



FOR IMMEDIATE RELEASE

METRO EAST REGIONAL HUMAN RIGHTS AUTHORITY

REPORT OF FINDINGS

HRA CASE # 11-070-9033

ALTON MENTAL HEALTH CENTER

INTRODUCTION

The Metro East Regional Human Rights Authority (HRA) has completed its investigation of a complaint at Alton Mental Health Center (the Center), a state-operated mental health facility that has 125 inpatient beds in Alton. The allegation states that the Center may have violated a consumer's rights when it denied adequate and humane treatment and services pursuant to an individual services plan.

If substantiated, the allegation would be a violation of the Mental Health and Developmental Disabilities Code (Code) (405 ILCS 5/2-102), the Illinois Department of Human Services Forensic Handbook and Alton Mental Health Center's policies.

Specifically, the allegation states that a consumer does not receive equitable treatment because staff regularly single him out and punish him for behaviors that do not constitute a safety issue.

METHODOLOGY

To pursue the investigation, an HRA team visited the Center and interviewed the consumer, the case manager (Manager) and the Medical Director. With consent, the HRA reviewed the consumer's record and the Center provided copies of applicable policies and procedures.

FINDINGS

The consumer stated that he has always behaved appropriately and that he has not posed a safety or security threat. However, the consumer said that he is routinely singled out when staff conduct personal and room searches and require him to submit to frequent urine and blood screenings. When the consumer refuses search or screenings, the staff remove or delay reinstating privileges as a means of punishment. The consumer points out that other patients may demonstrate dangerous behavior that threatens all patients and staff's safety and those persons do not lose their privileges for the same period of time.

The Medical Director agreed that the consumer demonstrates appropriate behavior on a daily basis and, in general, he is not a danger to himself or others. However, according to the Director, the crime that led to his confinement to the Center includes illegal drug use and the behavior he repeatedly displays i.e., obtaining and using contraband

(tobacco) is a drug seeking type of behavior. The Director stated that his behavior may lead the courts to conclude that he is not seriously attempting to control his desire for drugs or that he cannot restrain from that behavior while detained at the Center, it appears that he will not be able to control his impulses and therefore may not be appropriate to be considered for a less restrictive environment or to live in the community.

The Case Manager stated that he understood the consumer's complaint and that he [the consumer] may interpret that the loss of privileges is inequitable. For instance, a consumer may demonstrate behavior that is dangerous to himself or others, including staff and after the incident his privilege level may be affected for a shorter time than the consumer experiences when he is caught with tobacco. The Case Manager explained that each consumer's treatment plans are developed based on a plethora of criteria, including history that is always unique to each individual. Consumers must adjust to the fact that individual standards and expectations vary and that they cannot base or compare their treatment to that of others.

DOCUMENTATION

TREATMENT PLAN:

Problem: [The plan states that the consumer used methamphetamines on the day of the offense that resulted in his Not Guilty by Reason of Insanity sentence].

[The consumer] has tested positive for nicotine during the past three years and he has been found with contraband [nicotine and caffeine pills found during unit search] on various occasions. Team met with [Medical Director] and the team would like to work with [the consumer] to assist in his goal of increasing privileges while also maintaining safety for [the consumer] and others on the unit. By bringing contraband, specifically substances that might be ingested or smoked, into the unit, [the consumer] potentially endangers himself and other peers on the unit.

[Addendum 2/24/11] contraband, which appeared to be tobacco, was discovered in [the consumer]'s room on 02/22/11 and the team met with [the consumer] requesting that he provide a urine sample, which he initially agreed to provide. He did not provide such to the unit nurse on 02/23/11. The team, including discussion with [the Medical Director], agreed that in order to provide safety to [the consumer] and the unit that time frames of goal attainment will be contingent on [the consumer]'s cooperation with goals and interventions mentioned in the treatment plan.

SHORT TERM GOALS:

01/24/11: [The consumer] will remain substance free and have negative

drug/nicotine screens.

INTERVENTIONS/RATIONALE

....Staff will conduct random room searches per treatment team request. This is in place in order to limit items in which contraband can be hidden for protection of self and others. In addition random drug screens will occur to ensure that contraband substances are not being utilized by [the consumer].

SHORT TERM GOALS:

[The consumer] will cooperate with random room checks.

INTERVENTIONS/RATIONALE

Unit staff will encourage [the consumer] to identify and understand how and why these items are a potential danger to himself and peers on the unit.

INDIVIDUAL CLINICAL REVIEW PROGRESS NOTE

06/29/11: Purpose: to address [the consumer]'s contraband issues, his lack of compliance with treatment plan and recommendations and to establish appropriate treatment goals to assist client in moving forward in privileging process.

Recommendations: [The consumer] will remain on Supervised Buildings Pass [SBP] until December 29, 2011. At that time he will be eligible for an Unsupervised Buildings Pass [UBP] if the following criteria are met: [The consumer] is to remain free of contraband during this period....will be free of drugs and nicotine. This will be ensured by his participation in random drug screens at the time he is asked, during this period.... Will continue to attend Substance Abuse class with an 80 % attendance level.... Personal property will be limited to what he currently has.... If any of the above criteria are not met, the time frame for obtaining Unsupervised Buildings Pass [UBP] will be reset to the date the client complies.

TREATMENT PLAN/REVIEW

01/19/12: [period of review 12/22/11 to 01/19/12]

Class Pass awarded on 01/12 per treatment team.

SBP - downgraded from UBP as drug screen results 12/22/11 indicated positive for nicotine....

UBP - 10/03/11 per treatment team as client has had no infractions, follows unit rules, and interacts appropriately with staff and peers, treatment compliant.

In order to help [the consumer] advance thru the privileging process, he will continue with substance abuse class with an 80% attendance rate. He will meet with social worker weekly to discuss content and perception of concepts learned in class. He will then give a presentation at his monthly team meeting regarding the information he has learned in class.

Nursing review: 01/18/12 Psychosis: No maladaptive behavior exhibited this review period. Continues with random room searches. Unit test for nicotine yielded positive results of 473. [The consumer] did confess to getting tobacco and using it; however, he refused to reveal the source. His pass level was dropped to SBP after meeting with the treatment team....

Substance Abuse: [The consumer]'s drug screen was reported positive on 12/22/11. Team counseled client, pass level dropped from UBP to SBP 12/22/11.

12/22/11: ...No maladaptive behavior exhibited this review period. Continues with random room searches. No contraband found. Is compliant with psychotropic medication. [The consumer] has done very well this reporting month. Awaiting drug screen results.

05/03/11: At 04/14/11 meeting, [The consumer] inquired about his Unsupervised Buildings Pass. Per [a Physician], per ICR [Individual Clinical Review] results [the consumer] isn't eligible until June 2011. [The consumer] stated that he feels this is too strict, however, he was reminded that this was the decision arrived at as a result of the ICR, and is for his safety and the safety of others. Currently [he] has Supervised Building Privilege, which he uses appropriately.

SGP granted initially by [the Center] in November 2006. Supervised Grounds Pass suspended and reinstated several times precipitated by multiple rule infractions. [The consumer] has again lost his SGP due to contraband which included caffeine pills, money, and tobacco. It was believed that this was a danger to [the consumer] and other patients. As a result, he was moved to another room on the unit for safety reasons. [The consumer's] property level is being monitored and he is to change out property if he receives any extra packages per hospital policy. [A Physician] indicated to [the consumer] that staff would be looking at a return of Unsupervised Building Pass with no incidence of contraband being found. Random room searches will occur along with random drug

tests which will include nicotine. He is to attend 80% of his Substance Abuse classes. [The Physician] indicated that the timeline for this goal of Unsupervised Building Pass would be three months without incident.

PROGRESS NOTES

08/12/11: Client compliant with provision of urine sample to test for drugs and nicotine.

10/11/11: Team approved this client for UBP [Unsupervised Building Pass] to and from class. Client had lost it January 11 for having contraband.

10/14/11 Social Worker Note: team approved client for one hour on UBP to walk hall.

10/21/11 - Team approved client for additional hour on hall pass for total of 2 hours. If he does well, he can have [a] 3[rd] hour on 10/28/11.

12/22/11: Patient urine drug screen was [positive] for nicotine. Patient UBP downgraded to SBP [Supervised Building Pass].

01/06/12: Team approved this client for class pass today.

02/15/12: [1505] Informational Note: I had asked the clients who was going to open gym and [the consumer] replied he was going. [The consumer] only has a class pass so per my last E-mail I would not give him his pass to go to open gym because he did not have it as a class. He kept disputing my action and saying all the other staff let him use it to go to open gym. Told him if he was going that I would be escorting him to the gym and he replied 'whatever.' When I arrived at the gym I questioned staff working in the gym about their policy and was informed that they allow them to use their passes for gym even if they don't have a class scheduled. I sought out correct policy from D.O.N. [The consumer] proceeded to go and tell other peers in the gym that I would not give him his pass. Nurse on unit informed. Will refer incident to the team.

MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE

Under the following Sections of the Code:

(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.... In determining whether care and services are being provided in the least

restrictive environment, the facility shall consider the views of the recipient, if any, concerning the treatment being provided. (405 ILCS 5/2-102)

ILLINOIS DEPARTMENT OF HUMAN SERVICE'S FORENSIC HANDBOOK

Overview of Facility Initiated Privileges

Forensic recipients in Department of Human Services' facilities may be granted privileges as approved by the court. "Privileges" refers to the ability to be on the facility grounds without supervision, off the facility grounds with or without supervision, or be in a non-secure setting. Additionally, each facility has procedures for supervised use of buildings and fenced areas for programming and recreation. These do not require a Court Order or a pass.

Forensic recipients have the opportunity to independently petition the court for transfer to a non-secure setting within the Department, conditional release, or discharge. Each facility has a Petition Assistant available to assist recipients by providing forms, names, addresses and docket numbers. These petitions should be handled by the court in accord with the appropriate section. Information about privilege requests initiated by recipients begins on page 19.

When the Treatment Team determines a forensic recipient meets the criteria for one or more privileges, conditional release or discharge, the Treatment Team shall develop a written proposal to be submitted to the court for approval.

Proposals should address at least the following points:

- a. Identifying information including reason for admission;
- b. Social, criminal, and treatment histories;
- c. Circumstances of offense(s) and recipient's psychiatric and medical condition at time of offense(s);
- d. Condition at time of admission (psychiatric & medical);
- e. Treatment(s) provided and medications provided and compliance with each;
- f. Assessment of escape risk and rationale for privilege request including documentation of any escape threats or attempts.

g. Assessment of imminent dangerousness and rationale for privilege request including opinion, if possible, as to the specific risk to previous victim(s) and others.

h. Privilege(s) requested, clinical benefits, treatment expectations for use of the privilege(s).

i. If conditional discharge is requested, the following additional concerns must be addressed:

1) The likelihood the recipient may be expected to be dangerous in the near future, and the conditions under which this may occur.

2) Discussion of how the recipient is able to provide for his/her basic needs.

3) Recommendations for mental health services on an out-patient basis....

ALTON MENTAL HEALTH CENTER POLICIES

Alton Mental Health Center Policy Number: 2 A.03.027 states:

The treatment team is to evaluate the patient Monday-Friday (except holidays) to determine if patient should remain on UP [Unit Privilege] status. There are no set time periods for particular events. A progress note should be written each time there is a change in a patient's privilege status [i.e., when a patient is placed on UP from a higher level status or on a higher level from UP status.] A person who is placed on unit privilege (UP) status from a level higher than a Supervised Building Privilege (SBP) may NOT require going through all privilege levels prior to returning to their previous privilege level. Each privilege event should be considered individually by the treatment team.

Unit privilege (UP) status should NOT be instituted for an infraction of a Unit Expectation which is not an imminent safety/security threat. Attempts should be made to fashion an intervention that is pertinent to the infraction. Examples of possible appropriate interventions rather than UP include:

- a) FOOD TRADING/PILFERAGE/ATTEMPTED SMUGGLING OF ITEMS INTO LIVING AREA - consider moving the patient to a different table for 24 hours, eating in the day area for 24 hours, revoking Vending and/or Token Store privilege for 24 hours, limiting participation in food-related special events for 24 hours.
- b) CURSING/ARGUMENTATIVE - remind the patient of Unit Expectations, consider suggesting they utilize their personal bedroom or a Comfort

Room to calm or reflect; provide a Comfort Kit. Suggest that continued behavior of this kind may result in limiting group activities where appropriate behavior is necessary such as bingo, special events, movies.

- c) TELEVISION AREA INFRACTIONS - consider not allowing the patient to sign-up for television or lose previous sign-up for 24 hours.
- d) SECOND DAY REFUSAL TO SHOWER - consider not allowing the patient to leave the unit for food-related activities such as vending/token store/movies at rehab due to infection control concerns. Explain this possible consequence to the patient and encourage that they reconsider their refusal.

In the event that the Treating Psychiatrist is not available, the Unit RN and/or CNM may institute unit privilege (UP) status where necessary. Informing a patient that they have been placed on unit privilege (UP) status should be done by the Unit RN, Psychiatrist, CNM, AOD, or MOD, in a private area, and in a respectful, explanatory manner so as not to further exacerbate any negative behavior. Staff should not present unit privilege (UP) status in a threatening manner.

III. PROCESS FOR SUSPENDING AND REINSTATING PRIVILEGES

Any privilege may be suspended by the treating psychiatrist for an indefinite period of time in response to changes in the patient's clinical condition. Such changes may include deterioration clinically to the point that the patient poses a threat of harm to himself or others, or that the patient has stopped meeting designated treatment goals necessary to sustain the privilege (i.e., is not attending programming that was necessary to maintain progress in treatment that allowed for the specified privilege level) or that his/her presence in activities off the unit will be disruptive to other patients in attendance. At no time should privileges be suspended as a punishment for behaviors unrelated to safety, interference with treatment of other patients or progress in treatment directly related to sustaining privileges as written in the treatment plan. Lowering of privilege levels should not be communicated in a threatening manner and any discussion with the patient should be done privately, explaining the reason for the change and the expected behavior for reinstatement of the previous level. For example, the privilege level for a patient who chooses not to shower may be modified because his presence in the small vending area when he/she is disheveled and malodorous is disruptive to other patients. When the treating psychiatrist is not available, a privilege may be temporarily suspended by the Unit RN or CNM until the patient's treatment team, under the direction of the treating psychiatrist, meets to review the reason for the suspension. Suspensions of privilege levels are not considered restrictions and DO NOT require that a Restriction of Rights be issued. A patient may, however, be restricted to one side of the unit and thus a Restriction of Rights should be issued. Temporary

suspensions occurring over weekends or holidays will be reviewed daily by the lead unit RN who will decide after consultation with staff whether the suspension should continue. Temporary suspensions will be documented by the unit RN in the form of a progress note which includes the justification/reason for the suspension, and on the Privilege Record. Treatment team reviews of suspended privileges will be documented in a progress note and will also be included in the patient's weekly/monthly treatment review.

When a privilege level higher than a building privilege (SGP, UGP, SOGP, UOGP) is suspended, reasons for that suspension and patient behaviors required prior to reinstatement must be discussed with the patient and documented by the attending psychiatrist in a progress note. If/when the treatment team agrees that the privilege should be reinstated, a progress note stating the reasons for reinstatement will be recorded by the attending psychiatrist in the progress notes and must then be approved by the Medical Director.

The subsequent treatment plan review must reflect any changes in privileging status that may have occurred over the previous month.

CONCLUSION

Pursuant to the Department's Overview of Facility Initiated Privileges, Forensic recipients may be granted privileges as approved by the court. Proposals for privileges should address reason for admission; social, criminal, and treatment histories; circumstances of offense(s) and recipient's psychiatric and medical condition at time of offense(s); assessment of imminent dangerousness and rationale for privilege request including opinion, if possible, as to the specific risk to previous victim(s) and others.

Center Policy states that the treatment team should evaluate each privilege event and that reducing persons to Unit Privilege (UP) status should NOT be instituted for an infraction of a Unit Expectation which is not an imminent safety/security threat and that attempts should be made to fashion an intervention that is pertinent to the infraction. Examples of possible appropriate interventions rather than UP include food trading/pilferage/attempted smuggling of items into living area - consider moving the patient to a different table for 24 hours, eating in the day area for 24 hours, revoking Vending and/or Token Store privileges for 24 hours, or limiting participation in food-related special events for 24 hours. Cursing/argumentative - remind the patient of Unit Expectations, consider suggesting they utilize their personal bedroom or a Comfort Room to calm or reflect; provide a Comfort Kit. Suggest that continued behavior of this kind may result in limiting group activities where appropriate behavior is necessary such as bingo, special events, and movies. Television area infractions - consider not allowing the patient to sign-up for television or lose previous sign-up for 24 hours.

While the HRA understands that treatment plan goals were established that include

expectations for increased privileges, the Center policy suggests that infraction of unit expectations, which includes not possessing unit contraband, does not constitute a reason to reduce privilege status to Unit Privilege.

The HRA also notes that the consumer has demonstrated progress toward achieving his goals, that he has not tested positive for nicotine use recently and that his privileges were not reduced to Unit Privilege.

The allegation that the Center violated the consumer's rights when it denied adequate and humane care and services pursuant to an individual services plan is not substantiated. The consumer's treatment plan addresses unit privileges and room searches based on repeated incidents of possessing contraband; the consumer participated in a 04-14-11 treatment planning meeting and provided feedback and treatment plan reviews (10/19/11 and 11/21/11) are signed by the consumer as a participant agreeing with treatment goals and interventions.

Also, the HRA notes that there was indecision and confusion on 02/15/12 regarding the pass allowances for attending classes and the gym.

SUGGESTION

The HRA suggests that the Center examine its policy regarding privileging and to clarify with all staff which passes may be used to attend gym.