Brain Injury Business Practices College

November 10 – 12, 2008

Case Study

Winter had been long and hard. The snowfall had been more than usual and cabin fever was everywhere. The relief brought by the week of unseasonably warm weather was palpable. People were smiling and yearning for the outdoors. The sun hadn't been seen for several weeks. With the warmer temperatures came some thawing and the usual mess in the streets, but the warmth and promise of spring made up for the problems brought on by slush in the day and ice at night.

Tom suffered brain and spinal cord injuries in a car crash while working as a courier 5 years earlier. He had residual paraplegia together with difficulties in planning, memory, impulsivity and behavior. He was frequently overly familiar with women, but had made great improvements in the 4 years he had lived at Happy Acres. He had gradually developed the ability to do much of his self care and recently had progressed to self-administration of his medications. He was quiet, keeping to himself much of the time. The staff questioned whether he was a loner or whether he suffered from depression. He occasionally suffered from urinary tract infections and skin problems. Staff kept a close eye on both, but Tom's independence and desire for maximal privacy made it difficult for skin checks.

Happy Acres was licensed as an Adult Assisted Living Facility. The program specialized in provision of assisted living services to people with brain injury. Tom's spinal cord injury was a challenge at first, but the staff rapidly learned how to manage his special needs. The facility was proud of its focus on maximized independence and personal choice. The staff was convinced that both contributed to the overall life satisfaction of all residents. Disability levels ranged from minimally conscious to full mobility with cognitive supervision requirements. Rooms were shared and this was a problem from time to time. It was difficult to match levels of disability, personalities and interests. Tom's roommate was a young man who had been struck by a bus and was in a minimally conscious state. He was fed by gastrostomy and incontinent of bowel and bladder. He utilized a Roto-bed and specialized air cushions to assist with skin integrity and to reduce the need for turning.

Happy Acres was staffed during the day by 1 RN and three CNAs. The staff was reduced to two CNAs during the third shift since there was less to accomplish in the evening hours. Shifts began at 7 a.m. (First Shift), 3 p.m. (Second Shift) and 11 p.m. (Third). The house served 8 clients in total.

After the morning activities on March 25, the staff readied for lunch which was usually served at 12:30 p.m. Tom had been watching the morning shows and couldn't help but notice the beautiful weather and all the chatter about how gorgeous the day was. The temperature was expected to reach 50 degrees, and Tom could see the snow melting off the neighbor's roofs. Tom had the idea that he would like to go out and see a movie after lunch. The theater was one half mile away and easily within reach of his electric wheelchair. Tom had demonstrated his ability to move around the community independently over the last two years. He had learned to control his behavior with women in the community though he still flirted if he had the chance. The route to the theater required only one turn and Tom made the trip often. There was a small, accessible restaurant near the theater that served Tom's favorite Chinese food. Tom asked if he could sign out to see the new Batman movie. He asked for the sign-out form and completed it as required. He estimated that he would return at 4:30 p.m., in time for dinner which was served at 5 p.m.

The first shift changed as usual at 3:00 pm. As the afternoon progressed, one of the second shift CNAs, Sarah, began to feel ill. She had been tired, but quickly she became ill, and started to vomit. She and her colleagues concluded she had the flu. The afternoon had been otherwise uneventful and the shift was nearing completion. Tom's outing lightened the load further so the decision was made for Sarah to go home early. The two remaining suggested that Sarah just go and they would clock out for her, enabling her to be paid for her entire shift. They reasoned that they could easily cover the remaining hours of the shift. After Sarah departed, Jane and Bill began the dinner preparation. Thirty minutes after dinner, they heard a noise in the living room. John, a client who had a history of seizures while at the facility, had fallen. At first, they thought he had tripped; however, it soon became clear that he was having a seizure. Jane and Bill knew the seizure management protocol and began to time the episode. The seizure lasted 90 seconds and stopped. They provided support for John and as he began to regain consciousness, though confused, they could see that John was okay. They helped John get to his room and into bed. He would sleep until morning most likely, as he usually was quite fatigued after a seizure. Jane returned to finishing the bedtime preparation while Bill documented the seizure. Jane looked in on Tom's roommate to check. His feeding bag was half-full and would not need to be changed until midnight.

In the midst of managing the seizure, the phone rang. The answering machine picked up and recorded Tom's message that the movie had been longer than expected. Since he would miss dinner, he decided to stop by Chang's for dinner. He would be home after dinner. In the confusion of the seizure, dinner and preparing everyone for bed, Jane and Bill missed the call. Jane and Bill readied their respective clients for bed. Tom and his roommate were Sarah's clients.

As the shift change approached, Jane and Bill rehearsed the story they would tell to cover Sarah's absence. They decided to punch her time card ten minutes early, citing a need for her to go home since she was feeling poorly. Shift change occurred as usual and without discovery of Sarah's earlier departure. No one would care on the third shift. They knew the pay was not great and who cared if someone got a little break? The nightshift staff understood. Their biggest struggle was staying awake. They would sometime take turns napping in case the night supervisor happened to drive by for an unannounced visit.

The first shift came on and began to make the usual rounds to help the clients with their morning routines. It was immediately noticed that Tom was not in his room, had not slept in his bed and was not in the home. The staff from the second shift had reported that the evening had been uneventful and had documented their bed checks as complete. The documentation did not show that Tom had been taken to the hospital, but there was an outing form sitting on the Nurse's desk. As the staff reviewed the outing form, they concluded that Tom had not signed back in. Had Tom spent the night at someone's home he met at the theater? Had he gone to a bar? To the strip club? Then the phone message was discovered that Tom had planned to dine at Chang's before returning home.

The RN called Chang's but there was no answer at 7:45 a.m. She next called the company's main office and reported Tom missing. Tom has disappeared a few times when he first came to the facility but he had improved so much that this had not been a problem for some time. A call was made to the staff from the second shift, but they could not be reached. No other staff with whom Tom had good relationships knew anything of his whereabouts. Several staff members volunteered a few ideas and agreed to come in to help locate Tom.

The decision was made to drive to the theater to see if the cleaning staff might be in. Tom was well known at the theater and perhaps the manager could be reached at home. He would remember if Tom had been in the day before. When contacted, the manager acknowledged that Tom had seen the afternoon showing of Batman and had said "Good-Bye" to the manager after the show. The manager recalled the time because he was a little nervous for Tom with the temperature and the slush turning to ice. He warned Tom about the temperature change and suggested that he hurry home. He offered to call Happy Acres for Tom, but Tom said he would be fine.

By noon, the police had been alerted and asked for assistance. The police department was not familiar with Happy Acres and they were initially reluctant to be of much help. Once the company CEO called and explained that Tom had special needs, the Chief of Police sent a cruiser over immediately. The two officers took the report and asked for information about Tom's description. The staff looked for a photograph and eventually found an older one. The biggest identifier would be Tom's wheelchair, they were sure. The police checked immediately with Chang's and learned that Tom had been in for dinner. The restaurant staff thought that Tom had left around 7:30 p.m. They also remarked that Tom left his hat, scarf and gloves if someone wanted to come by and pick them up.

As the search for Tom continued, a staff member decided to run over to the restaurant to retrieve Tom's belongings. She took the shortcut on the path through the small wooded area behind the neighborhood that was used as a biking and walking path. As she rounded a corner, she saw Tom. He was sitting sideways on the path, with the front wheels of his chair off the path. The wheels were covered with ice, frozen in place. As she approached Tom, calling his name, he did not answer. Fear rose up inside her and as she got closer, she could see Tom's eyes were closed. His lips were blue and his face was ashen. His hands and fingers were so cold. She shook him, calling his name, but he did not respond. She quickly called 911 and then the facility. She knew he was gone, but she kept searching for a pulse, for a breath. When the paramedics arrived, they began CPR and transported Tom to the hospital. Tom was pronounced dead upon his arrival to the hospital.

There was much to do, and there was no policy or protocol to refer to. The company CEO knew instinctively that this would be very hard on staff and clients alike. He had to notify the family, he had to deal with staff, had to help the clients and he was completely unprepared to handle any of this. They were prepared for people to die of natural causes, or seizures, but not this. In

the meeting with the Police immediately after finding Tom, one of the staff members from the second shift blurted out, “Oh my God! We killed Tom!” Nothing else she could say was intelligible and the RN had to move her away from the group to comfort her. The CEO finished with the Police and made the call to Tom’s family. They were beyond grief with the shock of the call. The CEO gave them his condolences and promised to help in any way he could. He would call with any information he received.

The next call he made was to the company legal counsel. They agreed to see him immediately. As he drove over, his mind raced. He was in shock himself. What did this mean? Was this how his company would end? How could the staff have been so careless? How did this happen? Nothing made sense. He drove wondering what the days ahead would hold. It was hard to imagine where he was going, what he was going to do. What would become of his career, his company, his family, and his staff?

The evening news was sure to carry the story and the morning paper couldn’t be printed fast enough. How would he handle the calls from the press? What if the press spoke with staff? And the State Licensing Agency would surely pull his license. He expected a lawsuit to beat all lawsuits. And to top it all off, the attorney suggested that he would have a colleague join their meeting who specialized in criminal law.

Study Questions:

Human Resources – What are the HR consequences of the case? Was staff at fault? If so, whom? How could staff have performed more effectively prior to the loss? After the loss? Are there training or recruiting ramifications to the loss? Was policy useful or hurtful in the case? Are there gaps in staffing that could have prevented the loss? What do you need to do to assist staff with the loss? What staffing issues impacted this case? How could they be mitigated in the future?

Communications – What are the public relations risks to the loss? How should they have been managed? Who should manage the public relations issues? Who should be informed of the loss, by whom and when? How much information should be disclosed? How do you handle licensing agencies? What do you tell staff, patients and families? How does the marketing and admissions staff respond when questioned? What does other staff say when questioned? How do you manage patient and family reactions to the loss? How do you handle investigative reports vs. regular daily news reports?

Operations – What could have been done to avert this from happening? How does a change in policy or procedure based on this incident affect your liability? What incident reporting must be done? How should incident reporting be conducted, information collected and recorded and by whom? How should operations review policy and procedure involved in the loss? How do you insure that operations deals with the loss, but does not lose sight of other important operational matters? What operational checks need to be conducted? What follow up, Risk Management and QA/QI procedures should be followed? What was the proximal cause of this unfortunate incident? Was it a single or multiple system failure? What are the clinical implications for other patients and how are they addressed?

Legal – What type of legal counsel is required? What is the role of legal counsel? Who should contact legal counsel? How do you determine if proper insurances are in place, in force and applicable? How do you document the incident most effectively? Who should document the incident? How do you secure records and documentation? How do you debrief staff? How do you prepare staff? How do you handle communications with affected family members?   How do you assess your risk in this case? What are the procedures in reporting incident to liability insurance carrier? How does the facility ensure that there is adequate liability insurance coverage? Is there liability insurance coverage jeopardy if criminal charges are pressed? What are the implications for all staff involved if criminal charges are pressed? What personnel are charged and is the facility responsible for providing legal representation to its CNAs, R.N., and other members of its management team?