



FOR IMMEDIATE RELEASE

METRO EAST REGIONAL HUMAN RIGHTS AUTHORITY

REPORT OF FINDINGS

HRA CASE # 12-070-9028

ALTON MENTAL HEALTH CENTER

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 violated a consumer's rights when it did not provide adequate and humane services when administering the level privilege program wherein staff arbitrarily reduced level status when an imminent safety/security threat did not exist.

If substantiated, the allegation would be a violation of the Mental Health and Developmental Disabilities Code (Code) (405 ILCS 5/102) and Alton Mental Health Center's Policies.

Specifically, the allegation states that Center staff abuse the authority to reduce consumers' privilege levels; a program that allows them to move about the facility and that includes expectations of progress that must be achieved prior to consideration for discharge or transfer to a less restrictive setting.

METHODOLOGY

To pursue the investigation, an HRA team visited the Center and interviewed two 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:

"Adequate and humane care and services" means services reasonably calculated to result in a significant improvement of the condition of a recipient of services confined in an inpatient mental health facility so that he or she may be released or services reasonably calculated to prevent further decline in the clinical condition of a recipient of services so that he or she does not present an imminent danger to self or others. ((405 ILCS 5/1-101.2)

"Treatment" means an effort to accomplish an improvement in the mental

condition or related behavior of a recipient. Treatment includes, but is not limited to, hospitalization, partial hospitalization, outpatient services, examination, diagnosis, evaluation, care, training, psychotherapy, pharmaceuticals, and other services provided for recipients by mental health facilities. (405 ILCS 5/1-128)

“Mental illness” means a mental or emotional disorder that substantially impairs a person's thought, perception of reality, emotional process, judgment, behavior, or ability to cope with the ordinary demands of life.... (405 ILCS 5/1-129)

(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).

a) An adult recipient of services or the recipient's guardian, if the recipient is under guardianship, and the recipient's substitute decision maker, if any, must be informed of the recipient's right to refuse medication or electroconvulsive therapy. The recipient and the recipient's guardian or substitute decision maker shall be given the opportunity to refuse generally accepted mental health or developmental disability services, including but not limited to medication or electroconvulsive therapy. If such services are refused, they shall not be given unless such services are necessary to prevent the recipient from causing serious and imminent physical harm to the recipient or others and no less restrictive alternative is available. The facility director shall inform a recipient, guardian, or substitute decision maker, if any, who refuses such services of alternate services available and the risks of such alternate services, as well as the possible consequences to the recipient of refusal of such services. (405 ILCS 5/2-107)

POLICY/PROCEDURE

Pursuant to Alton Mental Health Center Policy 2 A.04.702:

It is the policy of the Alton Mental Health Center (AMHC) that the care, treatment, and rehabilitation of a patient is planned to ensure that a patient's needs are met, and that the care is appropriate, based on assessments that have been conducted and reviewed by the interdisciplinary treatment team. The effectiveness of the treatment provided to a patient, as well as the clinical progress displayed by a patient is regularly evaluated, and the plan of care is changed when

indicated. The plan of care and treatment, as well as the proposed outcome of the treatment, along with the reviews of the effectiveness of the treatment, are to be available as written documents in the patient's clinical record.

PROCEDURE:

Each patient will have a written, comprehensive individualized treatment/habilitation plan that is based on an ongoing assessment of the patient's clinical needs, and which is regularly reviewed and updated as needed. The plan is developed and implemented by an interdisciplinary team, with each member documenting his/her involvement in the following document under the direction of the patient's psychiatrist....

Short Term Goal (STG) - Smaller steps which will result in reaching the long term goal. Goals should be written in a way that allows changes in the patient's behavior to be measured. A Short Term Goal would be a realistic, concise statement/phrase or group of statements which is/are understandable to both the patient and staff, is provided by each of the appropriate discipline professionals and indicates an expected patient report, result and/or behavior which is measurable. Include date each goal was established.

Alton Mental Health Center policy 2A.03.207 states:

UNIT PRIVILEGES (UP)

This status means that the patient has access to programming and activities on the living unit.

UP status is appropriate when:

- a) The patient is admitted to AFC (Newly admitted patients will remain on UP status until the 72 hour treatment team is held.)
- b) The patient displays imminent of harm to self or others
- c) The patient displays imminent risk for unauthorized absence (UA);
- d) The patient's treatment team, under the direction of the treating psychiatrist, has determined that the patient's safety or the safety of others would be compromised if the patient left the unit.

The living unit is defined as the patient living area. The vending area and patio area are considered part of the living unit. Therefore, the patient can access those areas without approval by the treatment team unless a specific event occurs in either of these areas that prohibits the patient's

use of those areas.

EXCEPTIONS...

An appropriate institution of unit privilege (UP) status for a patient who previously was at a higher level should be considered for any of the following occurring within 24 hours:

- a) Assault of a staff person or peer
- b) Active suicidal ideation or self injurious behavior
- c) Continuous or repetitive disruptive behavior that is non-responsive to repeated staff intervention. (This does NOT include isolated incidents of inappropriate comments, cursing, or arguments.)
- d) Gross neglect of personal hygiene which is universally offensive in a group setting and may present an infection control risk

The treatment team is to evaluate the patient Monday-Friday (except holidays) to determine if patient should remain on UP 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.

FINDINGS

The consumer stated that on about September 26, 2011 she was talking on the telephone when staff pointed out that she had exceeded her allotted time because she did not end a phone call precisely at ten p.m. The consumer explained that staff did not observe her on the phone but later, asked whether or not she had gone over the ten minute time limit. The consumer stated that she was honest and replied that she had been on the telephone past ten p.m. The consumer stated the staff member then issued a restriction of communications for telephone use. The consumer argued with the staff stating that she believed the restriction was harsh. Later the consumer discovered that the staff reduced her privilege level from supervised grounds pass to the lowest privilege level that does not allow consumers to leave the unit without staff supervision. The consumer said that she had maintained the high level grounds pass for the past eight months and that she did not believe arguing in a civilized manner should result in punishment; noting that she did not make threats and was not belligerent in any manner.

Case Progress Notes state:

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 notice 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. That why she was argumentative about the telephone and angry with staff. [The consumer] knew what time she got on phone and she choose [sic] 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 fill 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 day anything she continues to talk. When staff look at her she then hangs up. [The consumer] gets calls every ten minutes after she get 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 choose [sic] to ignore the phone rules.

The consumer's treatment plan dated November 4, 2012 states:

Goal 1: [The consumer] will be able to state how to cope with relational stress as it relates to peers and staff in four consecutive reviews.

Intervention: The treatment team will meet weekly for three weeks and then at least monthly, or as clinically indicated to assess clinical condition,

monitor and modify the treatment plan with special focus on continued control of anger and aggression

CONCLUSION

Pursuant to Section 2-102 of the Mental Health and Developmental Disabilities Code, "Treatment" means an effort to accomplish an improvement in the mental condition or related behavior of a recipient. Treatment includes, but is not limited to, examination, diagnosis, evaluation, care, training, psychotherapy, and other services provided for recipients by mental health facilities. "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."

Alton Mental Health Center Policy describes a Short Term Goal as a realistic, concise statement/phrase or group of statements.

Furthermore, Center Policy states Unit privilege 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.

The HRA notes that the treatment plan does not address the concerns stated in the progress notes that the consumer been told repeatedly about "the telephone issue and that she can't ignore the rules." She is "again pushing phone limits, stay[s] on phone over her limit day after day.... gets calls every ten minutes after she get off and then she stays on over her time at least 2 - 5 minutes before staff say something then she hangs up."

The allegation that the Center violated the consumer's rights when it reassigned her to Unit Privilege status is substantiated.

RECOMMENDATIONS

The HRA recommends that the Center:

Convene the consumer's treatment team to address and review concerns regarding her use of the telephone in the manner set forth by the Code.

Adhere to policies and ensure that staff do not change privilege status for infractions of a Unit Expectations which are not an imminent safety/security threat. Interventions should be pertinent to unit expectation infractions.