



January 10, 2018

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CT Corporation System, Registered Agent
UHS of Timberlawn, Inc.
DBA Timberlawn Mental Health System
1999 Bryan Street Ste 900
Dallas, TX 75201

Certified Mail Number: 7016 3010 0000 1367 5187
and First Class Mail Service

James Miller, CEO
Timberlawn Mental Health System
4600 Samuell Boulevard
Dallas, Texas 75228

Re: Notice of Violation (Notice), Timberlawn Mental Health System, Psychiatric Hospital, License No. 000752, Case No. 1068180129, Docket No. A27658-505-2018.

Dear Mr. Miller:

The Health and Human Services Commission (Commission) has reviewed documents and evidence related to an unannounced complaint survey of Timberlawn Mental Health System (Respondent) located at 4600 Samuell Boulevard, Dallas, Texas, 75228 (Facility) conducted on or about October 19, 2017.

As a result of that review, the Commission proposes to revoke Respondent's license #000752 and assess an administrative penalty of \$600,000 against Respondent pursuant to its authority under Chapters 571-578 of the Texas Health and Safety Code (HSC) and Title 25 of the Texas Administrative Code (TAC), Chapters 134, 404, 411, 414, and 415 (Rules).

The proposed actions are based upon the following allegations (names of persons identified by initials or numbers will be provided upon request if permitted by law):

- 1. Respondent's Governing Body failed to ensure the Facility staff furnished services in a safe and effective manner:**

Patient #1 was housed in a room next to that of Patient #3, who was placed on sexually acting out-perpetrator precautions which required staff to perform 15-minute observational room checks for suicide precautions and assault precautions. Patient #3 reported that patient #1 entered her room without staff intervention and sexually assaulted her. In addition, 15-minute suicide precaution checks ordered by physicians were not completed by staff during a 45-minute span for patients #1, #2, #4, #6, #7, #9, #10, #11, #13, #15, #17 and #18. This conduct is in violation of 25 TAC §133.41(c)(7), which states:

§134.41 Facility Functions and Services.

(c) Governing body.

(7) Contracted services. The governing body shall be responsible for services furnished in the facility whether or not they are furnished directly or under contracts. The governing body shall ensure that a contractor of services (including one for shared services and joint ventures) furnishes services in a safe and effective manner that permits the facility to comply with all applicable rules and standards for contracted services.

An administrative penalty of \$230,000 ($\$25,000 \times 2$ patients + $\$15,000 \times 12$ patients) is proposed for this rule violation.

2. Respondent's Governing Body failed to ensure the Facility staff followed its own policies and procedures concerning staffing requirements:

The Respondent did not follow its staffing policies and procedures, which resulted in allowing patient #3 to enter patient #1's room without staff intervention; patient #1 reported that patient #3 sexually assaulted her. This conduct is in violation of 25 TAC §133.41(o)(2)(E), which states:

§134.41 Facility Functions and Services.

(c) Governing body.

(8) Nurse staffing. The governing body shall adopt, implement and enforce a written nurse staffing policy to ensure that an adequate number and skill mix of nurses are available to meet the level of patient care needed. The governing body policy shall require that hospital administration adopt, implement and enforce a nurse staffing plan and policies that:

(B) are based on the needs of each patient care unit and shift and on evidence relating to patient care needs.

An administrative penalty of \$50,000 ($\$25,000 \times 2$ patients) is proposed for this rule violation.

3. Respondent violated patients' right to a humane treatment environment that ensures protection from harm:

Respondent's staff did not intervene to prevent patient #3 from enter patient #1's room; patient #1 reported that patient #3 sexually assaulted her. This conduct is in violation of 25 TAC §404.154(3), which states:

§404.154 Rights of All Persons Receiving Mental Health Services.

(3) The right to a humane treatment environment that ensures protection from harm, provides privacy to as great a degree as possible with regard to personal needs, and promotes respect and dignity for each individual.

An administrative penalty of \$50,000 (\$25,000 x 2 patients) is proposed for this rule violation.

4. Respondent failed to ensure patients' treatment plans contained all pertinent, current information or failed to evaluate treatment plans as appropriate:

Commission staff reviewed treatment plans for patient #1, #2, #3, #15, #24, and #25 which failed to address patient #1's past history of sexual abuse, patient #2's flashback from past sexual abuse, patient #3's sexually acting out-perpetrator precautions, patient #15's lactose intolerance, patient #24's sexually acting out-perpetrator precautions, and Patient #25's inability to digest milk and dairy products. This conduct is in violation of 25 TAC §411.471(b)(2) and (d)(1), which state:

§411.471 Inpatient Mental Health Treatment and Treatment Planning.

(b) Treatment plan content within 24 hours. A hospital, in collaboration with the patient, shall develop and implement a written treatment plan within 24 hours after the patient's admission. If the patient is unable or unwilling to collaborate with the hospital, the circumstances of such inability or unwillingness shall be documented in the patient's medical record.

(2) The treatment plan shall contain:

(A) a list of all diagnoses for the patient with notation as to which diagnoses will be treated at the hospital including:

(i) at least one mental illness diagnosis;

(ii) any substance use disorder diagnoses; and

(iii) any non-psychiatric conditions;

(B) a list of problems and needs that are to be addressed during the patient's hospitalization;

(C) a description of all treatment interventions intended to address the patient's problems and needs, including the medication(s) prescribed and the symptoms each medication is intended to address;

(D) identification of any additional assessments and evaluations to be conducted, which shall include the social assessment described in §411.474(d) of this title (relating to Social Services);

(E) identification of the level of monitoring assigned to the patient; and

(F) a description of the rationale for the treatment interventions described in accordance with subparagraph (C) of this paragraph.

(d) Treatment plan review. In addition to the review required by subsection

(c)(1)(D) of this section, the treatment plan shall be reviewed and its effectiveness evaluated:

(1) when there is a significant change in the patient's condition or diagnosis or as otherwise clinically indicated.

An administrative penalty of \$90,000 (\$15,000 x 6 patients) is proposed for this rule violation.

5. Respondent's staff failed to monitor patients according to the level of monitoring documented in the patients' records:

Respondent's staff failed to complete 15-minute suicide precaution checks ordered by physicians during a 45-minute span for patients #1, #2, #4, #6, #7, #9, #10, #11, #13, #15, #17 and #18. This conduct is in violation of 25 TAC §411.477(a)(2), which states:

411.477 Protection of a Patient.

(a) Modifying the environment and monitoring the patient. A hospital shall protect a patient by taking the following measures:

(2) monitoring the patient at the level of monitoring most recently specified in the patient's medical record.

An administrative penalty of \$180,000 (\$15,000 x 12 patients) is proposed for this rule violation.

In accordance with Government Code Section 2001.054(c) and Health and Safety Code §243.015, you have the right to show compliance with all requirements of law prior to final action by the Commission. **Within 20 calendar days following the day you receive this notice, you may:**

1) Admit the allegations and accept the Commission's determination to revoke license #000752 and assess an administrative penalty of \$600,000. Return the license and remit the penalty amount of \$600,000 by cashier's check, money order, or company check made payable to the Health and Human Services Commission, with a notation of:

P.O. Box 13247 • Austin, Texas 78711-3247 • 512-424-6500 • hhs.texas.gov

Deposit in Budget No. ZZ156, Fund No. 152, Service Code No. 529201038, and return the enclosed Response to Notice form, with the first box checked. Please be sure to sign and date the form; or

- 2) Submit a written request for an informal conference and a hearing (if necessary), regarding the occurrence of the alleged violations, the amount of the penalties, or both; or,
- 3) Submit a written request for a contested case hearing to be held at the State Office of Administrative Hearings regarding the occurrence of the alleged violations, the amount of the penalty, or both.

Please use the attached **RESPONSE TO NOTICE** form to notify the Commission of which option you have selected.

FAILURE TO RESPOND TO THIS NOTICE WITHIN 20 CALENDAR DAYS FROM THE DATE YOU RECEIVE THIS LETTER WILL BE CONSIDERED A WAIVER OF YOUR RIGHT TO A HEARING, THE ALLEGATIONS IN THIS NOTICE WILL BE DEEMED TRUE, AND THE COMMISSION WILL ASSESS THE ADMINISTRATIVE PENALTIES BY DEFAULT.

If you have any questions regarding this proposal, please contact me at (512) 834-6665, ext. 2092.

Sincerely,



Charles Burkhalter
Health and Human Services Commission
Regulatory Services Division, Health Care Quality
512-834-6665 EXT. 2092
Fax 512-834-6625
Charles.Burkhalter@hsc.state.tx.us

Enclosure

RESPONSE TO NOTICE OF VIOLATION (NOTICE)

Timberlawn Mental Health System, Private Psychiatric Hospital, (Respondent), has received a Notice from the Health and Human Services Commission, in which it was notified that the Commission is proposing to revoke license #000752 and assess an administrative penalty of \$600,000.00 for License No.000752, Case No. 1068180129, Docket No. A27658-505-2018.

Please select an option by checking the applicable box. Sign in the space provided below, and **return this page not later than the 20th calendar day after you receive this notice.**

- OPTION 1** Respondent admits the allegations and accepts the proposed action in the Commission’s Notice. Respondent waives the right to an administrative hearing or an appeal. Respondent hereby returns license #000752 and remits an administrative penalty of \$600,000 by cashier’s check, money order, or company check, made payable to the Health and Human Services Commission, with a notation of: Deposit in Budget No. ZZ156, Fund No. 152, Service Code No. 529201038. Mail the license and the penalty with this form to: The Health and Human Services Commission, Accounts Receivable – MC 1470, PO BOX 149055, Austin, TX 78714-9055.
- OPTION 2** Respondent does not accept the proposed action in the Commission’s Notice and requests an informal conference and, if necessary, a hearing.
- OPTION 3** Respondent does not accept the proposed action in the Commission’s Notice and requests a hearing before the State Office of Administrative Hearings.

If you are not including a payment with your response, please mail your response to: Health and Human Services Commission, Regulatory Services Division, Health Care Quality – MC 7927, Attn: Charles Burkhalter, P.O. Box 149347, Austin, TX 78714-9347 or fax it to: 512-834-6625.

<hr/> SIGNATURE OF RESPONDENT’S AUTHORIZED REPRESENTATIVE	<hr/> DATE
<hr/> PRINTED NAME AND TITLE OF SIGNATORY	<hr/> 000752 LICENSE NUMBER