

CENTRAL STATE HOSPITAL  
POLICY

SUBJECT: Relationship With Georgia Advocacy Office (GAO)

ANNUAL REVIEW MONTH: January

RESPONSIBLE FOR REVIEW: Risk Management Director

LAST REVISION DATE: February 2008

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**I. POLICY**

A. PURPOSE:

1. The purpose of this policy is to ensure that CSH has, specific guidelines in place to assist staff in complying with the requirements of the federal law relating to the activities of the protection and advocacy systems established to protect and advocate for the rights of individuals who are mentally ill.

The guidelines shall include:

- a. Protection and Advocacy for Individuals with Developmental Disabilities (PADD) advocates access to clients;
  - b. Protection and Advocacy for Individuals with Mental Illness (PAIMI) advocates access to clients;
  - c. PADD/PAIMI Advocates access to staff;
  - d. PADD/PAIMI Advocates access to and requests for copies of medical records with consent of the client or the client's legal guardian of person;
  - e. PADD/PAIMI Advocates access to records (to include copies) of clients unable to consent;
  - f. PADD/PAIMI Advocates access to Administrative Records; and
  - g. Dispute Resolution.
2. The purpose of establishing a mechanism for resolving problems and complaints is to provide timely, useful feedback to both clients and PADD/PAIMI Advocates.
  3. Central State Hospital's goal, in the interest of improved client care, is to open communication to the maximum extent practical in working with PADD/PAIMI Advocates.

B. DEFINITIONS:

1. Abuse – any intentional or grossly negligent act, exploitation or series of acts, or omission of acts, by a staff member of a community provider or state hospital which may cause injury or mental anguish to a client, including, but not limited to, verbal abuse, assault or battery, or sexual harassment.

Abuse includes, but is not limited to, acts such as –

- a. any form of sexual contact, or attempt as such, with a client, including sexual harassment;
  - b. any reckless, inappropriate and/or intentional physical contact, physical assault, physical maltreatment or unreasonable confinement of a client which causes or could cause pain, mental anguish, injury or death;
  - c. the use of excessive force against a client or the inappropriate use of seclusion or restraint to discipline a client or for staff convenience;
  - d. the use of coarse, insulting, contemptuous, and/or profane words towards a client;
  - e. neglect is the failure to provide necessary supervision, interaction, or necessities of life (e.g., failure to change soiled clients, failure to attend to physical ailments, failure to report instances of abuse or neglect committed by others, etc.);
  - f. exploitation refers to any improper or unjust act with/to or involving a client(s) for another person's advantage, person gain, profit or any type of personal gratification.
2. GAO Advocates - Representatives of the Federal Law, PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS and, PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES under the administration of the Georgia Advocacy Office known in this policy as GAO Advocates.
  3. Probable Cause - more than a mere suspicion of abuse or neglect.
  4. Reckless - implies a conscious indifference or conscious disregard for client's rights.
  5. Records include:
    - a. Clinical Records which contain information on all matters relating to the admission, care, treatment, discharge and legal status of the client.
    - b. Personnel Records - time sheets, work schedules, training records and other records included under the Open Records Act.

- c. Administrative Records which include Incident Reports, Client Rights Investigation Reports, Policies and Procedures, etc.
  - d. Reports prepared by any agency charged with investigating reports of incidents of abuse, neglect, and injury occurring at CSH and the steps taken to investigate such incidents.
6. Therapeutic Activities are those activities consisting of specific, need-determined, goal-directed diagnostic and /or treatment services to be consistently delivered, as scheduled, by designated staff of appropriate disciplines with reasonable expectations of improving the target behaviors necessitating admission and continued hospital stay.

C. POLICY STATEMENT:

CSH staff shall comply with federal and state laws and regulations and ensure clients have reasonable access to GAO advocates who are authorized to assist clients in the protection of their rights.

D. DISCUSSION:

- 1. GAO Advocates access to clients:
  - a. The GAO Advocate(s) may provide services to clients after a complaint of abuse and/or neglect has been received or a finding has been made that there is probable cause to believe that the client has been abused and/or neglected. The GAO Advocate(s) may provide individual services only to clients:
    - 1) who wish such services and do not have a legal guardian of person;
    - 2) who have a legal guardian of person or custodial parent(s), with the guardian's/custodial parent(s) consent prior to face to face involvement;  
**NOTE:** Where DFCS is the client's legal guardian, DFCS authorization is not required.
    - 3) whose legal guardian of person fails or refuses to act on behalf of the client after being contacted by GAO; or
    - 4) who are unable to communicate their wishes regarding P&A services.
- 2. Client Access to GAO
  - a. All clients will have reasonable access to a telephone to call the GAO Advocate(s) without permission from, or monitoring by hospital staff.
  - b. All clients will have access to the GAO Advocates when they are visiting, without permission from, or monitoring by hospital staff.
  - c. Clients have the right to schedule appointments with GAO Advocate(s) at times agreeable to the client, but not during scheduled therapeutic activities except in an emergency.

- d. Upon arrival on the treatment unit, the GAO Advocate(s) shall either wear their GAO nametag or a Visitor's badge.
- e. The Service Director/designee and Risk Management shall be notified when the GAO Advocate is on the unit/living area.
- f. Clients have the right to meet with GAO Advocate(s) on their living units. The GAO Advocate(s) and client will be given access to a reasonably private place. Clients who must be monitored closely will be provided with as much privacy as possible when talking with GAO advocate(s) without compromising the safety or medical needs of the client.
- g. Whenever possible, clients who do not wish to meet with the GAO advocate(s) will be asked to communicate their wishes directly to the GAO Advocate(s).
- h. GAO Advocate(s) may make reasonable unannounced visits to unit living areas to monitor unit conditions and to investigate complaints related to unit conditions.
- i. Requests from GAO Advocate(s) to provide educational meeting for clients as a group shall be arranged within a reasonable time after the request is made with approval by the Service Chief and consultation with Risk Management. Clients shall be informed of the time and place of the meeting and that their attendance is voluntary.

3. GAO advocates access to staff:

- a. Upon execution of a complete and valid Release of Information, hospital staff is encouraged to talk openly with GAO advocate(s) in connection with a GAO investigation.

**NOTE:**

- 1) Staff have the right to refuse to talk to GAO Advocate(s).
- 2) Staff are not to disrupt their work schedules or responsibilities to speak with GAO Advocate(s).
- 3) CSH staff may ask GAO Advocate(s) to make appointments in advance during their regular shifts.
- 4) CSH employees shall not discuss with the GAO Advocate(s) matters in litigation. If the possibility of litigation exists, the hospital will have a designated staff member present during any interviews.

4. GAO Advocate(s) access to and requests for copies of medical records with consent of client or legal guardian of person (an employee shall always be present when a medical record is reviewed).

- a. Upon the receipt of complete and valid authorization of the client or his/her legal guardian of person, GAO Advocate(s) shall be given access to the medical records of the client.

**NOTE:** When DFCS is the client's legal guardian of person, DFCS authorization is not required when a complaint has been received or a finding

of probable cause has been made. (**The Risk Management Director should be consulted before any release of records in these cases.**)

- b. GAO Advocates shall be given copies of clinical records generated by third parties if so requested.
- c. All copies of clinical records will be made by HIM, Release of Information Department.
- d. CSH will establish procedures to ensure accurate billing for copies of medical records.

Note: HIM, Release of Information shall maintain a record of any request for copies of client records and send a copy to Risk Management.

- 5. GAO access to records (to include copies) of clients unable to consent to disclosure:
  - a. The following clients are unable to authorize access to their record, those who:
    - 1) have died at CSH or within 90 days of transfer from CSH;
    - 2) are incapable by reason of physical or mental impairment to give informed consent to disclosure;
    - 3) have a legal guardian of person, or whose legal guardian of person is not available, or whose legal guardian of person fails or refuses to act on the client's behalf after being contacted by the GAO system.
  - b. GAO Advocate(s) are authorized to obtain access to the records of a client who is unable to give authorization as defined above upon the receipt of a complaint of alleged abuse or neglect, or upon a finding of probable cause to believe the client has been abused or neglected.

**The Risk Manager should be consulted before any release of records under this section.**

- 6. GAO access to administrative records
  - a. GAO shall have access to the following administrative records in appropriate cases when they have received a complaint.
    - 1) Records (whether written or in another medium, i.e., draft or final, including handwritten notes, electronic files, photographs or video audio tape records) include but not limited to the following: time sheets, work schedules, training records, Accident/Injury Reports, Incident Reports, Client Rights Investigations, Police Investigations.
    - 2) Reports prepared by any agency charged with investigating reports of incidents of abuse, neglect, and injury occurring at such facility and the steps taken to investigate such incidents.

**Only Risk Management will release these records.**

7. Dispute Resolution:
  - a. The Risk Management Director and Facility Risk Manager shall be the primary contacts for advocates from the Georgia Advocacy Office regarding all requests or problems.
  - b. Informal resolution is the preferred course of action. Therefore, GAO Advocates shall be encouraged to seek out supervisory staff on the unit, whenever reasonably possible, to resolve access issues.
  - c. All responses to GAO advocates should be sent within five (5) days of receipt, and only after consultation with the Facility Risk Manager.

**II. PROCEDURE:** NA

**III. REFERENCES:** Division Policy, 3.101, Protection and Advocacy for Persons with Mental Illness, Federal Law, and Rules and Regulations for Patient's Rights.

**IV. APPROVED BY:**

**This policy has been approved by the CEO and CMO in March, 2008.**

Attachment:

Attachment I: Georgia Advocacy Office Statement of Determination of Probable Cause

**GEORGIA ADVOCACY OFFICE STATEMENT OF DETERMINATION  
OF PROBABLE CAUSE  
FOR ACCESS TO CONFIDENTIAL RECORDS  
UNDER FEDERAL LAW**

(42 U.S.C.s 15041 et seq.; 42 U.S.C s 10801 et seq. And 29 U.S.C. s 794e)  
(The P&A Acts)

Date: \_\_\_\_\_

Individual or Individuals whose records are requested:  
(Name and/or other identifying information)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I, \_\_\_\_\_, as a representative of the Georgia Advocacy Office (GAO), hereby certify that in relation to the requested records in this matter, GAO has reasonable grounds to believe that the individual(s) whose records are requested, qualifies for protection under the P&A Acts referenced above, and has been, or may be, subject to abuse or neglect.

GAO has based this determination on reasonable inferences drawn from experience or training regarding similar incidents, conditions or problems that are usually associated with abuse or neglect, or from monitoring or other activities including observation by GAO personnel and reviews of monitoring or other reports prepared by others whether pertaining to individuals qualifying under the Acts or to general conditions affecting their health or safety, or from other sources as authorized in the P&A Acts.

Signed by: \_\_\_\_\_  
Representative for Georgia Advocacy Office