



FOR IMMEDIATE RELEASE

Metro East Regional Human Rights Authority
Report of Findings
Alton Mental Health Center
Cases #14-070-9020 and 14-070-9024

The Metro East Regional Human Rights Authority (HRA), a division of the Illinois Guardianship and Advocacy Commission, accepted for investigation the following complaints:

Case #14-070-9020

1. The Center may have violated a consumer's right when it denied a consumer's property received via mail; provided an unsigned property list; and, did not offer a Notice of Restriction form when property was withheld.

2. Visitors are turned away for reasons not related to communication restrictions but due to some type of facility issue, visitation was not allowed.

Case #14-070-9024

1. A consumer was denied access to his personal property.

If found substantiated, the allegations represent violations of the Mental Health and Developmental Disabilities Code, the Illinois Administrative Code and facility policies.

The HRA combined these cases because they involved similar issues and the same service recipient.

Alton Mental Health Center is a medium security state-operated mental health center that serves approximately 110 individuals from across the state in its forensics program and approximately 10 individuals in its civil program. Individuals receiving civil services are primarily from Randolph, Greene, Bond, Madison and St. Clair Counties.

To investigate the allegations, an HRA team interviewed facility staff, reviewed a recipient's record with written consent, examined facility policies and reviewed pertinent mandates.

Interviews

An HRA staff person interviewed, by telephone, a consumer of the Center's services. The consumer reported that he received 26 games and a Gameboy via priority mail and addressed to him. The items were listed on a property list that no one signed. According to the consumer, facility staff refused to sign the property list, refused to allow the recipient access to the property and refused to discuss the property with the consumer because another consumer's name was on the property. The consumer stated that the other consumer sent the games to a friend in the community who, in turn, sent them to the consumer in the mail; the other consumer was interviewed and did not want the items. The consumer stated that the other consumer wanted to give the items to him but the facility would not allow it; so, the items were sent out and then mailed to the consumer. The consumer reported that he has since been transferred to another state-operated facility and the items were not transferred with him. The other recipient whose name was on the items is reportedly no longer at the facility. With regard to the visitation, the

consumer stated that visitors were turned away on 02-15-14 for reasons not related to communication restrictions but due to some type of facility issue.

The consumer also reported that he ordered an iPod that had been approved while he was on one unit. He was then moved to another unit and during the property review, staff held his property stating he was over the limit and had to choose 3 electronic devices. According to the consumer, the iPod was taken to review for video and Wi-Fi capability; the consumer was later told that the iPod was denied because it has playback and the policy on his new unit states that no video is allowed. And, the consumer stated he was only allowed one pair of headphones with no restriction notices being provided.

An HRA team interviewed facility representatives who reported that facility policy states that personal property cannot have video or audio capability. If property does have that capacity, it is considered contraband as per the facility contraband list and a restriction notice is reportedly not required. The facility stated that personal property cannot be traded, sold, exchanged or bartered by recipients. Security staff etch the owner's name and an identification number on electronic devices. The items in question were mailed out of the facility and then mailed back to the facility to another recipient even though the items were still marked with the original owner's name and identification number. Staff, therefore, placed the items in the personal property box of the original owner. The personal property receipt signed by the recipient who received the items in the mail on 12-06-13, clearly indicated that another recipient's name and identification number were on the items and thus the items were placed in the original owner's property box. The recipient who received the items in the mail was transferred to another state-operated facility on 04-22-14 as per staff.

Staff also reported that there are facility policies and rules regarding the possession of property and there are pre-determined requirements for electronics. Specifically, recipients cannot have in their possession items that have audio or video recording capability in order to protect recipient confidentiality. If an item exceeds policy requirements, it is placed in the recipient's personal storage. Personal property is returned at discharge. If property issues become problematic, they may be addressed in a recipient's treatment plan. Property is also addressed in the patient handbook.

With regard to the visitation issue, the facility reported that visitation was cancelled on 02-15-14 due to a facility electronic lock failure. The system failure led to no visitation until the facility could be secured. The facility considered the situation to be a life safety issue and no restriction notices were issued as the matter was deemed to be an environmental versus a patient issue. Staff were dispatched to ensure security, safety and egress from the building. Locked doors could only be opened with keys. The facility stated that staff addressed the issue with recipients as soon as it was safely possible and families were notified of changes in visiting hours after the initial system failure. Those family visits scheduled for 02-15-14 could not be cancelled in a timely manner. Memorandums regarding the situation were sent to families and consumers.

Record Review

With written consent, the Authority reviewed a recipient's record. The facility completed a 04-09-14 request to transfer the recipient to a more secure state-operated facility. This request

documented many treatment needs and issues that explain the reasons for the transfer request. The transfer request documented the primary diagnoses as follows: Malingering to evade prosecution and incarceration; Schizoaffective Disorder, Bipolar Type; Antisocial Personality Disorder; and medical needs, including Hypertension, Peptic Ulcer Disease, Dyslipidemia and Chronic Back Pain. The rationale for requesting the transfer stated that the recipient "...poses a high risk for elopement in this medium-security facility, as evidenced by his continued and escalating possession of contraband, most notably evidence of mechanical dismemberment of his window, hidden screws behind the tampered window shield, and possession of a cellphone...there has been evidence that [the recipient] has taken pictures of his living units, other patients, and staff. These were discovered on information-storage devices (i.e., SD card). [The recipient] has been found to have possession of at least two such information-storage devices that continue to be examined for audio recordings. After contraband was removed, [the recipient] made threats of being identified no longer as a burglar but soon a murderer. Therefore, a maximum-security environment would be considered the least-restrictive method of managing his risk for elopement at this time, as well as his threats to the safety of others...." The recipient had been at the facility since 2009 after being found unfit to stand trial; his status changed to not guilty by reason of insanity in 2013. The recipient has a history of incarceration and hospitalizations. He was transferred to a more secure state-operated facility on 04-11-14.

The HRA reviewed property receipts dating back to October 2013. A summary is listed below:

10-29-13 – The following items were placed in property storage and the receipt was signed by the recipient and staff: a Nintendo game, a superman game, a Gameboy case and a charger.

11-18-13 – A clock radio was placed in personal property storage with signatures by the recipient and staff.

12-06-13 – A stereo audio system was placed in the recipient's property storage. However, 26 Gameboy games were placed in the property storage of a peer whose name and identification number was on the games. The recipient and staff signed off on the receipt form.

12-09-13 – The recipient requested to withdraw the Gameboy Games and clock radio, give the items to a case worker and place all items together in a bag. There was no staff approval for this request.

01-29-14 – A debit card was placed in storage but a hand held Gameboy Advance was placed in a peer's property storage. The recipient and staff signed the receipt.

02-11-14 – The following items were placed in the recipient's storage: a handheld game, headphones, a cube speaker, a Gameboy Advance, A Nintendo DS in a case with batteries, a dictionary, a Wiki Reader, a noise machine and an iPod. The recipient and staff signed the receipt form.

04-11-14 – A receipt form lists 3 pages of items to be released with the recipient as part of his transfer but not the items (Gameboy games) with the peer's name/identification number.

Pertinent restriction of rights notices were reviewed. A notice dated 01-17-14 stated that Gameboy games were being held in personal property until a review was completed. A restriction dated 02-11-14 stated that items received that day, including an iPod and 2 Gameboy Advance were to be placed in personal property indefinitely due to facility policy. The HRA found no restriction notice pertaining to the 02-15-14 visitation.

A review of facility progress notes pertinent to the complaints documented the following:

02-11-14 – “[The recipient] had an excess amount of electronics items per policy, see personal property receipt for items sent.” Later on the same day, the recipient became anxious over the property and requested medication and then he boxed up excess property items to be sent to personal property storage.

02-13-14 – The recipient requested his iPod and was told that it was being assessed. He was also informed that the iPod charger did not meet policy guidelines and he would have to get a smaller one which he indicated he would do.

02-14-14 – The recipient received an MP3 Player in the mail along with other items. The MP3 Player was “...placed in locked drawer to be given to visitor on 02-15-14 and sent home.”

02-15-14 – The recipient received several items from visitors, some of which were placed in personal storage. “[The recipient] was upset because visiting was cancelled due to security issues.”

02-20-14 – The recipient again requested his iPod and the staff person responded with plans to contact security. Later, “team on 02-20-14 said that one iPod is known to have video capabilities [and] therefore is not allowed per hospital policy.”

02-25-14 – Staff documented that a package came addressed to both the recipient and a peer and contained various electronic items. The recipient stated that he bought the items with the intent of sharing with the peer. Staff documented the following: “I asked him if he had a copy of the Patient Handbook and he said ‘yes.’ I advised him to look at page 22, #4. It says that they are not permitted to sell, give, buy, borrow, trade, gamble, receive things (including food), or steal from anyone else. I advised him that the property needed to go to security and then he said we could just send them to personal property. He then called this writer a fucking liar several times regarding iPod that security has. I told him that the iPod needed to be reviewed by security to make sure it met facility policy/procedure. He stated I told him it needed to be reviewed for Wi-Fi, which is true, but also needed to be reviewed for video capabilities. I told this patient that it was told to him that it was pulled for review for policy and procedure and because it had video he couldn't have it. This was verified by [another nurse].”

02-28-14 – The recipient exchanged an older clock radio for a newer one however, there was a question about the power cord due to it being over six feet long. The items were placed at the nurse's station for team review.

03-01-14 – The recipient claimed a charger was mislabeled and belong to a peer who had his charger and requested that staff switch the chargers. When staff refused, the recipient threw it to the ground and it was broken.

03-03-14 – The recipient was noted to be listening to ear buds and music.

The HRA next examined a consumer complaint form completed by the recipient on 02-20-14. The letter requests an appeal of his restricted iPod stating that it does not pose a safety issue. Staff responded as follows: "Spoke to patient regarding complaint. Showed him the policy, which he stated he was aware of, that indicates he cannot have iPod with video capabilities. He said ok and that he would like to appeal to higher level. I advised him that I would complete complaint and give to [facility director]."

The HRA also examined memorandums related to visitation. A memorandum dated 02-22-14 regarding visiting hours stated that "In relation to our current building control problems, we have changed visiting hours to accommodate the need for extra staffing to ensure safety." The memo then explains interim changes to the facility's visitation policy, that include the following: a change in hours (M-F 6 to 8 p.m.; Sat, Sun 1 to 4:45 pm); a unit staff person monitoring the visitation from "the podium;" a process for notifying and escorting a recipient to visitation; a metal detector screening of visitors; a process for ensuring visitor identification after screening, etc. The memo states that "patients who are UP [unit privileges only] will not be allowed visitation until such time as their behavior is appropriate to obtain and maintain a supervised building pass."

Policy Review

The HRA next reviewed policies pertinent to the complaints. The Personal Property policy (#1 G.03.017, last revised 04-16-13) states that "Patients are permitted to use personal property as they desire, except for items which are dangerous, or for items used inappropriately." At admission, personal property is documented and evaluated for safety; some items can be kept in a personal storage box and other items are to be sent home. Items in the personal property storage can only be checked out on a monthly basis and receipts, signed by both the recipient and a staff person, are used to document items placed in storage. Some items are given to security. With regard to electronics, the policy states that "Any media/electrical equipment that is received by the patient through direct purchase via mail or from family/friends will be sent to security. The information technology deterrent will examine the merchandise to ensure compliance with policy and procedure for DHS [Department of Human Services] an AMHC [Alton Mental Health Center]. If deemed appropriate and approved by the treatment team, the media/electrical 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. If the item is found to be inappropriate, it will be placed in the patient's 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 is deteriorating as a result of inappropriate use of items. The patient will receive a copy of the personal property receipt." With regard to discharge, the policy states that "...the patient is to receive all personal property that has not been considered illegal and disposed of as per procedures."

A separate policy on contraband (#1G.03.026, last revised 05-14-12) states that "Electronic data transfer devices (flash drives, external hard drives, iPods, etc., not provided by or approved by the facility...." are considered to be contraband. In addition, "Patients may also lose access to items not listed on the Contraband List due to clinical issues and/or issues of abuse." Staff are to seize and inventory contraband providing a receipt to the recipient except for illegal contraband which is given to security staff. The facility's contraband list attached to the contraband policy states that "Any items that in staff's judgment and with treatment team review during the next business day, could be used, fashioned into, or are designed to be a weapon or interfere with the security of the hospital. This is to include items that the individual 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 individuals' clinical record." The list specifically includes "computers and electronics with audio/video recording devices, built in wireless cards, modems and video with playback capabilities (refer to electronic device policy), or wireless access points (WAP)."

The "Patient Access to Media and Electronic Equipment" Policy (#2 B.01.019, last revised 02-24-12) states that "It is the policy of Alton Mental Health Center 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 with the AMHC facility (civil or forensic)....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 [Department of Human Services] 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....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 are to complete a restriction notice when such items are confiscated. Forensic patients "...are allowed to possess in their rooms three different electronic items at any given time. Patients may exchange the types of electronics they have in their rooms from personal property, if applicable on a monthly basis.

The facility maintains two visitation policies, one for the forensic center and the other for patients admitted civilly. Each policy specifies that "The Alton Mental Health Center will facilitate visitation of patients while maintaining the safety and security of the patient, 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." Each policy then describes the manner in which visitors are processed

through the facility. This process involves stages that include screenings and the gradual movement through locked areas of the facility.

The HRA also examined the patient handbook which includes sections on personal property and visitation. The handbook states that all visitors are welcome as long as they have been authorized by the recipient. Visitation denial may occur if visitors disregard visitation rules or if a recipient's condition is at a level that visitation would not be suitable as determined by a nurse manager or physician. Visitation restrictions and the restriction process is also described. With regard to personal property, the patient handbook includes a section on electronic devices which must be approved by the Information Technology Department and the treatment team with some items being denied. The handbook's contraband list includes electronic devices that can record. Under a section entitled, "Unit Expectations," the handbook states that "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." And, a section on "Personal Items" states that recipients can have items not considered contraband and within the parameters of available storage space. This section reiterates to recipients that "You may not sell, give, buy, trade, borrow, loan, rent, gamble or steal anything from anyone."

MANDATES

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-103) states the following with regard to visitation:

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....

(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, [FN1] 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.

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-104) also addresses recipient property and property restrictions:

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 therefor, except in the circumstances and under the conditions provided in this Section.

(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.

(c) When a recipient is discharged from the mental health or developmental disabilities facility, all of his lawful personal property which is in the custody of the facility shall be returned to him.

The Code requires in Section 5/2-201 that restriction notices be provided when rights are restricted. And, Section 5/2-202 requires the Department of Human Services and the facility director to adopt policies and procedures to implement recipient rights.

The Illinois Administrative Code also addresses issues specific to this case. The Administrative Code includes sections specifically pertaining to state-operated campuses (59 Ill. Admin. Code 102, 109, 110). Section 102.10 requires that visitors provide identification as part of the visitation process. Section 109.30 addresses the use of computers and computer peripherals in state facilities and states that such items can be restricted to protect the recipient or others from harm. Section 110.30 addresses other personal property of recipients in state-operated facilities as follows:

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....

Upon arrival at the facility, the individual's belongings will be inventoried and checked against the contraband and restricted items list. Items that are contraband/restricted will not be given to the individual. Staff shall notify the individual of the contraband and restricted items and ask whether the items should remain in personal storage or whether the item should be sent to a family member or friend. Staff shall post a list of contraband and restricted items in a common area of the unit....

Property must be approved by the individual's treatment team prior to use. Any personal property that the treatment teams determines, in the exercise of its professional judgment, may pose harm to the individual or to others shall be restricted....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 of review....

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 subsection...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....

Individuals may request prior approval...any property they intend to have sent to the facility or intend to receive during visits with the family or friends, but are not required to seek prior approval. Property that has not been submitted for prior approval must nonetheless be approved....

One approved by the treatment team, personal property must be inspected by designated facility staff prior to entering the treatment unit. Items approved for possession by an individual may be indelibly marked or identified as belonging to that individual prior to entering the treatment unit....

Media and media storage devices including but not limited to print media, tapes, DVDs, CDs, video games and digital music players (MP3 players, iPod, etc.) and related items shall be considered personal property and are subject to this Section....

Property maintained in each individual's room must fit within available storage space. In addition to the storage available in each individual's room, each individual will be permitted a designated amount of storage for personal property and for clothing. The facility may set limits on off-unit storage in accordance with the Mental Health and Developmental Disabilities Code....

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...are not subject to review....The individual who requested the review shall have the opportunity to speak with the clinician performing the review....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....

Video Game Usage...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....Video games shall not be categorically restricted on the basis of their Entertainment Software Ratings Board (ESRB) rating. Individuals shall be able to possess video games without restriction unless an individualized professional clinical judgment is made....

CONCLUSIONS

In Case #14-070-9020, the complaints allege that a consumer's property rights were denied when the consumer received property in the mail, the consumer was provided with an unsigned property list, and when the facility did not provide a restriction notice when property was withheld. In addition, this case alleges a violation of a visitation rights.

Staff reported and the record confirms that a recipient was denied Gameboy games addressed to him but that were marked with another recipient's name; thus, the items were placed in the property storage of the other recipient. Contrary to the complaint statements, a property list explaining the situation was signed by both the recipient and a staff person; in addition, a restriction of rights notice was issued. These actions appear consistent with Mental Health and Developmental Disabilities Code, Illinois Administrative Code and facility policy provisions. According to the complaint, the other recipient intended for the recipient to have the games; however, it was not clear from the record review that this was actually the case as the other recipient's name was still marked on the games. The other recipient is no longer available to be interviewed. The HRA cannot conclude that the items definitely belong to the recipient. However, the HRA does question the facility's policy that does not allow for recipients to give personal property to a peer under any circumstances when the Illinois Administrative Code appears to allow for this practice at least to some degree. **While the HRA understands underlying concerns with recipients giving personal property to peers, it finds that this facility disallowed practice is not consistent with Illinois Administrative Code provisions stating that "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...."** (59 Ill. Admin. Code 110.30)

With regard to the visitation issue, staff reported and documentation indicated that visitation was denied on a specific day due to a building issue and there was facility concern about recipient and visitor safety as a limited number of staff had to manually lock and unlock doors through the various stages of the visitation process. The HRA does not dispute the safety concern. The Mental Health Code allows for visitation denial to protect recipients/others from harm; however, the Code also requires the issuance of a restriction notice when visitation is denied. **Based on its review, the HRA finds that the facility should have issued a restriction notice for those individuals who had visitors but were denied the visitation on the day in question.**

Based on its findings in Case #14-070-9020, the HRA issues the following recommendations:

- 1. Review its policy regarding recipients giving personal property to peers to ensure consistency with the Administrative Code provisions (59 Ill. Admin. Code 110.30).**

2. Issue restriction of rights notices when visitation is denied as per the Mental Health Code (405 ILCS 5/2-103, 5/2-201).

The HRA also offers the following suggestion:

1. When a recipient disputes a property restriction, offer a clinical review by a clinician not directly involved in the recipient's care and as allowed in the Administrative Code.

In Case #14-070-9024, the complaint alleged that a recipient was denied his personal property, specifically, an iPod and a set of headphones. Staff stated and the record confirmed that the iPod was restricted upon the recipient receiving it in the mail in order to protect recipient confidentiality because the device had recording capability. In addition, the facility has limits on the number of electronics allowed for each recipient. With regard to headphone access, the HRA found documented evidence of the recipient using ear buds. The HRA also found evidence of a restriction notice and property receipts for the iPod and other electronics. In addition, the facility conducted and documented a review of the iPod access and responded to the recipient's formal complaint about the situation. The facility-wide policy specific to the iPod access appears consistent with the Codes' allowance. Both the Mental Health and Illinois Administrative Codes (405 ILCS 5/2-104, 59 Ill. Admin. Code 110.30) include provisions that allow the facility to restrict access to certain classes of items to protect the recipient or others from harm. **Based on its findings, the HRA does not substantiate any rights violations associated with the iPod restriction in Case #14-070-9024.**