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**Metro East Regional Human Rights Authority
Report of Findings
Alton Mental Health Center
Case #15-070-9002**

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

The facility restricted a recipient beyond what a court order granted and without adequate rationale given to the recipient.

If substantiated, the allegation represents a violation of the Mental Health and Developmental Disabilities Code 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 interviewed facility representatives, examined a consumer's record, with consumer consent, and reviewed pertinent facility policies.

FINDINGS

Interviews

According to a telephone interview with the consumer, the court authorized his supervised off-grounds pass as of January 27, 2014. However, the facility reportedly will only authorize an unsupervised on-grounds pass and will not consider a supervised off-grounds pass until 6 months has elapsed. The consumer stated he has not had an incident in 3 to 4 months and though he appealed to agency administration for specific rationale for the more restrictive pass, he was told simply that the facility "doesn't trust" the consumer. The consumer stated that, in his case, the facility is not following the privilege process.

An HRA team met with and interviewed facility representatives, including the facility administrator and director of nursing. The facility reported that contraband was found in a box of laundry detergent delivered to the consumer from an outside source in April 2014. According to the facility, this occurrence along with the consumer's documented behaviors impacted his access to unsupervised grounds passes. The facility further stated that the consumer's court orders leave the final approval of grounds passes up to the facility's discretion.

Record Review

With consent, the HRA examined the consumer's records. A treatment plan dated 11-17-14 documented that the consumer was admitted to the facility in May 2010 after being transferred from a more restrictive state-operated facility and after having been adjudicated as Not Guilty by Reason of Insanity for a First Degree Murder charge in 2006. He was remanded to the Illinois Department of Human Services as part of the adjudication. His diagnoses include Schizophrenia

and Antisocial Personality Disorder. This treatment plan documented the following with regard to the consumer's history of facility passes:

He received a court order allowing him to have the privilege level of supervised ground pass on 12-05-11. This pass level was suspended from 05-2012 – 06-2012, 12-12-12 – 04-14-13 and since 02-14-14 – 04-08-14. A supervised off ground pass was granted by the court on 01-27-14. This privilege was approved by the team on 01-31-14 but he never was able to utilize it, as it was suspended on 02-14-14 due to an incident of aggression on 02-11-14. The treatment team approved and reinstated the privilege of supervised ground pass on 03-19-14. This pass was suspended on 04-08-14 due to having contraband in his possession at which time he was unit privileged. He was approved for a supervised buildings pass on 04-11-14. The team approved a supervised ground pass level of privilege on 06-25-14. This pass was suspended on 10-28-14 after [the consumer] became involved in a verbal altercation with a peer which required a code red (extra staff required) be called. During the altercation it was noted [the consumer] picked up a chair. He denied he picked up the chair but stated he only moved the chair. [The consumer] was issued an unsupervised building pass on 11-06-14. He was issued a supervised grounds pass on 11-17-14.

The consumer signed the treatment plan and indicated his agreement.

The HRA examined two court orders. A court order from early in 2014 stated that testimony was heard with regard to the consumer's petition to adjust his pass status level. The court ordered that the facility adjust the consumer's status to include supervised off-grounds passes but also included a statement that allows the facility to increase or decrease passes based on the consumer's behaviors. Another order from the Fall of 2014 indicated that a hearing was held for expanded pass levels but the motion was denied.

In July 2014, an individual clinical review meeting was held "...to discuss the implementation of [the consumer's] court approved supervised off-grounds pass, and develop a treatment plan to address what would be expected from [the consumer] in order to attain eligibility to implement an increased level of privileging." The team recommended that the following be met in order for the recipient to attain the next pass level: 1) use supervised grounds pass appropriately 80% of the time; 2) attend and participate in moral reconnection therapy each week; 3) no incidents of verbal or physical aggression and no incidents of whispering negative comments or hissing at peers; 4) no possession of contraband; 5) no display of acute psychiatric decompensation; 6) low elopement risk; 6) six months of successful completion of these recommendations. Meeting notes stated that the team met with the consumer and reviewed the recommendations. In addition, meeting notes stated that progress toward meeting the recommendations would be reviewed at each treatment team meeting. It did not appear that the recipient was at the meeting as per the sign-in sheet.

A review of progress notes on the consumer from July 2014 through November 2014 indicates periodic incidents with peers, some initiated by the consumer and others initiated by peers. The notes indicated pass level reductions when the consumer initiated the incident or when the consumer appeared to provoke a peer's behaviors. Notes also indicated pass level reviews and

pass level increases when the consumer did not exhibit behaviors. Most behaviors involved the consumer making negative statements toward peers. There was at least one incident in which the consumer yelled at a peer. There was at least one incident in which the consumer threatened physical harm toward a peer. In this incident the consumer and a peer were postured to fight when the consumer threw a chair even though staff had requested that the consumer leave the area. The highest pass level afforded to the recipient appeared to be supervised off-grounds pass. On one occasion the consumer was even able to attend a recovery conference with staff and peers.

Clinical event reports were reviewed. On 04-08-14, the recipient received a large box of opened detergent in the mail from an outside source; upon examination, staff found multiple items including cell phones, a ratchet set and other items that are restricted or only allowed on a limited basis. During a room search on 04-09-14, the consumer was found to have loosened and removed window screws in his room; he also had other items considered contraband or accessible on a limited basis. On 06-16-14, the consumer was observed carrying his grooming box to his room which is not allowed; staff stopped him and found jewelry wrapped up in Kleenex. On 07-25-14, the recipient had in his possession money from an undetermined source; he stated that it was money that came to him via the mail and facility staff missed it when they assisted him with his mail.

The HRA also examined a consumer complaint form dated 07-23-14 in which the consumer voiced concern about the court order and his pass status. The form stated that a facility representative met with the consumer and explained that the pass level was based on behavioral issues and that he could appeal to the Guardianship and Advocacy Commission.

Policy Review

The facility's policy on pass levels for consumers receiving forensic services (2 A.03.207) states that "...patients earn privilege levels that are appropriate for their needs and allow for increasing amounts of independence. The same privilege levels also require jurisdictional criminal court approval." The policy states the following:

Specific privilege levels are available for patients to earn in the Alton Forensic Center (AFC). Privileges up to and including an unsupervised building privilege are awarded by the treatment team, under the direction of the patient's treating psychiatrist, with final approval and authorization being made by the treating psychiatrist. However, privilege levels higher than a supervised grounds privilege require that the treatment team submit a privilege request proposal to the medical director's office PRIOR to authorizing a privilege per [Requesting Increased Court Approved Privileges Policy].

The policy lists 8 different pass levels with "unit privileges" being the lowest and "unsupervised off grounds privileges" being the highest. "Supervised off grounds privileges" represents the second highest level. According to the policy:

This privilege is awarded ONLY following receipt of an order from the patient's jurisdictional court granting supervised off grounds privilege. This privilege allows the

patient to go off AMHC grounds with one forensically trained staff person as specified by the patient's treatment team and documented in the comprehensive treatment plan. Each patient at this privilege level must carry a privilege card. The card will specify the type of privilege, the day, and time that the privilege can be utilized.

Off grounds trips should provide the patient with opportunities to gain independence in a community setting. All trips shall be part of a structured plan aimed at re-integrating the patient to the community and will be documented in the comprehensive treatment plan. Escorting staff will evaluate and document the patient's response to the off grounds trip in the clinical record upon return from the trip.

The policy dictates that "The overriding priority in approval and use of privileges shall be the safety of the patient and others. All privileges shall be included as part of the patient's comprehensive treatment plan." The policy also addresses suspensions of passes and states the following:

A privilege may be suspended by the treating psychiatrist for an indefinite period of time in response to changes in the patient's clinical condition. Such changes may include deterioration clinically to the point that the patient poses a threat of harm to himself or others, or that the patient has stopped meeting designated treatment goals necessary to sustain the privilege...or that his/her presence in activities off the unit will be disruptive to other patients in attended, or has attempted to bring confirmed dangerous contraband onto the living unit....

A separate policy regarding a recipient requesting court approval for increased privilege (2 A. 02.106), states that:

It is the policy of Alton Mental Health Center (AMHC) 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 evaluation process includes reviews by the treatment team, the treating psychiatrist, the medical director, the clinical director, a clinical psychologist and the forensic coordinator. The Forensic Bureau Chief must give final approval before the pass request is sent to the jurisdictional court. Once the court approves the request, a plan for implementing the privilege is included in the recipient's treatment team and reviewed monthly.

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.

The HRA also examined the patient handbook last updated in 2012 which makes no mention of the privilege process.

Mandates

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102) states 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. 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.”

CONCLUSION

The complaint states that the facility restricted a recipient beyond what a court order granted and without adequate rationale given to the recipient.

The record confirmed that the court granted the recipient a certain pass level, subject to facility review/approval, that was periodically suspended or reduced due to documented incidents of possessing contraband or incidents of aggression. The record also indicated that the recipient's pass level was restored during times when behaviors were appropriate. The record documented that the recipient's pass level is reviewed by his treatment team. An individual clinical review meeting was held specifically to review and consider the recipient's pass level at which goals for restoring pass levels were determined; it did not appear that the recipient was in attendance at the meeting. The record also revealed that the recipient filed a written grievance regarding his pass status and a facility staff person met with him, explained the results of the clinical review meeting, discussed the rationale for the current pass level, and reviewed the criteria for increased grounds access. Also, the recipient pursued a court order for expanded grounds access that was denied.

The Mental Health and Developmental Disabilities Code guarantees the right to adequate and humane care and services in the least restrictive environment as per an individual treatment plan that is developed with the participation of the service recipient to the extent feasible; when determining least restriction, the recipient's views are to be considered. Other than considering the views of the service recipient, the principle of least restriction is not defined in the Code and the Code does not specifically address pass levels or building/grounds access.

Facility policies on pass levels describe the process for identifying, increasing and reducing building/grounds access which includes treatment team reviews of a recipient's clinical condition and behavioral incidents. Policies also describe the means for approaching the court for increased pass levels and state that even though the court may grant a particular pass level, the treatment team still determines the access level.

In conclusion, the recipient was granted a certain pass level by the court but the court order allowed the facility the ability to reduce or increase the level depending on the recipient's behavior. Facility policy also allows the facility jurisdiction over final decisions regarding a recipient's pass level dependent on behaviors. The rationale for reduced pass levels was clearly documented in the recipient's record and specific to behavioral incidents. The Code guarantees

services in the least restrictive environment, taking into account the recipient's views in treatment planning. **The HRA does not substantiate rights violations regarding the recipient's pass level or the rationale for reduced grounds access.** However, the HRA does take this opportunity to offer the following suggestions:

1. The Code guarantees recipients the right to participate in treatment planning and to have their views considered as part of least restrictive service provision. Although the recipient participated in treatment planning meetings and met with staff regarding individual concerns, it appeared that the Individual Clinical Review Team meeting did not include the recipient and the criteria developed did not appear to involve the recipient. The HRA suggests that such meetings involve recipients to the extent feasible as provided for in the Mental Health and Developmental Disabilities Code.
2. The HRA also suggests that the privilege levels and the roles of the court and facility in determining those levels be incorporated into the patient handbook.