



FOR IMMEDIATE RELEASE

**METRO EAST HUMAN RIGHTS AUTHORITY
REPORT OF FINDINGS
HRA CASE # 18-070-9006 & 18-070-9008
ALTON MENTAL HEALTH CENTER**

The Metro East Regional Human Rights Authority (HRA) has completed its investigation of complaints at Alton Mental Health Center, a state-operated, medium security mental health care facility located in Alton, Illinois. The facility serves 120 patients between the ages of 18-55. Of that number, approximately 110 (88 male and 22 female) are in the forensic unit. The civil unit houses a maximum of 15 patients and includes one overflow bed which is used for emergency purposes only. Alton Mental Health Center employs 220 staff members to ensure that patients are supervised 24/7.

The allegations being investigated are:

- 1. 18-070-9006 The facility violates personal property rights when it denies certain types of property, the rationale for property denial is inadequate, and the denial is not consistently applied across the facility.***
- 2. 18-070-9008 The facility violates consumers' rights when the implementation of the grievance process is inadequate and consumer complaints are not answered in a timely fashion.***

If found substantiated, the allegations represent violations of the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-104), regulations that govern property in State-Operated Mental Health Facilities (59 Ill. Admin Code 110) and facility policies.

METHODOLOGY

To pursue the investigation, an HRA team interviewed Alton Mental Health Center staff, obtained and reviewed agency policies, reviewed the Alton Mental Health Center Consumer Handbook, and reviewed consumer complaints and records.

FINDINGS

Complaint #18-070-9006 states that a patient was denied personal products such as facial products that have willow bark as an ingredient, as well as other soaps, lotions and deodorants, and that a timely response was not provided when a consumer complaint was

filed. Additionally, a restriction of rights (ROR) was not issued in a timely fashion when the items were restricted.

On 12/11/17 a consumer complaint form was filed stating: “Concerned that property was unnecessarily restricted on 12/8-11/17. Appealing this decision under IL 462-2001 (R-4-14) Individuals receiving mental health services are entitled to receive, possess and use personal property unless it is determined that certain items are harmful to that individual etc. The treatment team failed to approve personal property items (facial scrub, cleanser and moisturizer) that weren’t ever determined to be harmful. Nor could an explanation be offered, either verbally or in writing, as to why these items are harmful. These items are not present on the Contraband and Controlled Items list, yet when an IL 462-2004M was requested, such was denied....”

The Action/Resolution to above complaint dated 12/22/17 states: “These items were removed by the treatment team and it was determined the items fall under pharmaceutical due to their ingredients, AMHC permits only formulary items. Please let me know if you have further questions. Thank you.” Signed by a detailed Clinical Nurse Manager (CNM)

On 12/23/17 another consumer complaint was filed stating: “Complaining that property was unreasonably restricted on 12/22/17. This recipient received by mail on such date Soap, deodorant and toothpaste, the possession of which was unreasonably restricted. These items aren’t present on the Contraband and Controlled Items list, no IL 462-2004M was issued indicating them to be harmful; nor was an IL 462-0001 (R-06-14) even issued.”

Under facility policy IL 462-2001 (R-4-14) individuals receiving mental health services are entitled to receive, possess, and use personal property unless it is determined that certain items are harmful. The HRA reviewed previous grievances and determined that this is the fourth such complaint filed by this recipient within a year detailing these continued violations of Illinois statute and recipient human rights and disregard for DHS and facility policies.

On 12/29/17 a Notice Regarding Restricted Rights of Individuals was issued to the patient. The restriction documented was: “To manage personal hygiene.” Reason for the action was listed as “[Name Brand for Acne Treatment] contents of the product must be determined if they are pharmaceutical in nature and could be absorbed which would hereby be considered harmful and detrimental to the patient. This must be reviewed by the medical and pharmaceutical staff. Final resolution of the Restriction of Rights is therefore pending until further notice.”

On 12/29/17 a second Notice Regarding Restricted Rights of Individuals was issued to the patient. The restriction documented was: “To manage personal hygiene.” Reason for the action was listed as “[Name Brand of Soap] contents of the product must be determined if they are pharmaceutical in nature and could be absorbed which would hereby be considered harmful and detrimental to the patient. This must be reviewed by the medical and pharmaceutical staff. Final resolution of the Restriction of Rights is therefore pending until further notice.” This ROR was also signed by the detailed CNM.

Complaint # **18-070-9008** states that consumer complaints are going unanswered while the unit CNM is off on medical leave and the complaint box is overflowing. The HRA coordinator, upon receiving notification of this complaint, reached out to the

administrator of Alton Mental Health Center who assigned another CNM to empty and address the complaints in the box on this unit while the unit CNM was off on leave. Patients on the unit verified this was done and the complaint was resolved.

MANDATES/REGULATIONS

According to the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-104):

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.

According to 59 Ill. Adm. Code 110.30. Personal Property in State Mental Health Facilities:

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 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....

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.

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

2) Contraband items shall be confiscated by staff of the security department and turned over to the proper authorities or destroyed.

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.

59 Ill. Adm. Code 110.5 defines contraband as:

Items that are illegal for an individual to have in their possession or are legal but considered dangerous for patients to have on units, in accordance with subsection (a)(1), and are disposable. Such items shall be confiscated by staff of the Security Department and turned over to the proper authorities or destroyed.

59 Ill. Adm. Code 110.5 defines restricted items as:

Lawful items that may be returned to the patient or his/her designee upon discharge but are restricted in accordance with subsection (a)(1). Such items shall be restricted from being in the possession of the patient while a patient is at the facility.

According to the AMHC Policy # 1G.03.017 Personal Property and Funds (Trust Fund), Handling Patients:

Policy Statement:

Patients are permitted to use personal property as they desire, except for items which are dangerous, or for items used inappropriately.

According to the AMHC Policy # 2B.01.004 & 2C.03.002 & The Consumer Concern/Complaint Form:

“If you have concerns or complaints regarding treatment, services or conditions at the Hospital, you (or someone on your behalf) may use this form. Staff will assist you if necessary. This form should be placed in the Consumer Concerns box located on each unit or given to the Clinical Nurse Manager.”

“We attempt to resolve issues at the unit level within 7 days of receipt. If need be, your concern/complaint may be forwarded for additional reviews by administration. If your concern/complaint is forwarded, it should be resolved within another 14 working days of being forwarded to the most appropriate individual or area.”

The AMHC Policy # 2B.01.009 Patient Rights and the Restriction Thereof reads, in part:

Policy Statement:

It is the policy of the Alton Mental Health Center (AMHC) to respect the rights of patients and to not abridge said rights without cause and without due process. Restriction of rights are issues as a last resort and only with clean and clinical rationale to ensure safety, while assuring a therapeutic setting.

Restriction of Rights:

Patient rights can be temporarily restricted only when:

There is a need to protect the patient and/or others from harm, harassment, or intimidation.

A medical or dental emergency exists in which a delay for the purpose of getting consent would endanger the life of or adversely and substantially affect the patient.

The AMHC Policy # 2B.01.001 Consumer Concerns/Complaints reads, in part:

Policy Statement:

It is the policy of Alton Mental Health Center (AMHC) that patients, families, significant others, and other interested parties have open dialog and opportunity to identify and resolve concerns and complaints regarding treatment, other services or conditions at AMHC. It is the policy of AMHC to review complaints and suggestions with patients, their families, and friends to improve services and treatment.

Procedure:

7. For non-OIG consumer concerns/complaints, these are the levels of resolution;

a. Staff will attempt to satisfactorily resolve the concern/complaint at the unit level within 7 days of receipt, with the involvement of the treatment team or through the community meeting.

b. Concerns/complaints not resolved at the unit level shall be presented at the administrative clinical review meeting where efforts will continue towards final resolution. An additional 7 days will be allowed for this review.

c. Concerns/complaints not resolved at the clinical review meeting will be forwarded to the Clinical Director who will send the complaint to the person(s), department, or committee in the organization that can best resolve the concern/complaint. The receiving individual has 7 days from receipt to resolve the issue.

There is no d or e on the policy.

f. Unresolved concerns/complaints will be referred to the Hospital Administrator/Designee. The Hospital Administrator/Designee has the ultimate

responsibility for resolving the concern/complaint. If the issue cannot be resolved, the Hospital Administrator/Designee will see to it that the complainant is informed.

CONCLUSION

The HRA **substantiates** complaint # **18-070-9006** and finds that AMHC failed to follow **59 Ill. Adm. Code 110.30**, Personal Property in State Mental Health Facilities, which states, "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 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." The patient's complaint on 12/11/07 stated it was "an attempt to appeal the decision," and according to **59 Ill. Adm. Code 110.30** 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. 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. 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. 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. According to the patient, this process was not followed, and the HRA found no record of this process being followed and could not verify this through information obtained during the site visit.

In this instance, the patient was denied soap, deodorant and toothpaste, and a various other brands of personal hygiene items, without being given an explanation of why the products could be harmful. Furthermore, a ROR was not issued until 12/29, 18 days after the first consumer complaint was filed about these items. The Consumer Concern/Complaint form states it will be answered within 7 days.

For complaint # **18-070-9008**, as acknowledged by the administration, Consumer Concern/Complaint forms were not resolved or answered within 7 days of receipt, the HRA **substantiates** this portion of the complaint. However, this complaint was resolved

when the HRA called the facility administrator who assigned another CNM empty the complaint box and address the complaints. Patients on the unit verified that this issue was resolved.

RECOMMENDATIONS

The HRA recommends that AMHC retrain staff, including CNM's and the Clinical Director, as to what items are on the Contraband and Controlled Items list. The HRA cannot comprehend why over the counter—hygiene products would be considered contraband. No explanation was ever given to the patient, in writing, as to how over the counter products could be harmful and not allowed, and no explanation was given to the HRA during the site visit. Instead, the administrator began talking about a hair growth product, and how it was not allowed at the facility. She also spoke of products in glass bottles not being allowed, which had nothing to do with this particular issue. As acknowledged by the administrator, the patient had inquired about the hair growth product in the past, but this complaint did not address that product and the HRA never mentioned it. Please provide evidence of training to the HRA.

The HRA strongly recommends that AMHC staff be retrained on when, why and how to properly issue Restriction of Rights to ensure that patients' rights are not violated. Please provide evidence of this training.

The HRA recommends that Alton Mental Health Center train staff to ensure that the Consumer Concern/Complaint box is emptied in a timely manner and the complaint and appeal processes are followed in accordance with policy. If the box has not been emptied and staff is alerted by a patient or notices the box has not been emptied in a timely fashion, staff should alert the CNM on the unit. If the CNM is unavailable, staff should notify administration. Furthermore, AMHC administration should assign another CNM to cover the duties of another CNM who is out for an extended period, that was not done in this case. Consumer Concerns/Complaints should be addressed in a timely fashion, as stated in policy. Please provide evidence of this training to the HRA.

