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**Metro East Regional Human Rights Authority
Report of Findings
Alton Mental Health Center
Case #14-070-9037**

The Metro East Regional Human Rights Authority (HRA), a division of the Illinois Guardianship and Advocacy Commission, accepted for investigation the following allegations concerning Alton Mental Health Center:

A recipient was inappropriately subjected to weekly, random room and strip searches and restriction of rights notices were not always provided to the recipient. In addition, the recipient has experienced three physician changes since January 2014 with no explanation to the recipient and each physician having differing treatment approaches.

If found to be substantiated rights violations, the complaints would represent violations of the Mental Health and Developmental Disabilities Code (405 ILCS 5/1-100 et seq.) and facility policies.

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 allegation, an HRA team met with facility administrators, examined a recipient's record, with written authorization, and reviewed pertinent policies.

Interviews

HRA staff interviewed a consumer of services by telephone who reported that he is subjected to weekly, routine strip and room searches over a past contraband issue in which another patient had contraband and sent it to the recipient in the mail; he stated that the staff knew that the contraband initially belonged to another recipient. The consumer stated that the room and strip searches continued on an ongoing basis without justification. Eventually, after he objected, the strip and room searches stopped but pass privileges were allegedly withheld. The recipient stated he was assigned 2 different physicians in May and June 2014, each with differing opinions about privileges and restrictions. The consumer reported that the physician changes were made without any explanation. According to the consumer, restriction of rights notices are not always provided, there was no indication when restrictions would end and no internal human rights committee to review the situation. The consumer state that as of May 13, 2014, he would not get privileges unless he consented to strip searches. On 05-14-14, a treatment team determined that there was no longer a need for strip searches but pat-downs would be done which was agreeable to the consumer; also, a new physician was assigned to the consumer. On 05-15-14, the consumer stated he was told that that room/strip searches were ended but privileges would not be restored. On 06-09-14, the recipient stated that his room was shut down and a random room search was conducted without a restriction of rights notice; he stated he was allowed to stand at

the door of the room and his privilege level remained the same. On 06-11-14, the recipient stated he experienced another physician change with no explanation.

The HRA team met with and interviewed administrative staff of the facility. Staff stated that there are approximately 60 recipients on each unit and 2 physicians available to each unit. Physician services are available 24 hours per day, seven days per week. A psychiatrist is available during the weekdays. Staff reported that it is the responsibility of the physician as the leader of the treatment team, with the psychiatrist being the umbrella leader, to make decisions regarding restrictions. Staff acknowledged that a recipient was on leave and another physician filled in. A new physician, as the responsible physician, may override a prior physician's decision as per staff, and recipients can request a physician change.

According to facility representatives, strip searches require a physician's order and physician presence. "Pat down" searches are used with two staff persons present. Room searches require at least two staff persons present. In addition, room searches are completed with the recipient present. Staff stated that searches are done as a treatment team decision. Recipients are informed of the decision and receive a restriction of rights notice. When contraband is found, it is removed, a restriction of rights notice is issued and the treatment team reviews the situation.

Pass privileges may be dependent on a court order as well as being evaluated by the facility for risk of harm to the recipient and others. Recipients on restricted passes must prove that they are capable of safely and responsibly using the pass privilege before privileges are increased. An internal human rights committee made up of medical and administrative team members reviews restrictions, especially contraband for the recipient in this case.

With regard to the recipient identified in this case, staff reported that the recipient received a box of detergent in the mail, from an Edwardsville address, that contained contraband that consisted of multiple cell phones and tools. This prompted the increased searches during which additional contraband was found. Staff stated that the recipient has a history of being a "hustler" and an "intimidator" along with conducting organized business activities. He is reported to have been found not guilty by reason of insanity and has a thiem date of 2062. Staff stated that he frequently petitions the courts.

According to staff, the recipient's diagnoses include Schizophrenia and Antisocial Personality Disorder; he does not take psychotropic medication. Staff indicated that the recipient has guidelines available to work towards grounds pass privileges and the court has denied motions for an expansion of privileges as recently as 09-17-14. Staff reported that the recipient knows how to file complaint forms and has filed multiple complaints although none specific to the complaints being reviewed by the HRA. Staff stated that the recipient has requested physician changes and has signed and agreed to his treatment plan as recently as 08-01-14.

Record Review

With the recipient's consent, the HRA examined portions of the recipient's record, including documentation related to searches, privileges, restrictions and physicians. Progress notes from April 1, 2014 through May 7, 2014 were reviewed; a summary is listed below:

04-08-14 - a unit search was conducted and contraband was found; the recipient's pass level was demoted to "UP" (unit privilege) and recipient was informed of the privilege status change.

04-09-14 -a restriction of rights notice was issued after a physician's order to conduct a body search. The search was conducted with the assistance of two security officers, a nurse and another staff person; \$40 and a hard plastic health care card were found. The recipient was subsequently placed on frequent observation for safety purposes. An addendum to the 04-09-14 notes stated that the recipient had contraband items hidden in a package that he received on the previous day. Items hidden in a gallon zip lock bag placed inside a box of laundry detergent included two cell phones, two chargers, ear buds, a tool set and an MP3 player. The recipient denied knowing who mailed the items in the laundry detergent and stated he was "framed."

04-10-14 - the recipient refused to take responsibility for contraband items, remained on frequent observation due to the contraband possession and was issued a restriction of rights notice for random body and room searches.

04-11-14 - the recipient stated that he would no longer possess contraband and the frequent observations were discontinued; "UP" status was cancelled and change to "SBP" (supervised building privilege) status after a review by the physician and team members.

04-13-14 - the recipient stated at a community meeting that he was "set up" by a peer who "sent him things in the mail."

04-14-14 - the recipient requested to move to an empty bedroom; when he was denied, notes stated he became angry, paced outside the staff work station, yelled at staff and made accusations about staff after which security was called.

04-18-14 - the recipient lost his unit points for exchanging money with peers.

04-28-14 - the recipient requested access to his personal property storage and when brought to him he questioned where his cell phone was; documentation stated that security determined the cell phone was not his. The recipient later requested that items from his personal property storage be mailed out including a clock radio, a hair trimmer, a charger, a flashlight a pen, a piece of plastic and a plastic health card. The items were mailed out. Also on 04-28-14, notes stated that a restriction of rights notice was issued to the client for a room and body search as ordered. There was no contraband found on body search but the room search resulted in the discovery of an MP3 player in which an identification engraving had been scratched out. Notes documented that the recipient stated he had always had the MP3 player and the engraving was scratched out when he threw it to the floor. Security officers and aides were present during the search as was the recipient who "was cursing staff." Notes stated that the recipient did not receive his behavior target points. When the recipient continued to yell at staff including through the staff window, security was called and the recipient's privilege level was changed to "UP."

04-29-14 - the recipient yelled and cursed at staff, including threatening to slap a staff person, when he was questioned about reaching over the counter in the dining room to get two drinks versus waiting to be served by staff.

05-02-14 – the recipient lost behavior points after repeatedly refusing to remove sunglasses while indoors and because the glasses had not been reviewed/approved by the team.

05-05-14 – a random room and body search were conducted. The client was compliant but verbally antagonistic toward staff. Two pairs of dark sunglasses were taken and placed in personal storage as per a physician's order and a restriction of rights notice was issued.

On 05-07-14 – the client reported to staff that a peer had set him up over the contraband items.

Physicians' orders were reviewed. The HRA found an order dated 04-09-14 to search the recipient for suspicion of contraband. An order dated 04-10-14 for a restriction of rights and weekly body and room searches due to contraband. Frequent observations were also ordered. The frequent observations were discontinued on 04-11-14. The physician ordered a restriction of rights on 05-05-14 for sunglasses to be placed in personal property. On 05-12-14, the physician ordered a review of the restriction of rights for random, weekly room and body searches.

Restriction notices were also reviewed. The HRA examined restriction of rights notices from 04-08-14 through 05-12-14. A summary of the restriction notices follows:

04-08-14 – A property restriction was issued limiting access to an old personal identification badge and only one cell phone charger as these were determined contraband on the forensic unit.

04-09-14 – “A body search was conducted by 2 security officers, CNM and RN present to look for hidden contraband which poses risk of harm to staff and patients.

04-09-14 – The recipient “placed on frequent observation for safety of self [and] others [due to] possession of contraband....danger to self [and] others [due to] possession of contraband. Observation necessary to keep everyone safe.”

04-09-14 – An iPod, taped ink pen and wooden pencil were restricted. No reason was documented.

04-10-14 – “Until further notice....body and room search once weekly due to contraband for safety of self/others.”

04-10-14 – The recipient was placed on frequent observation “...for safety of self/others due to possession of contraband.”

04-28-14 – The recipient was given a random room and body search due to “...history of client being in possession of contraband.”

05-05-14 – The recipient was restricted from access to 2 pairs of dark sunglasses when he refused “...to abide with unit rule of not wearing sunglasses inside....”

05-12-14 - The recipient was given a restriction notice for weekly, random body and room searches “...due to contraband for safety of self and others.”

A clinical event description from June 2014 stated that staff observed the recipient with a grooming box which he appeared to be taking to his room until staff intervened; the recipient “...started laughing saying ‘I don’t know what I was thinking’” and returned the box. Staff checked the box and found rings with stones and a yellow colored chain wadded up in toilet paper. The items were sent to personal property and security was notified.

Meeting notes from an Individual Clinical Review for the recipient held on 07-23-14 state that the review was held “...to discuss the implementation of [the recipient’s] court approved supervised off grounds pass, and develop a treatment plan to address what would be expected from [the recipient] in order to attain eligibility to implement an increased level of privileging.” The review developed recommendations to implement the next privilege level that included the appropriate use of a supervised grounds pass 80% of the time; attendance and participation in “moral reconnection therapy, displaying no verbal/physical aggression, “...including calling peer’s mother murderer, father murderer etc. or making hissing sounds at other...;” having no contraband on the unit, having no acute psychiatric decompensation; maintaining a low elopement risk score prior to court approved privilege; and, six months completion of the above recommendations.

In September 2014, a court order was issued after a hearing on a motion for extended privileges. The order states that the motion was denied.

Finally, the HRA examined complaint forms completed by the recipient and submitted to the facility. The forms are dated January through September 2014. Most of the complaint forms concerned issues involving staff or peer behaviors. However, a complaint form dated 07-23-14 concerned the Individual Clinical Review meeting. The complaint stated that the individuals in the review decided that the recipient would not get a pass that the court reportedly had granted the recipient. The complaint indicated the review team’s decision that the recipient could get an unsupervised grounds pass in 6 months. According to the complaint statement, “they are playing games with my life and it is not fair everybody here that ever gotten a pass from the court are able to use their pass. I would like to appeal...” The complaint statement reports that other individuals of a different race have been able to use the passes granted by courts. In response, staff documented that the meeting results were discussed with the recipient and were based on prior behavioral issues. “He is being asked to wait for awarding pass for a specified time and meet stipulated criteria agreed by those attending ICR after review of record. He has informed the team he will not attend [a specified class and one of the criteria] because ‘he don’t feel like he needs to go to that class.’ He also states the documentation in the record is all bias. The team

agreed to review criteria/progress monthly and consider granting privileges and again had a second meeting with [the recipient]. He was also informed he could appeal to G & A [Guardianship and Advocacy Commission].”

Policy Review

The facility policy entitled, “Personal Property and Funds (Trust Funds), Handling Patients,” states that “Patients are permitted to use personal property as they desire, except for items which are dangerous, or for items used inappropriately.” Upon admission, personal property is evaluated for dangerousness and patients are allowed a certain amount of storage space; a contraband search is conducted at admission and after a transfer to a unit from the facility intake area. A restriction notice is included with the property policy.

According to the policy, “Contraband – Prohibited Items for Patients and Staff on All Living Units,” certain items are considered contraband as per legislation, Department of Human Services policies or by facility staff as per facility policies. Contraband lists are provided to each patient at admission, posted on each unit and the visitor’s room and maintained in the patient handbook. Contraband is to be seized, inventoried and stored with the exception of illegal contraband which is to be handled by facility security. The contraband list consists of 2 ½ pages of items that includes everything from lighters, to pens, to paper clips, to electronic devices, etc. At the top of the contraband list is the following statement: “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 individual’s clinical record.”

The facility’s policy entitled, “Privileges: Requesting Increased Court Approved Privileges Including Conditional Release of Forensic Patients,” requires that “...prior to any recommendation of increased privileges for forensic patients requiring court approval, a process of formal assessment and internal review is completed. Assessment of risk and potential for future dangerousness are required components of all privilege evaluations.” The review process is multi-faceted and once all reviews are completed a recommendation for a privilege change is sent to the jurisdictional court. If the court approves the privilege level, it is to be included in the recipient’s treatment plan with monthly reviews. “Court-ordered privileges may be granted and, as necessary, suspended based on the treatment team’s ongoing, clinical evaluation of the patient’s behavior. Any on/off grounds privilege granted by the jurisdictional court may be suspended by the treatment team for an indefinite period of time in response to changes in the patient’s clinical condition.”

A separate policy on forensic patient privileging describes the various privilege levels that range from unit privileges to unsupervised off grounds privileges. Unit privileges are assigned for new admissions, if a recipient is an imminent risk of harm to self or others, if the recipient is at imminent risk for an unauthorized absence, or the recipient’s treatment team determines that the recipient’s safety or the safety of others is compromised. Privileges can be suspended if warranted due to a change in a recipient’s clinical condition, disruption behaviors, the presence

of confirmed dangerous contraband, or if a recipient has drugs in his possession. The policy includes various forms to monitor and document a recipient's privilege status.

The HRA examined a policy entitled, "Unit Search," which states that unit searches are conducted randomly on each unit at least 2 times per month and also whenever needed. Recipients are asked to stand at the door of their rooms during the search. The room searches are conducted in teams when possible. "Pat searches will be conducted upon entering the room. Patients will be asked if they have any contraband on their person or in their room. All areas of the room will then be searched. If the patient refuses to allow their room to be searched, a restriction of rights will be issued, the search will still occur, and a note will be written in the clinical record following the search." Any items confiscated or contraband (with the exception of illegal contraband) would be placed in personal property storage. A unit search report is completed that lists information about the search, including contraband found as well as any behavioral reactions of patients. The policy includes a flow chart of the unit search process.

A separate policy entitled, "Search of Patients, Property, and Parcels – All Units," describes the process for searching individual patients. All new patients are searched at admission. And, all patients are given pat searches when returning to their units. A partially clothed search can occur if there is suspicion of contraband during a pat search and unclothed searches are to be conducted if contraband is found during partially clothed searches and staff have probable cause to believe the recipient has contraband. Patients with unescorted grounds passes are subject to random clothes and unclothed searches. Treatment team reviews are conducted if contraband found.

The facility's treatment planning policy states that the attending psychiatrist functions as the leader of a treatment team, monitors all treatment, and ensures that the treatment given and the treatment plan are consistent. The psychiatrist also approves all treatment methods, including privileging levels. The treatment plan is to be based on assessments and guide care and services to ensure that the recipient's individualized needs are met.

The facility's recipient rights statement includes the right to services in the least restrictive environment as well the right to receive notice when rights are restricted.

A restriction of rights policy requires clinical rationale for rights restrictions primarily based on safety.

The Patient Handbook provides information about contraband and explains that random unit searches are done frequently for safety, that recipients are to be present when recipient rooms are searched and that when individual rooms are searched, a restriction of rights notice is issued. The HRA did not find information about personal searches in the handbook. The handbook does describe physician services and states that a physician will coordinate medical care and a psychiatrist will be responsible for treatment. The psychiatrist is to meet with recipients regularly and the medical physician may be a member of the treatment team if there are health concerns. The handbook includes information about the patient complaint process. The HRA notes that HRA contact information is included both in the handbook and the recipient rights statement.

Mandates

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102) guarantees the right to "...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 view of the recipient, if any, concerning the treatment being provided."

Section 5/2-104 of the Code states that "Every recipient who resides in a mental health or developmental disabilities facility shall be permitted to receive, possess and use personal property....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....The professional responsible for overseeing the implementation of a recipient's service plan may, with the approval of the facility director, restrict the right to property when necessary to protect such recipient or others from harm."

Section 5/2-201 states that when rights are restricted, a restriction of rights notice is to be issued to the recipient, anyone the recipient designates, the facility director, the Guardianship and Advocacy Commission and the recipient's substitute decision maker, if any.

Conclusion

The complaint alleges that a recipient was inappropriately subjected to weekly, random room and strip searches and restriction of rights notices were not always provided to the recipient. In addition, the complaint stated that a recipient experienced three physician changes since January 2014 with no explanation to the recipient and each physician having differing treatment approaches. It was further alleged that privileges were reduced when the recipient refused searches and in spite of court orders allowing for extended privileges.

Progress notes for the recipient in this case noted that additional room and body searches were directly related to contraband being found in the recipient's room or on his person. The searches were physician ordered and resulted in the issuance of restriction notices. Treatment team reviews of the situation were documented at least twice in the portions of the record reviewed by the HRA. In addition, when the recipient filed a written complaint that he was "set up," staff met with the recipient and addressed his complaint. Facility policy allows for room searches and pat downs on a routine basis, provides for additional room searches and personal searches when contraband is found and requires the issuance of restriction notices.

The record also demonstrated that privilege status changes were directly related to the confiscation of contraband in the recipient's possession or due to the recipient's behavior. Facility policy clearly documents the privilege system, the reasons for changing privilege status and the treatment team's ability to deny a court-approved privilege status if clinically appropriate

for safety. The recipient also had the opportunity to present his privilege status in court in September 2014; however, the court did not extend the recipient's privileges at that time.

The Mental Health Code guarantees the right to services in the least restrictive environment pursuant to a treatment plan with input from the recipient. The Code also allows for the restriction of rights, including property, to protect recipients from harm and requires notice of restrictions.

Based on the evidence, the HRA does not find rights violations pertaining to room or personal searches, changes in privilege status, or the issuance of rights restriction notices.

With regard to physician changes, the facility acknowledged that there were physician changes and that the psychiatrist leads the treatment team. However, policy indicated that the treatment plan, with input from the recipient and the treatment team, guides a recipient's services which is consistent with the Mental Health Code. The record documentation in this case indicated treatment team reviews of the recipient's situation. **Therefore, the HRA does not find a rights violation pertaining to the physician changes.**

The HRA does take this opportunity to offer the following suggestions:

1. Ensure that appropriate assessments for risk are conducted when there are concerns regarding a court-approved privilege status as per facility policy.
2. Consider the need for consistency in physician services when possible.
3. Consider adding a section to the patient handbook regarding personal searches.
4. Consider the involvement of the internal human rights committee when there are issues over court-approved privileges or searches.