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METRO EAST REGIONAL HUMAN RIGHTS AUTHORITY

REPORT OF FINDINGS

HRA CASE # 12-070-9026

ALTON MENTAL HEALTH CENTER

SEPTEMBER 13, 2012

INTRODUCTION

The Metro East Regional Human Rights Authority (HRA) has completed its investigation of complaints 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 violate consumers' rights when it reduces telephone communication time and incorporates other restrictive measures regarding the use of telephones.

If substantiated, the allegation would be a violation of the Mental Health and Developmental Disabilities Code (Code) (405 ILCS 5) and Alton Mental Health Center's Policies.

Specifically, numerous complaints alleged that the Center changed its telephone policy which resulted in a reduction of allowable times for telephone access, time limits for calls and restrictions on incoming and long distance calls. The new policy also implements a lottery system to determine when individuals may make a call and it requires consumers to use tokens to purchase telephone use.

METHODOLOGY

To pursue the investigation, an HRA team visited the Center and interviewed several consumers and a Case Manager. With consent, the HRA reviewed the consumer's record.

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).

2-103. Except as provided in this Section, a recipient who resides in a mental health or developmental disabilities facility shall be permitted unimpeded, private, and uncensored communication with persons of his choice by mail, telephone and visitation.

(a) The facility director shall ensure that correspondence can be conveniently received and mailed, that telephones are reasonably accessible, and that space for visits is available. Writing materials, postage and telephone usage funds shall be provided in reasonable amounts to recipients who reside in Department facilities and who are unable to procure such items.

(b) Reasonable times and places for the use of telephones and for visits may be established in writing by the facility director.

(c) Unimpeded, private and uncensored communication by mail, telephone, and visitation may be reasonably restricted by the facility director only in order to protect the recipient or others from harm, harassment or intimidation, provided that notice of such restriction shall be given to all recipients upon admission. When communications are restricted, the facility shall advise the recipient that he has the right to require the facility to notify the affected parties of the restriction, and to notify such affected party when the restrictions are no longer in effect. However, all letters addressed by a recipient to the Governor, members of the General Assembly, Attorney General, judges, state's attorneys, Guardianship and Advocacy Commission, or the Agency designated pursuant to "An Act in relation to the protection and advocacy of the rights of persons with developmental disabilities, and amending Acts therein named", approved September 20, 1985, officers of the Department, or licensed attorneys at law must be forwarded at once to the persons to whom they are addressed without examination by the facility authorities. Letters in reply from the officials and attorneys mentioned above must be delivered to the recipient without examination by the facility authorities.

(d) No facility shall prevent any attorney who represents a recipient or who has been requested to do so by any relative or family member of the recipient, from visiting a recipient during normal business hours, unless that recipient refuses to meet with the attorney. [405 ILCS 5/2-103]

POLICY

Pursuant to Alton Mental Health Center Policy regarding Unit Phone Usage dated May 10, 2012:

Patients of [the Center] will be provided the opportunity to make and

receive phone calls in a fair and equitable manner.

The phone on the dining room side of the unit will be programmed to allow incoming calls.

Phone on the medication room side of the unit will be blocked from receiving calls, but will be available for making calls within or out of [the Center] with the exception of 411 calls.

Each patient will be allowed two long distance phone calls per week during designated long distance phone call times 1030 - 1300 and 1800 - 1900 as outlined in Policy 2 B.01.021.

Each patient will be given the opportunity to choose two daily 15-minute blocks of time from 0800 - 1200 and 1300 - 2200 Monday - [through] Friday [and until 2300] on Friday and Saturday to make phone calls outside [the Center] excluding making long distance. See long distance times.

All calls will be monitored by staff to keep calls at ten-minute limit per person.

All phones will be shut off during daily community meetings and during meal times.

Each patient will draw a card from # 1 - 22. Every other week, staff will rotate starting with the highest number [22 - 1] choosing a time slot and the following week, staff will start with the lowest number [1 - 22] choosing a time slot.

Phone call times will be chosen on Sunday for the week following in the day shift. Staff will post a copy of the sheet on Sunday.

No single patient can choose the same time for more than seven consecutive days. Times will be rotated to allow availability of all patients to premium times.

Patients will be responsible to use their selected call times appropriately.

Once a patient has chosen his/her phone times, no changes will be made by staff. Any changes will have to be brought to the unit team for approval.

Sign-up sheets will be kept in a designated binder on the unit for staff to refer back to

In the event not all phone times are chosen, clients will be allowed to buy extra time with coupons with level II points purchased from the Recovery Store at a cost of 30 points per coupon. Coupons are one time use and must be turned in to staff at time of extra call. The purchaser must use the coupon for their [own] use and [coupons] may not be given to someone else to use

Calls may be made to attorneys, OIG, Equip for Equality, and Human Rights at any time.

ALTON MENTAL HEALTH CENTER HANDBOOK

During scheduled hours, you are allowed unlimited local calls from the unit phones in the units. Two ten-minute outgoing domestic (within the U.S.) or long distance telephone calls on the state-paid phones are allowed per week. Treatment team approval is required for international calls. Calls to an attorney regarding the forensic/civil case involving your current hospitalization are unlimited, but calls to an attorney not regarding your current hospitalization are credited to your two state-paid phone calls per week. If a message is left on an answering machine, this will be documented as one of the two allowed telephone calls. If more than two calls are needed, you must get written approval by the treatment team and calls will be recorded on the telephone log.

Incoming calls will not be accepted during times when individuals are making outside calls. At all other times, incoming calls are permitted during normal phone hours as long as they do not interfere with the operation of the unit, unless the patient has been issued a Restriction of Rights from the Treatment Team.

Individuals are not permitted to have cellular phones, pagers, or other similar communication devices in the Alton Forensic Hospital building. Those individuals who have achieved the level of "unsupervised off grounds privileges" may obtain approval by the treatment team to use a cell phone while on this privilege.

Respect others privacy while they are using the telephone by staying away from the area.

If there is a lack of respect shown regarding telephone use, staff may turn telephones off for a period of time.

If an individual's behavior is not appropriate to use the pay and unit telephones, their privilege may be restricted and documented on a Restriction of Rights form.

No phone call is to last longer than 10 minute.

No phone calls are to be made to staff or staff areas (e.g. staff offices, control, documentation station and rehabilitation suite).

No repeated phone calls are to be made to peers who have refused to receive initial phone calls.

No physical or verbal threats are to occur during phone usage.

You are not allowed at any time to call 911 or 411.

At no time are you to tie up both unit phones at the same time (i.e. making a call on one phone while on the phone receiving a call on the other unit phone. Then, taking the incoming call without hanging up the phone you were talking on first.)

At no time are individuals allowed to hang up an incoming call for one of their peers.

At times staff may be unable to reasonably accommodate incoming calls for patients (during programs, unit searches, etc.). Please be patient if staff cannot transfer a call to you and the caller is asked to call back later.

To comply with the Confidentiality Act and HIPAA regulations, you will be afforded the opportunity to sign a general Release to Acknowledge Presence on an admission. This form allows staff to acknowledge that you are a patient here for the express purpose of forwarding incoming phone calls and facilitating visitation. You may choose not to sign this form and may sign specific releases of information for individuals whom you wish to know where you are. The Release to Acknowledge Presence form in no way allows staff to share any clinical information with any party. A specific release will be required for these purposes.

FINDINGS

Consumer 1 stated that during the evening hours, phones are only available after supper (which ends between 5:30 and 6 p.m.) until the evening meeting (7:00 p.m.) The evening meetings usually take several hours and may last until 9:00 p.m. According to consumer 1, the policy reduces allowable telephone time on the unit by at least ten hours per week.

Consumer 2 stated that for the past two years she had maintained a privilege level that allowed her the freedom to access the Center and grounds without supervision, which is evidence that she has cooperated with treatment, rules and the Center's expectations for good behavior. Recently, she was on the phone when she realized it was a few minutes after 10 p.m. and so she hung up the phone. Later, a staff asked if she had

gone over the ten minute limit and the consumer replied yes, and apologized, stating she had lost track of time. That evening another staff told her that her privileges were being reduced to the lowest level.

Consumer 3 explained that the phones are turned off during meal times, in the morning for community meeting and for one or two hours at night for another community meeting. Consumer 3 stated that the evening community meetings are rarely if ever conducted, however, the telephones are not available whether or not those meetings are conducted.

Consumer 4 stated that the unit rules are confusing and that the new policy was developed to discourage unimpeded communication. The consumer stated that the Center had issued him a Notice of Restriction form that denied him the right to use the telephones for three days even though he had not demonstrated any dangerous behavior.

A Case Manager stated that the phone policy was revised to ensure all of the 125 patients had equal opportunity for access to telephones because a few had misused or abused the phones. According to the Manager, phone calls are not allowed during evening community meetings which are scheduled for about an hour each day. When asked, the Manager explained that community meetings are not conducted every day and that the policy to not allow phone calls during the scheduled meeting time continues.

DOCUMENTATION

Progress Notes 09/26/11 @ 2210: This writer was sitting in the doc [documentation] station and [the consumer] was on the telephone an [sic] it was after 2200 [hours] and the phones go off at 2200. [The consumer] knew staff was busy writing in doc station and she continued to talk. This writer then noticed it was about 2207 when she got off the phone. [The consumer] was asked wasn't she on the phone after 2200 and she said yes. So she knew it was passed [sic] 2200. [The consumer] has had numerous [sic] of redirection from phone and she as been told repeatedly about telephone issue and she can't ignore the rules.

09/26/12 @ 2213: Behavioral Note: [The consumer] came to documentation door and beat on door. When door opened she became argumentative and demanded a complaint form and pencil. She continued to mouth in a very disrespectful [SIC] way and continued to move forward as is she was going to attack this writer. Raising her voice she stated 'how you guys keep making up your own rules. I'm writing this up.' [The consumer] informed that due to her behavior she is UP [unit privilege] and can discuss with the team.

09/26/11 @ 2215: [The consumer] was [phone] restricted until 09/29/11 at

2210. She was argumentative about the telephone and angry with staff. [The consumer] knew what time she got on phone and she chose to stay on phone because staff was tied-up.

09/26/11 @ 2200 [The consumer] was very angry at nurse when talking with nurse about phone issues. [The consumer] began raising her voice at nurse and was getting closer to nurse as talking to nurse. [The consumer] refuse [sic] to listen to nurse and continue to be argumentative.

09/26/11 @ 2250: Consumer allowed to use phone to call OIG [the Department of Human Services' Office of Inspector General].

09/27/11: Psych note: discussed with her at length on time the incident on 09/26/11 around phone issues. She has complained to OIG about that as well as filled out the complaint form. Discussed with her, patient rights and phone policy. Will inform [staff member] [to discuss phone rules] with patient's on daily basis in community meeting.

10/14/11 @ 2245: [The consumer] is again pushing phone limits. [The consumer] has been allowed to stay on phone over her limit day after day. When staff doesn't say anything she continues to talk. When staff look at her she then hangs up. [The consumer] gets calls every ten minutes after she gets off and then she stays on over her time at least 2 - 5 minutes before staff say something then she hangs up. Staff shouldn't have to tell her every twenty minutes to ten minutes her time is up. [The consumer] is reminded there is a clock on both sides on opposite side of unit so she can keep up with time. But she chose to ignore the phone rules.

A Notice of Restriction form dated August 8, 2012 stated that a consumer "Had a restriction placed on certain rights, to be allowed communications via telephone for violation of phone rules."

CONCLUSION

The Mental Health and Developmental Disabilities Code states that the facility director shall ensure that telephones are reasonably accessible and telephone usage funds shall be provided in reasonable amounts to recipients who reside in Department facilities and who are unable to procure such items. Reasonable times and places for the use of telephones may be established by the facility director. Unimpeded, private, and uncensored communication by telephone visitation may be reasonably restricted by the facility director only in order to protect the recipient or others from harm, harassment or intimidation, provided that notice of such restriction shall be given to all recipients upon admission.

According to the Code, communication is a right, not a privilege. The manner in which consumers are assigned phone times is confusing, cumbersome and could impede

communication if a consumer needs to make a call outside his/her scheduled time e.g. for a family matter or to make discharge plans/arrangements, etc. The HRA concludes that the following portions of the phone policy and Handbook infringe upon consumer rights to unimpeded communication.

The Alton Mental Health Center Handbook states that during scheduled hours, you are allowed unlimited local calls from the unit phones in the units. Two ten-minute outgoing domestic (within the U.S.) or long distance telephone calls on the state-paid phones are allowed per week.

Each patient will be allowed two long distance phone calls per week during designated long distance phone call times 1030 - 1300 and 1800-1900. [The HRA believes that whether or not phone calls are long distance is not relevant to the right to unimpeded communication.]

1. While it is agreed that two weekly long distance phone calls paid for by the State is reasonable; long distance calls paid by consumers or made collect should be allowed the same as local calls.

All phones will be shut off during daily community meetings and during meal times.

2. If community meetings are not conducted, phone calls should be allowed at that time.

In the event not all phone times are chosen, clients will be allowed to buy extra time with coupons with level II points purchased from the Recovery Store at a cost of 30 points per coupon. Coupons are one time use and must be turned in to staff at time of extra call. The purchaser must use the coupon for their use and may not be given to someone else to use.

3. The right to communication should not be attached to a coupon program.

Phones on the medication room side of the unit will be blocked from receiving calls, but will be available for making calls within or out of [the Center] with the exception of 411 calls. Incoming calls will not be accepted during times when individuals are making outside calls. At all other times, incoming calls are permitted during normal phone hours as long as they do not interfere with the operation of the unit, unless the patient has been issued a Restriction of Rights from the Treatment Team.

4. Incoming calls should not be restricted at anytime unless a consumer is restricted from communication.

No phone call is to last longer than ten minutes.

5. Given the number of phones and consumers, this may be a reasonable expectation; however, there should be a means for consumers to access longer calls when needed through a therapist's approval.

The Handbook states that consumers are "not allowed at any time to call 911 or 411."

6. Calls to 911 and 411 may be warranted under certain circumstances. If abuses occur then a limit or restriction could be initiated to prevent an individual from calling 911 or 411.

Finally, not following rules is not a reason to restrict phone use. Restricting communication should only be implemented to prevent harm, harassment or intimidation. A particular phone number may be restricted, if that receiver is harmed, harassed or intimidated, not entire use of the phone.

RECOMMENDATION

The HRA recommends that the Center revise its telephone policy and incorporate the six responses stated above in the conclusion and inform consumers of the changes.

