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METRO EAST REGIONAL HUMAN RIGHTS AUTHORITY

REPORT OF FINDINGS

HRA CASE # 12-070-9007

ALTON MENTAL HEALTH CENTER

FEBRUARY 9, 2012

INTRODUCTION

The Metro East Regional Human Rights Authority (HRA) has completed its investigation of complaints at Alton Mental Health Center (Center), a state-operated facility (SOF) that has 125 inpatient beds in Alton. The allegation being investigated is that the Center may have violated consumers' rights when restricting property.

If substantiated, the allegation would be a violation of the Mental Health and Developmental Disabilities Code (Code) (405 ILCS 5), the Illinois Administrative Code (59 Ill. Admin. Code 109 and 110) and Alton Mental Health Center policies.

Specifically, the allegation states that the Center required all consumers to relinquish their laptop computers (property) even though there were no related safety issues and the Center did not offer Notice of Restriction forms regarding the property.

METHODOLOGY

To pursue the investigation, an HRA team visited the Center and interviewed a Security Officer, the Center's Information Technology staff member (IT), the Medical Director and a Licensed Social Worker (LCSW). The HRA Coordinator shared correspondence he had with four consumers whose laptop computers were taken. The HRA also gathered information from administrators from another state-operated facility.

FINDINGS

Consumer 1 stated that the staff took his laptop computer that he used to access higher education and other important educational resources. The consumer pointed out that losing his laptop has affected his opportunity to enhance his computer skills and aid in his transition back into the community. He stated that the Center told him there was no choice or recourse and that the devices were banned from all state-operated facilities.

Consumer 2 explained that the administration changed its policy and took his and all other patients' laptop computers. The staff told consumer 2 that the computers are now considered 'contraband'. The consumer said that he was told by the Director of Nursing that computers were being removed statewide from the Department of Human Service facilities throughout Illinois. According to the consumer, the Center offered no reason why the laptops were banned and he noted that, prior to staff taking his laptop, he had

complied with all the rules and that his machine did not have a wireless internet connection card, web camera or a microphone. The consumer concluded that he had not violated any rules governing laptops, no safety issues were mentioned when the staff took his property and he was not offered a Notice of Restriction form.

Consumer 3 stated that the Center's policy allowed patients to possess laptop computers in their rooms as long as the machines adhered to certain stipulations, including no web access, no photographs or voice recordings, and that software had to be reviewed and approved by the Center's computer technician. Consumer 3 explained that after a change of administrators, laptop computers became contraband. The consumer concluded that the computers were very therapeutic and that the Center does not have valid grounds for changing the computer policy.

Consumer 4 explained that he has been pursuing higher education at an Illinois University; however, now that consumers are not allowed to possess laptop computers he cannot pursue his education. The consumer said that the Center's computers located in the resource area have too many security programs that do not allow students to connect to the university programs and courses. Consumer 4 stated that he was pursuing his education at a different state-operated facility; however, the Center has blocked his attempts to continue his education.

The Security officer stated that in late Spring 2011 the Administration decided to ban the use and possession of all laptop computers on the unit. According to the Security Officer consumers were asked to send their property home or the devices would be sent to the property control unit.

The Information Technology Staff stated that the Center collected laptop computers from consumers on the forensic unit because they may have the ability to access the web with wireless connection, take photographs, and/or make sound recordings. According to the IT staff, detection or removal of prohibited programs (wireless connections, the ability to take photographs and/or make sound recordings) may be impossible. Additionally, attempting to remove or disable those programs creates the risk of damaging consumers' property and the Center cannot gamble that it might damage consumers' personal property.

According to IT staff and a unit staff person from a different state-operated facility, consumers are allowed laptops and they may be used in their room after the computer has been reviewed and approved by the IT department and Administrator.

The Medical Director said that the Center took action to remove computers and games from all the consumers at the Center two years ago, not last Spring, and that the Administration has continued to review its technology policy. The Medical Director stated that devices are complicated and that some of them are capable of voice and video recording which is forbidden on the units. According to the Medical Director, consumers were not offered a notice of restriction when the Center confiscated electronic devices and the current consumer handbook does not reflect that policy.

However, upon admission consumers are given verbal information regarding electronic devices. The Medical Director stated that the Center is currently revising its Handbook to reflect current policy.

The Medical Director noted that a hand held game device had been broken apart and could have been used as a weapon.

The LCSW explained that problems related to the use of lap top computers and other electronic devices include; the consumption of staff man hours to accommodate charging the devices, and consumers' obtaining inappropriate photographs, including guns and pornography.

The LCSW confirmed that a consumer had utilized his lap top to take college courses while he was living at another state operated facility. When he was transferred to the Center, he was not allowed to use his lap top computer to access the college courses and the Center's computers blocked his access to those college courses. However, the consumer was able to withdraw from the classes and receive a full refund for expenses incurred.

DOCUMENTATION

The HRA reviewed the records of three consumers interviewed for this case. There were no Notice of Restriction forms related to property and the HRA did not find any documentation in progress notes that computers were removed for safety reasons.

MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE

The following rights are guaranteed under these Sections:

(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 therefore to:

The professional shall also be responsible for promptly recording such restriction or use of restraint or seclusion and the reason therefore in the recipient's record.... (405 ILCS 5/2-201)

Every recipient who resides in a mental health or developmental disabilities facility shall be permitted to receive, possess and use personal property...

(a) Possession and use of certain classes of property may be restricted by the facility director when necessary to protect the recipient or others from harm, provided that notice of such restriction shall be given to all

recipients upon admission.

(b) The professional responsible for overseeing the implementation of a recipient's services plan may, with the approval of the facility director, restrict the right to property when necessary to protect such recipient or others from harm.... [405 ILCS 5/2-104]

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. [(405 ILCS 5/2- 202)].

The Illinois Administrative Code 59 Ill. Admin. Code 109.30 states:

a) General Provisions

- 1) The facility director shall be responsible for implementing this Part. He or she may restrict the possession or use of computers, peripherals, modems, CDs, disks, software, or other equipment used with the computer for all individuals in a facility, when necessary to protect an individual or others from harm, provided that notice of such restriction shall be given to all individuals upon admission. If it becomes necessary to restrict individuals who did not receive notice of the restriction upon admission, the professional responsible for overseeing implementation of an individual's services plan may, with the approval of the facility director, restrict the right to property when necessary to protect the individual or others from harm.
- 2) Due to safety concerns raised by metal in the CPU or glass in the CRT monitors, the facility director may choose to limit the approved computers to laptop computers with LCD displays. If the facility director limits the type of equipment to be used, he or she will ensure that information concerning these limitations is included in notices to employees and individuals....
- 5) The treatment or interdisciplinary team, with the approval of the facility director, may restrict an individual's possession of computers, modems, or computer peripherals when necessary to protect the individual or others from harm. Individuals wishing to purchase or obtain computers, modems, or computer peripherals for personal use must have prior approval from their case managers and the

treatment team at a mental health facility or the interdisciplinary team and the EDP liaison at a developmental disabilities facility. Individuals will be asked to sign the "Agreement for Use of Computers" form (IL 462-0190) documenting their understanding of the terms of use and their agreement to those terms. Those terms may include restricting the use of the computer and any peripheral to non-treatment or habilitation time periods. Any computer or computer peripheral received by an individual that has not been approved shall either be returned to the sender or placed in the individual's personal property storage, at the individual's choice. The individual may elect to seek approval for the computer or peripheral.

- 6) The treatment or interdisciplinary team, with the approval of the facility director, may restrict an individual's possession or use of computer software when necessary to protect the individual or others from harm. Individuals wishing to purchase or obtain computer software for personal use must have prior approval from their case managers and the treatment team at a mental health facility or the interdisciplinary team and the EDP liaison at a developmental disabilities facility. Individuals will be asked to sign the "Agreement for Use of Computers" form (IL 462-0190) documenting their understanding of the terms of use and their agreement to those terms. Any computer software received by an individual that has not been approved shall either be returned to the sender or placed in the individual's personal property storage, at the individual's choice. The individual may elect to seek approval for the computer software.

b) Individual Use

- 1) If an individual wishes to use a computer and software, employees will inform the individual concerning the stipulations/terms under which a computer and software may be used. The individual must sign the form attesting that he or she understands the terms of use and agrees to those terms. If an individual has a guardian, the treatment or interdisciplinary team shall review the form with the individual and his or her guardian. The guardian will also be asked to sign the agreement. The treatment or interdisciplinary team may specify additional terms and conditions for use of a computer in the individual's treatment or habilitation plan.

- 2) If an individual is approved to use a computer, software that is approved includes the following:
 - A) Operating system (i.e., DOS, Windows, OS2);
 - B) Utility programs (virus checkers, file managers, defragmenters, scan disk);
 - C) Word processing;
 - D) Accessories (calculators, paintbrush, print programs);
 - E) Games that the individual would be authorized to play on the unit, such as solitaire, card games, chess, checkers, various board games, or skills development games; and
 - F) The treatment or interdisciplinary team must approve any additional programs that the individual wishes to use. Any software in a factory-sealed container may be presumed to contain only the software that it indicates is included.
- 3) The individual's use of the computer will be determined based on clinical review and assessment, as well as the availability of space, the number of electrical outlets, and electrical devices. No extension cords or devices that multiply the number of outlets, such as outlet strips, etc., are permitted.
- 4) If an individual at a mental health facility uses a computer, any peripheral, power cord and/or other associated part in an attack or assault on another individual, employee, or visitor, the computer and all accompanying devices and equipment shall be confiscated and placed in personal property storage. The "Notice Regarding Restricted Rights of Individuals" form (IL 462-2004M) will be completed according to facility procedure. If an individual at a developmental disabilities facility uses a computer related item to harm or attempt to harm another person, the computer will be removed from the individual until the interdisciplinary team meets (within 3 working days) to determine the programmatic action warranted. The "Notice Regarding Restriction of Rights of an Individual" form (IL 462-2004D) and SODC Operations "Supplemental Report

On the Use of Restraints and/or Emergency Behavior Intervention Procedures” are to be completed if an individual’s computer is restricted and the forms processed in accordance with the developmental disabilities facility’s procedures for processing documents.

- 5) If an individual inappropriately uses a computer, the treatment or interdisciplinary team may restrict his or her use of the computer until the treatment or interdisciplinary team meets to determine the programmatic action warranted.
- 6) The treatment or interdisciplinary team shall keep a record of the equipment and software that each individual is authorized to use. At least annually, there shall be an inventory of all individuals’ rooms to ensure compliance. There may be random checks of what software is loaded onto each individual’s computer. Any unauthorized software programs shall be deleted. The continued presence of unauthorized software or providing software to other persons may result in the restriction of the use of the computer.
- 7) Computers are approved for the individual’s personal use. Allowing another individual to use a computer or using the computer to obtain personal gain from other individuals is a violation that can result in restrictions on the use of the computer.

The Illinois Administrative Code 59-110.30 on Personal Property in State Mental Health Facilities states:

- a) Individuals may possess a reasonable amount of personal property for personal use under the following conditions:
 - 1) Possession and use of certain classes of property may be restricted by the facility director when necessary to protect the recipient or others from harm, provided that notice of such restriction shall be given to all recipients upon admission so long as the restriction does not otherwise conflict with the rights provided in this Section....
 - 3) Property must be approved by the individual’s treatment team prior to use. Any personal property that the treatment team determines, in the exercise of its professional judgment, may pose harm to the individual or to others shall be restricted. Property shall not be restricted on political, philosophical or religious grounds. Property intended as a medically reasonable accommodation of a known disability shall not be restricted except when determined by a physician and the treatment team, in

exercise of their professional judgment, that the accommodation may pose harm to the individual or others. A restriction of rights shall be issued in accordance with the Mental Health and Developmental Disabilities Code [405 ILCS 5/2-201] within 48 hours. When the restriction of rights is issued, the treatment team member shall inform the individual of his/her ability to request a review under subsection (a) (5). The individual will have the option of placing the personal property in storage or returning it to its place of origin....

ALTON MENTAL HEALTH CENTER POLICY

Alton Mental Health Center Policy/Procedure 2 B.01.019 states:

It is the policy of Alton Mental Health Center (AMHC) to allow only personal electronic equipment and media approved by the Information Technology Department. That is, electronics that contain camera, recording and internet capability are not allowed within the AMHC facility (civil or forensic). At admission, all electronics entering the facility will be sent to security for the Information Technology Department to check for the aforementioned capacity. At that point, the items will go into personal property until the treatment team determines if the patient is permitted to possess electronic equipment in his/her room.

Any media/electric equipment that is received by the patient through direct purchase via mail or from family/friends will be sent to security. The information technology department will examine the merchandise to ensure compliance with policy and procedure for DHS and AMHC. If deemed appropriate and approved by the treatment team, the media/electronic equipment will be recorded on the Personal Property Receipt form and engraved with the patient's initials prior to being allowed on the living unit and given to the patient. It is mandatory for all electronic items to be engraved with the patient's initials.

Guidelines to Possess Electronic Equipment:

1. Follow hospital rules and unit expectations (especially in regard to contraband)
2. Be eligible for and maintain a room key
3. Have the financial means to do so
4. Be clinically stable as determined and justified by the treating psychiatrist and the treatment team.

Patients in the Alton Forensic Center (AFC) who are determined appropriate to possess electronics will be allowed to select three from the following list of items (an alarm clock is not considered an electronic).

1. Walkman radios with headphones

2. MP3
3. Hand-held electronic games
4. Headphone radio
5. Clock radio (8 inches or smaller)
6. Portable am/fm radio
7. Small table radio (8 inches or smaller)

To maintain the electronics the following must be met on an ongoing basis:

1. Guidelines for clinical stability (noted above)
2. Absence of bartering, trading, stealing, and borrowing of electronics

Certain media/electronic items which are NOT allowed on both AFC and Locust include:

1. CDs
2. DVDs and DVD Players
3. Cameras
4. Cellular telephones

If the patient refuses, the items will be placed in personal property. The treatment team has the right, at all times, to confiscate items from patients if a patient is deemed unsafe to keep an item, or if a patient's mental or physical condition has deteriorated. Staff will complete an IL462-2004M AMHC Version - Notice Regarding Restriction of Rights of Individuals and the electronic item will be sent to personal property.

The patient must meet guidelines (noted below) to be approved by the treatment team to possess electronics in his/her room. AFC patients are allowed to possess in their room three different electronic items at any given time. Patients may exchange the type of electronics they have in their rooms from personal property, if applicable, on a monthly basis.

Restriction of Rights - If therapeutic indications necessitate restrictions of any of these rights, the following procedures must be followed....

- B. A Notice Regarding Restricted Rights of Individuals (MHDD-4) is given to the individual which identifies the date, time, nature, rationale and duration of the restriction.
- C. The original MHDD-4 is placed in the medical record, with copies to the individual's guardian, if applicable, Human Rights Committee Chair and any individual(s) designated by the patient...
- E. The individual must be fully informed of the criteria for restriction removal.

CONCLUSION

The Mental Health and Developmental Disabilities Code, states "every recipient who resides in a mental health or developmental disabilities facility shall be permitted to receive, possess and use personal property and shall be provided with a reasonable amount of storage space." (405 ILCS 5/2-104) and the Illinois Administrative Code (59 Ill. Admin. Code 109.30) states that the individual's use of the computer will be determined based on clinical review and assessment, as well as the availability of space. Also the Code states that "the facility director shall be responsible for implementing this Part and he may restrict the possession or use of computers or other equipment used with the computer for all individuals in a facility when necessary to protect an individual or others from harm."

Center policy states that the consumer may only possess personal electronic equipment and media approved by the Information Technology Department. That is, electronics that contain camera, recording and internet capability are not allowed within the AMHC facility (civil or forensic). At admission, all electronics entering the facility will be sent to security for the Information Technology Department to check for the aforementioned capacity. At that point, the items will go into personal property until the treatment team determines if the patient is permitted to possess electronic equipment in his/her room.

Record documentation does not include verification that any of the consumers' laptop computers were removed as a result of treatment team decisions or for safety reasons, and Notice of Restriction forms were not issued when consumers' property was taken. Additionally, there is no evidence that the Center followed its policy regarding personal electronic equipment.

The allegation that the Center violated the consumers' rights when confiscating laptop computers is substantiated.

RECOMMENDATIONS

The HRA recommends that the Center:

1. Adhere to the Code and ensure that consumers may possess laptop computers upon approval of individual treatment teams.
2. Issue Notice of Restriction Forms when consumers are not allowed to have all of their property consistent with Mental Health Code and facility policy requirements.
3. Review Center policy and consider inclusion of specific language regarding laptop computers and update the consumer handbook accordingly.