a guardian to exercise powers of the principal under an agency that survives disability, the guardian will have no power, duty or liability with respect to any property subject to the agency. This subsection (e) applies to all agencies, whenever and wherever executed.

(f) Upon petition by any interested person (including the standby or short-term guardian), with such notice to interested persons as the court directs and a finding by the court that it is in the best interest of the disabled person, the court may terminate or limit the authority of a standby or short-term guardian or may enter such other orders as the court deems necessary to provide for the best interest of the disabled person. The petition for termination or limitation of the authority of a standby or short-term guardian may, but need not, be combined with a petition to have another guardian appointed for the disabled person.

(Source: P.A. 95-331, eff. 8-21-07.)

(755 ILCS 5/11a-18.1) (from Ch. 110 1/2, par. 11a-18.1)

Sec. 11a-18.1. Conditional gifts. (a) The court may authorize and direct the guardian of the estate to make conditional gifts from the estate of a disabled person to any spouse, parent, brother or sister of the disabled person who dedicates himself or herself to the care of the disabled person by living with and personally caring for the disabled person for at least 3 years. It shall be presumed that the disabled person intends to make such conditional gifts.

(b) A conditional gift shall not be distributed to the donee until the death of the disabled person. The court may impose such other conditions on the gift as the court deems just and reasonable. The court may provide for an alternate disposition of the gift should the donee die before the disabled person; provided that if no such alternate disposition is made, the conditional gift shall lapse upon the death of the donee prior to the death of the disabled person. A conditional gift may be modified or revoked by the court at any time.

(c) The guardian of the estate, the spouse, parent, brother or sister of a disabled person, or any other interested person may petition the court to authorize and direct the guardian of the estate to make a conditional gift or to modify, revoke or distribute a conditional gift. All

persons who would be heirs of the disabled person if the disabled person died on the date the petition is filed (or the heirs if the disabled person is deceased) and all legatees under any known last will of the disabled person shall be given reasonable notice of the hearing on the petition by certified U. S. mail, return receipt requested. If a trustee is a legatee, notice shall be given to the trustee and need not be given to the trust beneficiaries. Any person entitled to notice of the hearing may appear and object to the petition. The giving of the notice of the hearing to those persons entitled to notice shall cause the decision and order of the court to be binding upon all other persons who otherwise may be interested or may become interested in the estate of the disabled person.

(d) The guardian of the estate shall set aside conditional gifts in a separate fund for each donee and shall hold and invest each fund as part of the estate of the disabled person. Upon order of the court, any conditional gift may be revoked or modified in whole or part so that the assets may be used for the care and comfort of the disabled person should funds otherwise available for such purposes be inadequate.

(e) Upon the death of the disabled person, the guardian of the estate shall hold each special fund as trustee and shall petition the court for authorization to distribute the special fund and for any other appropriate relief. The court shall order distribution upon such terms and conditions as the court deems just and reasonable.

(Source: P.A. 85-1417.)

(755 ILCS 5/11a-18.2)

Sec. 11a-18.2. Duties of standby guardian of a disabled person.

(a) Before a standby guardian of a disabled person may act, the standby guardian must be appointed by the court of the proper county and, in the case of a standby guardian of the disabled person's estate, the standby guardian must give the bond prescribed in subsection (c) of Section 11a-3.1 and Section 12-2.

(b) The standby guardian shall not have any duties or authority to act until the standby guardian receives knowledge of the death or consent of the disabled person's guardian, or the inability of the disabled person's guardian to make and carry out day-to-day care decisions concerning the disabled person for whom the standby guardian has been appointed. This inability of the disabled person's guardian to make and carry out day-to-day care decisions may be communicated either by the guardian's own admission or by the written certification of the guardian's attending physician. Immediately upon receipt of that knowledge, the standby guardian shall assume all duties as guardian of the disabled person as previously determined by the order appointing the standby guardian, and as set forth in Sections 11a-17 and 11a-18, and the standby guardian of the person shall have the authority to act as guardian of the person without direction of court for a period of up to 60 days, provided that the authority of the standby guardian may be limited or terminated by a court of competent jurisdiction.

(c) Within 60 days of the standby guardian's receipt of

knowledge of the death or consent of the disabled person's guardian, or the inability of the disabled person's guardian to make and carry out day-to-day care decisions concerning the disabled person, the standby guardian shall file or cause to be filed a petition for the appointment of a guardian of the person or estate, or both, of the disabled person under Section 11a-3.

(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/11a-18.3)

Sec. 11a-18.3. Duties of short-term guardian of a disabled person.

(a) Immediately upon the effective date of the appointment of a short-term guardian, the short-term guardian shall assume all duties as short-term guardian of the disabled person as provided in this Section. The short-term guardian of the person shall have authority to act as short-term guardian, without direction of the court, for the duration of the appointment, which in no case shall exceed a cumulative total of 60 days in any 12 month period for all short-term guardians appointed by the guardian. The authority of the short-term guardian may be limited or terminated by a court of competent jurisdiction.

(b) Unless further specifically limited by the instrument appointing the short-term guardian, a short-term guardian shall have the authority to act as a guardian of the person of a disabled person as prescribed in Section 11a-17, but shall not have any authority to act as guardian of the estate of a disabled person, except that a short-term guardian shall have the authority to apply for and receive on behalf of the disabled person benefits to which the disabled person may be entitled from or under federal, State, or local organizations or programs.

(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/11a-19) (from Ch. 110 1/2, par. 11a-19)

Sec. 11a-19. Notice of right to seek modification. At the time of the appointment of a guardian the court shall inform the ward of his right under Section 11a-20 to petition for termination of adjudication of disability, revocation of the letters of guardianship of the estate or person, or both, or modification of the duties of the guardian and shall give the ward a written statement explaining this right and the procedures for petitioning the court. The notice shall be in large, bold type and shall be in a format similar to the notice of rights required under subsection (e) of Section 11a-10 of this Act.

(Source: P.A. 89-396, eff. 8-20-95.)

(755 ILCS 5/11a-20) (from Ch. 110 1/2, par. 11a-20)

Sec. 11a-20. Termination of adjudication of disability - Revocation of letters - modification.) (a) Upon the filing of a petition by or on behalf of a disabled person

or on its own motion, the court may terminate the adjudication of disability of the ward, revoke the letters of guardianship of the estate or person, or both, or modify the duties of the guardian if the ward's capacity to perform the tasks necessary for the care of his person or the management of his estate has been demonstrated by clear and convincing evidence. A report or testimony by a licensed physician is not a prerequisite for termination, revocation or modification of a guardianship order.

(b) A request by the ward or any other person on the ward's behalf, under this Section may be communicated to the court or judge by any means, including but not limited to informal letter, telephone call or visit. Upon receipt of a request from the ward or another person, the court may appoint a guardian ad litem to investigate and report to the court concerning the allegations made in conjunction with said request, and if the ward wishes to terminate, revoke, or modify the guardianship order, to prepare the ward's petition and to render such other services as the court directs.

(c) Notice of the hearing on a petition under this Section, together with a copy of the petition, shall be given to the ward, unless he is the petitioner, and to each and every guardian to whom letters of guardianship have been issued and not revoked, not less than 14 days before the hearing.

(Source: P.A. 86-605.)

(755 ILCS 5/11a-21) (from Ch. 110 1/2, par. 11a-21)

Sec. 11a-21. Hearing. (a) The court shall conduct a hearing on a petition filed under Section 11a-20. The ward is entitled to be represented by counsel, to demand a jury of 6 persons, to present evidence and to confront and cross-examine all witnesses. The court (1) may appoint counsel for the ward, if the court finds that the interests of the ward will be best served by the appointment and (2) shall appoint counsel upon the ward's request or if the respondent takes a position adverse to that of the guardian ad litem. The court may allow the guardian ad litem and counsel for the ward reasonable compensation.

(b) If the ward is unable to pay the fee of the guardian ad litem or appointed counsel, or both, the court shall enter an order upon the State to pay, from funds appropriated by the General Assembly for that purpose, all such fees or such amounts as the ward is unable to pay.

(c) Upon conclusion of the hearing, the court shall enter an order setting forth the factual basis for its findings and may: (1) dismiss the petition; (2) terminate the adjudication of disability; (3) revoke the letters of guardianship of the estate or person, or both; (4) modify the duties of the guardian; and (5) make any other order which the court deems appropriate and in the interests of the ward.

(Source: P.A. 81-1509.)

(755 ILCS 5/11a-22) (from Ch. 110 1/2, par. 11a-22)

Sec. 11a-22. Trade and contracts with a disabled person.

(a) Anyone who by trading with, bartering, gaming or any other device, wrongfully possesses himself of any property of a person known to be a disabled person commits a Class A

misdemeanor.

(b) Every note, bill, bond or other contract by any person for whom a plenary guardian has been appointed or who is adjudged to be unable to so contract is void as against that person and his estate, but a person making a contract with the person so adjudged is bound thereby.

(Source: P.A. 91-357, eff. 7-29-99.)

(755 ILCS 5/11a-23)

Sec. 11a-23. Reliance on authority of guardian, standby guardian, short-term guardian.

(a) For the purpose of this Section, "guardian", "standby guardian", and "short-term guardian" includes temporary, plenary, or limited guardians of all wards.

(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.

(c) A health care provider (provider) who relies on and carries out a guardian's, standby guardian's, or short-term guardian's directions and who acts with due care and in accordance with the law shall not be subject to any claim based on lack of consent, or to criminal prosecution, or to discipline for unprofessional conduct. Nothing in this Section shall be deemed to protect a provider from liability for the provider's own negligence in the performance of the provider's duties or in carrying out any instructions of the guardian, standby guardian, or short-term guardian, and nothing in this Section shall be deemed to alter the law of negligence as it applies to the acts of any guardian or provider.

(d) A guardian, standby guardian, or short term guardian, who acts or refrains from acting is not subject to criminal prosecution or any claim based upon lack of his or her authority or failure to act, if the act or failure to act was with due care and in accordance with law. The guardian, standby guardian, or short term guardian, shall not be liable merely because he or she may benefit from the act, has individual or conflicting interests in relation to the care and affairs of the ward, or acts in a different manner with respect to the guardian's, standby guardian's, or short-term guardian's own care or interests.

(Source: P.A. 89-438, eff. 12-15-95; 90-796, eff. 12-15-98.)

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ATTACHMENT 4

Illinois Compiled Statutes

Information maintained by the Legislative Reference Bureau
Updating the database of the Illinois Compiled Statutes (ILCS) is an ongoing process. Recent laws may not yet be included in the ILCS database, but they are found on this site as Public Acts soon after they become law. For information concerning the relationship between statutes and Public Acts, refer to the Guide.

Because the statute database is maintained primarily for legislative drafting purposes, statutory changes are sometimes included in the statute database before they take effect. If the source note at the end of a Section of the statutes includes a Public Act that has not yet taken effect, the version of the law that is currently in effect may have already been removed from the database and you should refer to that Public Act to see the changes made to the current law.

MENTAL HEALTH
(405 ILCS 5/) Mental Health and Developmental Disabilities Code.

(405 ILCS 5/Ch. II Art. II heading)
ARTICLE II. PROCEDURES

(405 ILCS 5/2-200) (from Ch. 91 1/2, par. 2-200)

Sec. 2-200. (a) Upon commencement of services, or as soon thereafter as the condition of the recipient permits, every adult recipient, as well as the recipient's guardian or substitute decision maker, and every recipient who is 12 years of age or older and the parent or guardian of a minor or person under guardianship shall be informed orally and in writing of the rights guaranteed by this Chapter which are relevant to the nature of the recipient's services program. Every facility shall also post conspicuously in public areas a summary of the rights which are relevant to the services delivered by that facility.

(b) A recipient who is 12 years of age or older and the parent or guardian of a minor or person under guardianship at any time may designate, and upon commencement of services shall be informed of the right to designate, a person or agency to receive notice under Section 2-201 or to direct that no information about the recipient be disclosed to any person or agency.

(c) Upon commencement of services, or as soon thereafter as the condition of the recipient permits, the facility shall ask the adult recipient or minor recipient admitted pursuant to Section 3-502 whether the recipient wants the facility to contact the recipient's spouse, parents, guardian, close relatives, friends, attorney, advocate from the Guardianship and Advocacy Commission or 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, or others and inform them of the recipient's presence at the facility. The facility shall by phone or by mail contact at least two of those people designated by the recipient and shall inform them of the recipient's location. If the recipient so requests, the facility shall also inform them of how to contact the

recipient.

(d) Upon commencement of services, or as soon thereafter as the condition of the recipient permits, the facility shall advise the recipient as to the circumstances under which the law permits the use of emergency forced medication or electroconvulsive therapy under subsection (a) of Section 2-107, restraint under Section 2-108, or seclusion under Section 2-109. At the same time, the facility shall inquire of the recipient which form of intervention the recipient would prefer if any of these circumstances should arise. The recipient's preference shall be noted in the recipient's record and communicated by the facility to the recipient's guardian or substitute decision maker, if any, and any other individual designated by the recipient. If any such circumstances subsequently do arise, the facility shall give due consideration to the preferences of the recipient regarding which form of intervention to use as communicated to the facility by the recipient or as stated in the recipient's advance directive.

(Source: P.A. 95-172, eff. 8-14-07.)

(405 ILCS 5/2-201) (from Ch. 91 1/2, par. 2-201)

Sec. 2-201. (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;

(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, 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.

(Source: P.A. 91-726, eff. 6-2-00.)

(405 ILCS 5/2-202) (from Ch. 91 1/2, par. 2-202)

Sec. 2-202. The Secretary of Human Services and the facility director of each service provider shall adopt in writing such policies and procedures as are necessary to implement this Chapter. Such policies and procedures may amplify or expand, but shall not restrict or limit, the rights guaranteed to recipients by this Chapter.

(Source: P.A. 89-507, eff. 7-1-97.)

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ATTACHMENT 5

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

TITLE 59: MENTAL HEALTH
CHAPTER I: DEPARTMENT OF HUMAN SERVICES
PART 115 STANDARDS AND LICENSURE REQUIREMENTS FOR COMMUNITY-INTEGRATED LIVING ARRANGEMENTS
SECTION 115.250 INDIVIDUAL RIGHTS AND CONFIDENTIALITY

Section 115.250 Individual rights and confidentiality

To ensure that individuals' rights are protected and that all services provided to individuals comply with the law, agencies licensed to certify CILAs shall assure that a written statement, in a language the individual understands, is given to each individual and guardian specifying the individual's rights. All individuals enrolled in the Medicaid DD Waiver shall be given a written copy of DHS Medicaid Home and Community-Based Services DD Waiver, Rights of Individuals.

a) Employees shall inform individuals entering a CILA program of the following:

1) The rights of individuals shall be protected in accordance with Chapter II of the Code except that the use of seclusion will not be permitted.

2) The right of individuals to confidentiality shall be governed by the Confidentiality Act.

3) Their rights to remain in a CILA unless the individuals voluntarily withdraw or meet the criteria set forth in Section 115.215.

4) Their right to contact the Guardianship and Advocacy Commission, Equip for Equality, Inc., the Department's Office of Inspector General, the agency's human rights committee and the Department. Employees shall offer assistance to individuals in contacting these groups giving each individual the address and telephone number of the Guardianship and Advocacy Commission, the Department's Office of Inspector General, the Department, and Equip for Equality, Inc.

5) Every individual receiving CILA services has the right to be free from abuse and neglect.

6) Individuals or guardians shall be permitted to purchase and use the services of private physicians and other mental health and developmental disabilities professionals of their choice, which shall be documented in the services plan.

b) Employee advisement of the individual's rights and justification for any restriction of individual rights shall be documented in the individual's record.

c) Individuals or guardians shall be permitted to present grievances and to appeal adverse decisions of the agency and other service providers up to and including the authorized agency representative. The agency representative's decision on the grievance shall be subject to review in accordance with the Administrative Review Law [735 ILCS 5/Art. III]. For all individuals enrolled in the Medicaid DD Waiver, their rights to present grievances and to appeal adverse decisions of the agency are detailed in 59 Ill. Adm. Code 120.

d) Individuals shall not be denied, suspended or terminated from services or have services reduced for exercising any of their rights.

(Source: Amended at 23 Ill. Reg. 9791, effective August 13, 1999)

ATTACHMENT 6

State of Illinois
Department of Human Services

Rights of Individuals

Medicaid Home and Community-Based Services DD Waivers

The following is a list of some of your rights under the Illinois Mental Health and Developmental Disabilities Code and other laws. This form uses plain English instead of the legal terms in the laws that create these rights. If you have a specific quesion about your rights or when your rights may be restricted, you should talk to a lawyer or contact the Illinois Guardianship and Advocacy Commission. You have other appeal rights if the agency stops providing services or reduces your services. These are listed on the Notice of Right to Appeal (DD-1202).

Retention of Rights You maintain all of your legal and civil rights while receiving services.

Non-Discrimination You have a right to be treated fairly without regard to your sex, race, religion, ethnic background, handicapping condition, national origin, age or financial standing.

Humane Care and Services Plan You have a right to adequate and humane care, services in the least restrictive environment and an individual service plan.

Abuse or Neglect You have the right to be free from abuse or neglect. If you think someone has treated you badly, you should tell someone you trust so that the problem can be resolved. Any incidents of abuse or neglect shall be reported to the Inspector General of the Department of Human Services, the Department of Children and Family Services, the Department of Public Health, or the Department of State Police for investigation.

Restraints Restraints may be used only to protect you from physically harming yourself or others, or as a part of a medical/surgical procedure, and only under the supervision of a properly qualified professional.

Seclusion The use of seclusion is not permitted.

Confidentiality Personal information about you and the services you receive is private and may be shared with someone else only if allowed by the Illinois Mental Health and Developmental Disabilities Confidentiality Act, and, if applicable, by the federal Health Insurance Portability and Accountability Act.

Mail/Phone Calls/Visits You have the right to communicate with other people in private, without obstruction or censorship by the staff. Communication by these means may be reasonably restricted, but only to protect you or others from harm, harassment, or intimidation.

Property You have the right to receive, possess, and use personal property unless it is determined that certain items are harmful to you or others. When you stop receiving services from an agency, all lawful property must be returned to you.

Money You may use your money as you choose, unless you are prohibited from doing so under a court guardianship order.

Banking You may deposit your money at a bank or place it for safekeeping with the service provider. If the service provider deposits your money, any interest earned will be yours.

Neither this service provider nor any of its employees may act as payee to receive any assistance directed to you, including Social Security and pension, annuity, or trust fund payments without your informed consent.

State of Illinois
Department of Human Services

Rights of Individuals

Guardianship and Advocacy
421 East Capitol Suite 205
Springfield, IL. 62701
(217) 785-1540

Guardianship and Advocacy
State of Illinois Building
160 North LaSalle Suite S-500
Chicago, IL 60601
(312) 793-5900

Equip for Equality
2150 West Main St.
Carbondale, IL. 62901
(618) 457-7930
(800) 758-0559

Equip for Equality
P.O. Box 276
235 South 5th Street
Springfield, IL. 62705
(800) 758-0464
(217) 544-0464

Equip for Equality
20 North Michigan Avenue
Suite 300
Chicago, IL. 60602
(800) 537-2632
(312) 341-0022

Equip for Equality
1617 Second Ave.
Rock Island, IL 61201
(800) 758-6869
(309) 786-6868

Office of the Inspector General
901 Southwind Road
Springfield, IL. 62703
(800) 368-1463

Department of Children and Family Services
406 East Monroe Street
Springfield, IL. 62701-1498
(800) 252-2873

Department of Public Health
535 West Jefferson St.
Springfield, IL. 62761
(800) 252-4343

DHS Division of Developmental Disabilities
Room 6-400
James R. Thompson Center
100 West Randolph
Chicago, IL. 60601
(312) 814-2735

DHS Division of Developmental Disabilities
Centrum Building
319 East Madison Street, Suite 3M
Springfield, IL. 62701
(217) 524-7065
(800) 843-6154

You have a right to agency staff assistance in contacting the above agencies.

I have read this statement of rights, or it has been read and explained to me, and I have been given an opportunity to ask any questions I may have regarding my rights. I understand my rights and have received a copy of this statement of rights.

Name of Individual: _____ Date: _____

PLEASE PRINT

Signature of Individual or Guardian: _____

Signature of Witness: _____

This summary of individual rights shall be maintained in the individual's record.

ATTACHMENT 7

State of Illinois
Department of Human Services

Notice of Individual's Right to Appeal - English Version

NOTICE OF INDIVIDUAL'S RIGHT TO APPEAL

Any individual requesting or receiving Medicaid waiver-funded services has the right to appeal a determination by Pre-Admission Screening or Individual Service and Support Advocacy (PAS/ISSA) agency staff that the individual does not meet the waiver programmatic eligibility criteria. The PAS/ISSA agency will notify the individual in writing of the decision and the process to appeal.

Any individual receiving Medicaid waiver-funded services has the right to appeal termination of waiver services authorized by the DHS Division of Developmental Disabilities or reduction of waiver-funded services by the individual service planning team or by the DHS Division of Developmental Disabilities. The qualified mental retardation professional (QMRP) who convened the team or the Division of DD will notify the individual in writing of the decision and the process to appeal.

The process is defined more fully in the Department's Medicaid waiver rule (59 ILL. Adm. Code 120.110) and in the HFS appeal rule (89 ILL. Adm. Code 104.70).

The individual or legal guardian must submit a written request for appeal to the Department of Healthcare and Family Services (HFS) at the address below within 60 calendar days after the date the notice advising the individual of the above actions is received. This 60-day limitation does not apply if the PAS/ISSA agency, the Division of Developmental Disabilities or the qualified mental retardation professional (QMRP) who convened the individual services planning team fails to notify the individual in writing of the decision or of the time limit.

If an appeal request is received within 10 calendar days after receipt of the notice of action, the decision in the notice shall be stayed, pending the results of the appeal.

The appeal process includes a review by an impartial hearing officer appointed by HFS. The HFS, as the single State Medicaid agency, will make the final administrative decision for persons in the Medicaid waivers.

For more information contact:

Illinois Department of Healthcare and Family Services
Bureau of Administrative Hearings
401 South Clinton Avenue 6th Floor
Chicago, Illinois 60607
Telehpone: (312) 793-2636

I have read this form, or it has been read to me, and I have been given an opportunity to ask any questions I may have regarding my right to appeal under the Medicaid Home and Community/Based Services Waiver(s)

Name of Individual: _____ Date: _____

PLEASE PRINT

Signature of Individual or Guardian: _____

Signature of Witness: _____

ATTACHMENT B

MOULTRIE COUNTY BEACON, INC.
STATEMENT OF CONSUMER RIGHTS

The consumer's rights are protected in accordance with Chapter II of the Mental Health and Developmental Disabilities Code.

1. You have the right to maintain all of your legal and civil rights.
2. You have the right to receive all services regardless of your sex, race, marital status, ethnic background, sexual orientation, physical or mental handicap, inability to speak or comprehend the English language, religion, age, unfavorable discharge from the military, or financial standing.
3. You are entitled to adequate, humane care and services delivered with dignity and respect.
4. You have the right to communicate with other people in private, without obstruction or censorship by agency staff.
5. You have the right to participate in the development of your own individualized habilitation/treatment plan.
6. All information concerning you is held confidential and released only by your written consent or by court order.
7. You have a right to review your clinical record.
8. You have a right to participate in any interdisciplinary team meeting regarding yourself.
9. You have the right to remain in services unless you voluntarily withdraw from services or you meet the criteria for termination from services, which includes: 1.) your medical needs cannot be met by the program or, 2.) your behavior places yourself or others in serious danger 3.) you no longer benefit from CILA services (Residential Program only), or 4.) you are being transferred to a service program offered by another agency and this transfer has been agreed upon by you, the transferring agency and the receiving agency. Termination may occur at documented completion of your service plan goals.
10. Justification for any restriction of your individual rights shall be documented in your individual record.
11. The use of seclusion shall not be permitted.
12. You have the right to express any grievances, and to appeal adverse decisions of the agency in writing to your authorized agency representative. The agency's representative's decision on the grievance shall constitute a final administrative decision and shall be subject to review in accordance with the Administrative Review Code.
13. You have the right to purchase and use the services of private physicians and other mental health and developmental disabilities professionals of your choice, which shall be documented in your individual service plan.
14. You have the right to terminate treatment at any time and you shall not be denied, suspended or terminated from services or have services reduced for exercising any of your rights.
15. You have the right to be free from physical/mental abuse, neglect, financial or other exploitation and corporal punishment. Any incidents of abuse or neglect shall be reported to the IL. Department of Human Services, Office of Inspector General. We may also report to the Department of Public Health, or the IL Department of State Police for investigation.
16. You have the right to report any violation of your rights to your agency's Human Rights Committee or the following agencies:

Guardian and Advocacy Commission (G&A)
2125 S. First Street
Champaign, IL 61820
217-278-5577

Equip for Equality
427 E. Monroe, Suite 302
P.O. Box 276
Springfield, Illinois 62705
(217) 544-0464 or 1-800-758-0464

Illinois Department of Human Services
Office of Developmental Disabilities
Centrum Building
319 East Madison Street, Suite 3M
Springfield, Illinois 62701

Office of Inspector General
901 Southwind Road
Springfield, Illinois 62703
1-800-368-1463

ATTACHMENT 9

MOULTRIE COUNTY BEACON, INC.
GRIEVANCE PROCEDURE

The Moultrie County Beacon, Inc. attempts to provide a setting in which human rights are always respected and safety procedures are followed. If any consumer feels that they have been treated unfairly, have not received the services to which they are entitled, or feel that they have had services denied, modified, reduced or terminated, they are expected to bring the concern to the attention of their immediate supervisor. Individuals are not excluded, suspended or discharged from services and services are not reduced for exercising any of their rights. There will be no disciplinary action taken against an individual prior to a final administrative decision.

If for any reason the individual is not satisfied with the response of their immediate supervisor, or if their concern is with their immediate supervisor, then the consumer is to speak with any agency employee. With the permission of the consumer, this employee is to speak with the consumer's Department Director. This would be one of the following:

Director of Developmental Training, Lisa Benton;
Director of Residential Services, Melinda Wright;
Director of Clinical Services. Justin Freeman:

The consumer's QSP will be involved in this discussion. If these professionals are not able to resolve the problem to the consumer's satisfaction, then the QSP is to inform the Executive Director and the Human Rights Committee by providing written documentation of the consumer's complaint. The complaint will be signed and dated by the consumer and their QSP. (See attached form). At no time will any individual directly involved in the complaint be part of the review of that action or of a final decision. The Executive Director will at this time inform the Board of Directors of the consumer complaint.

The Executive Director has eight (8) days to schedule a meeting between the consumer, assigned QSP, Department Director, parent (if applicable), guardian (if applicable), residential caregiver (if applicable), and three unbiased consumer peers.
Written findings are submitted to the Human Rights Committee and the consumer within five (5) working days. The response will be shared with parent or guardians when applicable.

Complaints that are still unresolved to the consumer's satisfaction will be reviewed for a decision by the Human Rights Committee. The Human Rights Committee will submit a written response to the consumer within ten (10) working days.

The Moultrie County Beacon Board of Directors will also respond to the complaint no later than the next regularly scheduled board meeting. The consumer complaint will be an agenda item. A written response from the Board is required within 3 working days of the meeting. The decision of the Board of Directors is final.

ATTACHMENT 10

MOULTRIE COUNTY BEACON, INC.
CONSUMER COMPLAINT FORM

Consumer Name:_____ Date: _____

Who or What Are You Upset About:_____

_____

_____

_____

Describe the Incident:_____

_____

_____

_____

_____

Date of Incident:_____

Place of Incident:_____

Who Do You Want to Report This To?_____

_____

Consumer Signature:_____Date:_____

Staff Completing the Form:_____

QSP:_____

Team Meeting Deadline (8 days):_____

Written report due to the Human Rights Committee by (5 working days) :_____

4/2000 BL forms/complaint.frm 119.235
Original: Consumer File Copies: Human Rights Committee, Outcome Management, Executive Director and MCB Board
105.2