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METRO EAST REGIONAL HUMAN RIGHTS AUTHORITY

REPORT OF FINDINGS

HRA CASE # 14-070-9013

ALTON MENTAL HEALTH CENTER

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 states that the Center may have violated consumers' rights when it withheld personal property and did not offer Notice of Restriction forms. If substantiated, the allegations would be violations of the Mental Health and Developmental Disabilities Code (405 ILCS 5) and the Illinois Administrative Code (59 Ill. Admin. Code 110.30).

Specifically, the allegations state that the Center violated a consumer's rights when staff confiscated his book and a necklace. The consumer did not receive a Notice of restriction form for either piece of property.

METHODOLOGY

To pursue the investigation, an HRA team visited the Center and interviewed the case manager, a nurse on duty and a Security Officer. With consent, the HRA reviewed portions of the consumers' records.

FINDINGS

The complaint states that a consumer shared his PDR (Physician's Desk Reference) book with a consumer and when staff found the book they confiscated it, stating that they took the property because he shared it with his friend. At a later date, the consumer received a religious necklace that he had ordered from a catalog and when that item arrived the staff seized the necklace and would not allow the consumer possession of his property.

The consumer stated that while having a conversation with another consumer regarding medication and medication options he went to his room and retrieved his PDR from his room and he and consumer 2 reviewed parts of the book. The consumer left the table while consumer 2 remained with the book. Apparently consumer 2 left the book unattended and later, when the consumer asked where his book was, staff told him the book had been confiscated by staff and that he could speak to his case manager the next morning after morning debriefing. The consumer said that staff told him that he knew that he was not allowed to share property and that the book was presented a danger when it was left in the common area where it might be used as a weapon.

Regarding the book staff calling the book a dangerous object, the consumer noted that neither him nor consumer 2 were restricted and they did not and do not pose a safety or security risk. The consumer explained that the Administrative Code allows for sharing certain property and that the Center will not acknowledge that right an allow sharing of any property. The consumer also noted that the Code allows for a grievance procedure regarding restricted property and that the Center will not hear his concerns or allow appeal. The staff did not offer a Notice of restriction regarding the restricted property.

The consumer identified the necklace as having small metal sections joined to beads with a religious cross. The consumer explained that the property was in a package when he saw it and he was not allowed to handle it and determine if any part of it could be construed as dangerous.

The Social Worker stated that she was not the consumer's social worker when the book was removed from his possession; however, she consulted with the consumer's treatment team and it was explained that the consumer had been allowed to possess the PDR after an agreement with the Clinical Nurse Manager that the book would be kept in his room. The Social Worker explained that the unit where the consumer resides is an "admission unit," meaning that the unit often admits unstable patients from the community, and consumer safety may be compromised by objects otherwise considered allowable property.

According to the Social Worker, when the consumer loaned the book to another patient, it violated the unit expectation that: (...4. *Each person is responsible for his/her own personal property. You are not permitted to sell, give, buy, borrow, trade, gamble, receive things (including food), or steal from anyone else. These behaviors often result in disputes, anger, and potential violence among individuals. Your items are your own personal responsibility.*) The book was retrieved from the patient the consumer had loaned it to and the treatment team reviewed the incident/violation of unit expectations, and placed the PDR in personal property. The Social Worker explained that personal property removed from possession may be utilized by consumers by request. In this case, the treatment team would review the consumer's request to have the book returned.

The Social Worker stated that the "religious necklace" the consumer received a rosary that he ordered from a catalog. The consumer currently has a rosary that he wears that was approved by the treatment team for his religious practice. The Social Worker explained that all new property received in the mail is reviewed by individual's treatment teams who determine appropriateness. During morning report, the treatment team examined the rosary and iPod screen protectors and agreed to postpone determination whether the consumer could have the necklace in his property until a Clinical Nurse Manager was available to assist with the review. After the rosary and the screen protectors were reviewed, the consumer was provided one screen protector for his iPod and the rosary was sent to personal property. The Social Worker explained that the

rosary is constructed with beads linked by three small pieces of metal and, if the necklace was taken apart, it could create a safety hazard. The Social Worker concluded that all decisions are made on an individual basis with safety as the utmost concern.

According to a unit nurse, administrative teams meet weekday mornings for unit reviews that includes discussions regarding questionable property. The staff member stated that team discusses and determines which property is allowable, or in this case which property should be removed and that the Administrative team does not keep minutes of the morning meetings.

A Security Officer stated that consumers' incoming property is reviewed by security staff when it is received either by mail or brought in by a visitor and when questionable property

The HRA reviewed portions of the consumer's record, including his treatment plan, progress notes and the section that contains Notice of Restriction forms. The team did not find any statements or NOR forms that referred to the blanket or why the consumer was not allowed to possess his property.

DOCUMENTATION

Record review revealed one entry on 10/04/13 that stated "After retrieving the patient's large drug book [from another patient]. The patient...

The remainder of that note was not decipherable. The HRA did not discover any other entries or documentation in the record related to either item.

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].

ILLINOIS ADMINISTRATIVE CODE

The Illinois Administrative Code in Section 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 the 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.

- A) Personal property approved by staff for usage by an individual may not be shared with any other individual unless the second individual is approved for such usage in accordance with this Section. Violation of this subsections (a) (3) (A) may result in a restriction of rights, including loss of use of the shared property, as determined by the treatment team exercising its professional judgment...

...5) if an individual does not agree with the decision of the treatment team concerning the restriction of an item, the individual may request a review of that decision by a clinician who is not part of the treatment team. Decisions concerning contraband or items on the restricted list in subsection (a) (1) are not subject to review.

- A) All such requests shall be forwarded to the facility director, or designee, who shall assign a clinician, who is not part of the treatment team that made the decision, to review the decision of the treatment team.

- B) The individual who requested the review shall have the opportunity to speak with the clinician performing the review before a recommendation is issued. The assigned clinician shall schedule to speak with the individual requesting the review within 10 days after being assigned. If the individual does not wish to speak, that position shall be noted in the recommendation.

- C) Within two weeks after being assigned the request to review, the clinician shall issue a recommendation, with a copy going to the individual who requested the review and another going to the treatment team. The treatment team shall evaluate the recommendation of the clinician and review its decision...

...d) Notwithstanding any other Section of this Part, any property that is determined to be contraband shall not be allowed in any State operated facility.

- 1) Contraband includes: Alcoholic beverages, any drug not dispensed by the facility, firearms, explosives, and weapons...

...e) Restrictions on an individual's right to possess personal property shall not be imposed as punishment, in response to an individual declining to take medication, or in response to a failure to undergo other treatment recommended by an individual's treatment team. However, if an

individual's clinical situation changes, the individual's treatment team may reconsider the possession of property in accordance with this Section.

- f) This Section applies to all adult individuals admitted to a Department mental health facility.
- g) The facility director shall conduct training on this Section at least once a year and a written record of such training will be made.

ALTON MENTAL HEALTH CENTER POLICY

Alton Mental Health Center Policy 1g.03.017 states:

1. As part of the admission process, the patient's personal belongings are accounted for and checked for dangerousness. Due to storage space, each patient is allowed one (1) document box for storage; all extra property is sent to the patient's home. An address will be kept on file in the security office for mailing purposes....

4. The Personal Property Receipt (IL462-0001), is completed for all property kept at the facility and retained by the patient. The Personal Property Receipt will have listed in detail all items retained by the patient, items put in grooming boxes, contraband items given to security, and those items sent to the security office. The patient or guardian will sign or place his/her mark on the proper line for each item retained in addition to the bottom of the document...

The following items are considered contraband. This means contraband items are not allowed on the units and are either illegal or prohibited by Department and /or Division PPD's or AMHC P/P's. The list is as follows:

- 1. Any items that in staff's judgment, and with treatment team review the next business day, could be used, fashioned into, or are designed to be a weapon. This is to include items that the patient has identified as a weapon through comment, verbal threat, or physical posturing. The outcome of the treatment team's decision must be clearly documented in the patient's clinical record...
- 6. ...Scissors, knives, any bladed item, or any device that is sharp
- 7. Metal hangers, metal wire beyond that used in headphones or that is found in audio listening devices....
- 8. ...Loose wire
- 9. Rope, yarn, twine, string or similar item; not to exceed 8 inches

10. Paper clips...

Patients may also lose access to items not listed above due to clinical issues and/or issues of abuse. Reasons for these restrictions MUST be clearly documented in the patients' clinical record. Further, staff and patients must be informed of these restrictions.

CONCLUSION

According to the Illinois Administrative Code, property must be approved by the treatment teams and when team determines property may pose harm it may be restricted. Property may not be restricted based on political, philosophical or religious opinions. Patients who lose access to items due to clinical issues and/or issues of abuse must be clearly documented in individual's records and notice of rights restrictions shall be issued and the treatment team shall inform consumers of their right to request a review.

Also the Code states that approved personal property may not be shared unless the second individual is approved for such usage. The Alton Mental Health Center Policy states that consumers are responsible personal property and are not permitted to borrow or trade property.

The HRA concludes that the consumer's book was confiscated after he violated unit rules by sharing his PDR and that his necklace was not allowed because it may be a dangerous object. The Social Worker explained that the PDR would be returned to the consumer. The HRA notes that there was no clear documentation regarding possession of either properties. The staff did not record safety justification for the property removal and no Notice of Restriction of rights issued.

Staff speculated that an Administrative team made decisions regarding the property; however, the HRA found no documentation regarding the teams' decisions.

The allegation that the Center violated the consumers' rights when it withheld personal property and did not offer Notice of Restriction is substantiated.

RECOMMENDATIONS

The HRA recommends that the Center:

1. Ensure that consumers are allowed to retain property that is not contraband or a documented safety concern and document any property restrictions that are deemed necessary to protect the consumer or others from harm.
2. Document decisions made by the Administrative Review team.

3. Issues Notice of Restriction forms when consumers are not allowed to have all of their property.
4. Ensure that recipients and staff are aware of the Administrative Code requirement allowing for a review of personal property restrictions by a clinician who is not part of the treatment team.
5. Review the Administrative Code and Center Policies that address sharing property and ensure that the Code is upheld.