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HUMAN RIGHTS AUTHORITY – METRO EAST REGION
REPORT OF FINDINGS

Case #14-070-9014
Alton Mental Health Center

INTRODUCTION

The Human Rights Authority (HRA), a division of the Illinois Guardianship and Advocacy Commission, opened an investigation after receiving a complaint of a possible rights violation at Alton Mental Health Center. The complaint alleged the following:

The center allegedly violated a consumer's right when it denied visitation.

If substantiated, the allegation would be a violation of the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.) and facility policies.

Alton Mental Health Center is a medium-security mental health care facility largely populated in a forensic unit, serving 120 patients between the ages of 18 to 55. Approximately 110 of the individuals served are in the forensic unit, of which 88 are male and 22 are female. Alton Mental Health Center employs 220 staff members, and ensures that patients are supervised 24/7. The average length of stay is 90 days for individuals found unfit to stand trial (UST).

To investigate the allegation, HRA team members interviewed staff and reviewed documentation that was pertinent to the investigation. Such documentation included policies from the treatment facility. Additionally, the HRA was provided a tour of the facility, which included the visitation room. The HRA observed bulletin boards that posted rights information and third-party advocacy groups' contact information near the phones where the residents lived.

COMPLAINT STATEMENT

The complaint alleges that a recipient was denied visitation due to a change in unit privilege status. The complaint goes on to state that because the recipient was restricted to the unit, she was also denied visitation, and a visitor was sent away.

FINDINGS (including interviews, policy review, mandates, and conclusion)

As the Human Rights Authority was unable to obtain signed releases for specific patients, the investigation conducted did not include interviews with individual patients nor investigation of their records. In lieu of that released information, the HRA conducted interviews with staff, toured the facility, and reviewed facility policies.

A. Staff Interview

Staff said that there is a visitors unit, separate from the main unit, and that visitation could be limited by the treatment team if a person is at a high enough risk that they could have a behavioral issue, such as a danger of elopement or assaulting a visitor. Staff reported that they were not aware of any internal complaints about being denied visitation rights, but that when visitation is restricted, patients are issued a restriction of rights notice. Staff said that, because unit privilege status is tied to safety concerns, an individual's right to visitation could be restricted based on unit privilege status, the rationale for which would be addressed with the individual and documented by the treatment team.

A different staff member corresponded in writing, and said "we do not restrict visitation unless the patient is on unit privilege status. When patients are on unit privilege status (for example, due to mental instability or high risk behaviors lending themselves to take such safety precautions), they maintain their access to programming and activities on the living unit. With that said, RORs [Restriction of Rights Notices] are written with justification for specific behaviors (i.e., aggression, self-injurious behaviors, psychosis, etc.) that would necessitate a ROR whereas the patient would need to remain in their living unit for safety until the safety risk could be reduced such allowing to increased privileges to safely interact with others outside their living unit." The staff member went on to say that "patients were encouraged after notified of emergent changes to contact their visitors as soon as feasible via calls that were unlimited if local and arranged if necessary if contacts were long distance calls with extended allotted amounts. Patients are allowed to place unlimited local calls during scheduled hours on all units. ... Patients are able to notify their visitors regarding visitation limitations and/or the lifting of these limitations via telephone or mail." Additionally, this staff member explained that patients who feel they are being treated unfairly have access to consumer concern forms, followed by a consumer concern committee review, as well as a review by the recovery support specialist.

B. Policies

An Alton policy entitled "Visiting: Civil Patients/Locust (including restrictions of)," marked 1 G.03.023, states that:

The Alton Mental Health Center will facilitate visitation of patients while maintaining the safety and security of the patients, visitor, and staff. All visitors chosen by the patient may have full and equal visitation privileges. Visitors who disregard visitation rules, bring contraband to visits, or display threatening harmful behavior may be restricted from facility property and visitation with patients. The patient has the right to refuse visitors.

An Alton policy called "Privileges: Forensic Patient Privileging," marked 2 A.03.207, explains the unit privileging system by describing the eight privilege levels, which range in order of least restrictive to most restrictive and from Unsupervised Off-Grounds Privileges (UOGP) to Unit Privileges (UP). The policy specifies in bold print that "at no time should privileges be suspended as a punishment for behaviors unrelated to safety." Unit privileges is the only level in which visitation can be restricted. This policy states that UP status is used for newly admitted patients until their 72-hour treatment team meeting is held, patients who display imminent risk of harm to self or others, patients who display risk of

unauthorized absence, or patients whose treatment team have determined that the patient's safety or the safety of others would be threatened by the patient leaving the unit. This policy states:

When a patient has unit privileges, he/she may leave the unit when ... the patient's treatment team, under the direction of the treating psychiatrist, has agreed that the patient can receive visitors. All visits must comply with the procedure 2A;03.422 Visiting Alton Forensic Center.

C. Mandates

The Illinois Mental Health and Developmental Disabilities Code (405 ILCS 5/2-103) states:

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.

Furthermore, in section C, the same Code elaborates that:

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.

The Code states in Section 5/2-102 (a) that:

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. ...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.

D. Conclusion

The Human Rights Authority was unable to determine if the alleged complaint occurred or if a patient was denied visitation because he or she had experienced threatening behaviors that resulted in a change to the highest-risk unit privilege status. Likewise, Alton Mental Health Center may have been abiding by an Alton policy that indicates that patients at the level of unit privilege status may have visitation rights if they are agreed upon by the patient's treatment team. As the Mental Health and Developmental Disabilities Code allows for restriction of visitation rights in the cases of patients who pose risks of imminent physical harm, and such patients could be on that more restricted privilege level, the Human Rights Authority finds the complaint **unsubstantiated**.

However, in the course of the investigation, the Human Rights Authority determined that such a security level did not *only* include patients who pose risk of imminent physical harm, but also patients who are new to the facility, regardless of their risk for harm, for their first three days of residence, as well as patients who pose risks of unauthorized absence (elopement risks). For such patients, the policy would mean that visitation is treated as an earned privilege that can be agreed upon by the treatment team, rather than a right that can be restricted only if they pose a risk of physical harm to others. Although elopement risks certainly warrant increased security, a risk of *absence* does not clearly constitute a risk of *harm, harassment, or intimidation* as required by the Mental Health and Developmental Disabilities Code to warrant visitation restrictions (405 ILCS 5/2-103[c]). Additionally, although Alton Mental Health Center staff specified that patients are encouraged to notify their visitors of changes to their visitation rights via free phone calls, this was not specifically provided for in any of the policies given to the Human Rights Authority by the facility. Thus, the Human Rights Authority offers the following **suggestions**:

1. In order to comply with 405 ILCS 5/2-103, revise the procedure for restricting the visitation rights of forensic patients at the Unit Privileges level such that the treatment team may meet to determine whether the patient's right to visitation will be *restricted*, rather than meeting to determine whether they will be *given* their right to visitation. Clarify in policy and with staff that Unit Privilege status alone does not constitute a visitation restriction but that visitation can only be restricted "...to protect the recipient or others from harm, harassment or intimidation..." as per the Mental Health and Developmental Disabilities Code.
2. In order to comply with 405 ILCS 5/2-103, ensure that when visitation is restricted, staff inform recipients of their 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" [emphasis added]. If patients would prefer for any reason that the facility notify their visitors of changes in their visitation status, rather than the patients doing so themselves, they have that right.
3. In order to ensure that the above notifications can be carried out, introduce a policy that details how the facility will respond to patient requests that the facility communicate to affected visitors that recipients' rights have been restricted, and how the facility will reach affected visitors when those restrictions are no longer in place, as required by 405 ILCS 5/2-103.