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North Suburban Regional Human Rights Authority
Report of Findings
HRA #14-100-9004
Elgin Mental Health Center

Introduction

In August 2013, the North Suburban Regional Human Rights Authority (HRA) opened this investigation regarding Elgin Mental Health Center (hereafter referred to as Center), Forensic Treatment Program (FTP), William White Unit. A complaint was received that alleged the following:

1. a consumer was denied the use of a sleep mask that is needed due to light sensitivity
2. a consumer was placed on 1:1 observation without justification
3. the unit is not consistent about providing "fresh-air time"
4. staff members do not document accurate information in the clinical chart
5. staff members conducted a room search with a consumer being present
6. a staff member reported parts of a telephone conversation that a consumer had with her Psychiatrist
7. staff members yell at the consumers
8. a consumer cannot converse with her attorney during the scheduled unit visitation times
9. a consumer cannot review her chart; she cannot give information from her chart to her attorney, and she cannot get copies of her 60-day progress reports from the chart
10. a consumer does not want to take medication
11. a consumer cannot have a personal computer
12. consumers cannot use personal beverage cups during the evening hours
13. consumers cannot have hard candy that aids with dry mouth symptoms
14. staff are resistant allowing consumers to use the conference room for attorney/advocacy calls
15. consumers are not given unit rules before the rules are implemented.

If found substantiated, the allegations would violate the Illinois Mental Health and Developmental Disabilities Code (405 ILCS 5), the Illinois Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110) and the Administrative Code for state-operated programs (59 Ill. Admin.Code 112).

Recipients receiving services at EMHC's Forensic Treatment Program have been remanded by Illinois County Courts to the Illinois Department of Human Services (DHS) under statutes finding them Unfit to Stand Trial (UST) and Not Guilty by Reason of Insanity (NGRI). Placement evaluations determine the most appropriate inpatient or outpatient setting for forensic treatment based on a number of factors including age, gender, mental health diagnosis, and security need. Unless a person is specifically ordered to receive services in an outpatient setting, court ordered

referrals under state forensic statutes call for placement in a secure inpatient setting. The Forensic Treatment Program has 315 beds.

Methodology

To pursue this investigation, the HRA met with the consumer whose rights were alleged to have been violated to discuss the allegations. The HRA, with written consent, reviewed portions of the consumer's clinical record and reviewed Center policies/procedures specific to the allegations. A site visit was conducted at which time the allegations were discussed with the consumer's Psychiatrist, the unit's Nurse Manager and the consumer's Case Manager.

Findings

Allegation #1: a consumer was denied the use of a sleep mask that is needed due to light sensitivity

The consumer reported to the HRA that she was given a sleep mask as a Christmas gift by a staff member. She stated she used the mask for about six months without incident. The consumer claims that when she made a complaint to facility administration about a few of the unit staff members, those staff members then told her that she could not use the mask. The consumer stated that she needs to cover her eyes due to the bright lights.

The clinical record revealed data on a female consumer remanded to EMHC in June 2012 after being found Not Guilty Due to Reason of Insanity for a felony charge. In September 2012, progress notes documented that while the consumer sleeps she covers her entire face with a bath towel. At this time, staff members told the consumer that she cannot cover her face since staff needs to be able to see her face during routine monitoring. The consumer reported that she cannot sleep without covering her face; the consumer was directed to discuss the matter with the unit's nursing supervisor. The following month it was documented that the consumer has stopped covering her face while she sleeps.

In June 2013, progress notes documented that the consumer was awakened at midnight and she was asked to uncover her face because it is hospital policy that the face is visible at night. It was documented that the consumer became argumentative and said that everyone is targeting her and that the activity therapy staff member gave her the eye mask so she should be able to wear it. Progress notes indicated that from July 2 through July 8, 2013 the consumer was wearing the eye mask. On July 8, 2013 during a team meeting, the consumer was reminded that she cannot wear the eye mask or cover her face when sleeping. On July 9, 2013 it was noted that the consumer "gave up the mask without incident." July 12, 2013 documentation noted that the consumer was observed wearing the mask. The HRA found nothing further in the chart regarding the eye mask. A review of physician's orders did not indicate that the consumer had a medical condition that caused light sensitivity.

At the site visit, Center personnel stated that there is no evidence of a light sensitivity medical problem. It was stated that the consumer has received a few eye examinations and nothing has been found. It was also offered that administration went back and forth regarding whether the consumer could have the eye mask. It was stated that policy says a consumer's face must be uncovered while sleeping but administration did relent and said she could have the mask.

Conclusion

Pursuant to the Illinois Mental Health and Developmental Disabilities Code, Section 5/2-102, "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 HRA found no

evidence to support the claim that the consumer needed a sleep mask due to light sensitivity; consumer rights were not violated.

Allegation #2: a consumer was placed on 1:1 observation without justification

The consumer told the HRA that on July 3, 2013, she had been slapped in the face by a staff member - this matter was referred to and investigated by the Illinois Office of the Inspector General (OIG). The consumer was then placed on a one-to-one observation. The consumer, after reading her chart, stated that her Psychiatrist documented that she had reported being physically assaulted by a male staff member and that she felt unsafe/at risk with African American staff. The consumer denied that she reported feeling unsafe or at risk and she stated that she never mentioned the color of anyone's skin. According to the consumer, the initial one-to-one staff member assigned to monitor her was African American. The consumer did not believe the one-to-one was justified because she did nothing wrong.

According to the clinical record on July 3, 2013, the consumer reported that she had been slapped by a staff member. The entry documented that the OIG was contacted; the Unit Nurse Manager, the Program Director and Center Security were informed. Nursing notes documented that the consumer was placed on one-to-one observation for protection of self per a unit psychiatrist's order. The following day it was documented that the consumer "swung her arm" toward the assigned one-to-one staff member. The staff member told the consumer not to swing at her/him; the consumer denied this action toward the staff member. It was documented that the consumer was calling the staff member names and she became so loud that security personnel were called for a walk-through. It was noted that the consumer became calm during the walk-through but became agitated once they left. It was documented that the consumer went into her dorm room, closed the bathroom door and refused to open it when requested (staff members did open the door). The consumer was on the one-to-one precaution until July 8, at which time the precaution was stepped-down to Frequent Observation.

At the site visit, it was explained that the consumer was placed on one-to-one not only for saying a staff member had slapped her, but because about five other consumers wanted to fight her.

The Center uses the Illinois Department of Human Services Program Directive - Special Observation policy which states that a safe and therapeutic environment entails providing a level of observation for each individual served that is appropriate to the individual's clinical needs. In some instances, an individual's clinical condition requires enhanced levels of observation/monitoring to ensure the safety and well being of the individual and others. One to One (1:1) Observation is a level of special observation where one staff person will be assigned to continuously observe and monitor one individual.

Conclusion

Pursuant to the Illinois Mental Health and Developmental Disabilities Code, Section 5/2-102, "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." Based on the information obtained, it is concluded that the consumer's rights were not violated when she was placed on the 1:1 observation. However, chart documentation did not show that others wanted to fight with the consumer; if this was an additional reason for the precaution, chart documentation should state the same.

Allegation #3: the unit is not consistent about providing fresh-air time

The consumer stated that there is a sign on the wall that says fresh-air time is to be for a half-hour, three times a day, with the exception on visitation days. The consumer stated that when they do have fresh air time, it is usually for only 15 minutes after dinner.

At the site visit it was stated that fresh air time is scheduled three times a day and takes place in a fenced enclosed courtyard just off the unit. It was stated that the periods are usually offered twice a day because staff cannot monitor the courtyard during consumer visitation (which takes place off unit) and sometimes staff are not available due to other off unit activities/appointments. The unit keeps a log that records who goes outside for fresh air time. It was stated that upon review of this log, it was noted that the consumer identified in this case investigation was never checked off as having gone outside for the fresh air period.

Conclusion

Pursuant to the Illinois Mental Health and Developmental Disabilities Code, Section 5/2-102, "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." By Center personnel's own admission, the unit is not consistent about providing fresh-air time. However, if the unit does provide the opportunity to get outside twice per day, it is concluded that consumer rights are not being violated.

Allegation #4: staff members do not document accurate information in the clinical chart

Allegation #9: consumer cannot review her clinical chart; she cannot give information from her chart to her attorney; she cannot get copies of her 60-day progress reports from her chart

The consumer told the HRA that her chart contains many inaccuracies that include the information documented on her History and Physical admission document, her diagnoses and occurrences that have happened on the unit. The consumer stated that documentation is reviewed by the courts that determine discharge, and the inaccuracies could hinder her discharge.

The clinical record contains progress note documentation (6/2012-1/2013) indicating that the consumer requested to read and receive copies of her clinical record; these requests were honored. In January 2013, multiple progress notes indicated that the consumer complained that the charting does not reflect the truth of the events documented and/or the documentation contained outright lies. The treatment team decided that it was in the consumer's best interest to be restricted from viewing the contents of her clinical record. It was noted that on February 1, 2013, the consumer said that she would not challenge the restriction. A physician's order for the restriction was given on February 7th to restrict for 7 days; the restriction was discontinued on February 8, 2013 as reading the chart "would not lead to gross clinical deterioration." After the restriction was discontinued, progress notes indicate that the consumer requested and received chart documentation.

At the site visit, it was stated that the consumer is able to review her chart and she gets a copy of the chart every 30/60 days. Once she receives a copy of the chart, she is free to give it to whomever she wants. It was stated that the consumer wanted the chart materials immediately upon request and that simply cannot be accomplished.

Regarding the allegation that staff members document inaccurate information in the chart, it was stated that the consumer has been told many times that she has the right to submit a written statement concerning any disputed information and that the statement(s) will be entered into the record. (The HRA has also advised the consumer of this right). It was stated that the consumer has not submitted any statements to include in the chart that disputes what is written. The consumer's psychiatrist told the HRA that he has addressed this concern with consumer saying that yes, what is written is important for court hearings, but that the judge does not take everything at face-value. It

was also stated that due to consumer's litigious nature, the STAs (Security Therapy Aides) no longer are willing to chart in the consumer's clinical record and the psychologist will not meet with consumer alone as he/she believes it is important to have a witness. It was stated that the consumer is so focused on what is being said that she does not realize what she says or what actually happened. As an example, they stated that the consumer swore at her Case Manager then a second later told him she does not swear.

The Center's Patient Access to Records policy states that in accordance with the provisions of the Illinois Mental Health Code and the Mental Health and Developmental Disabilities Confidentiality Act, it is the policy of Elgin Mental Health Center that "a patient, guardian or authorized representative is entitled to inspect and request copies of the patient's medical record. Any person entitled to access a record under this section may submit a written statement concerning any disputed or new information, which statement will be entered into the record. The policy further states that if the treatment team feels that the review of the medical record is clinically contraindicated, that is, the patient's access to their record could cause serious misunderstanding or harm to the patient or others, a written notice of restriction of rights shall be completed and given to the patient. When a patient requests to review their record and that request is denied the following options should be explained to the patient:: a) with treatment team approval, the patient may be allowed to review the record at a later date during the hospitalization; b) the patient may request family, significant other or legal advocate not a qualified individual to review the record for him/her. A valid release of information is required for this to occur. "

Conclusion

Pursuant to Section 4 of the Illinois Mental Health and Developmental Disabilities Confidentiality Act, "(a) The following persons shall be entitled, upon request, to inspect and copy a recipient's record or any part thereof: (1) the parent or guardian of a recipient who is under 12 years of age; (2) the recipient if he is 12 years of age or older;..." "(c) Any person entitled to access to a record under this Section may submit a written statement concerning any disputed or new information, which statement shall be entered into the record. Whenever any disputed part of a record is disclosed, any submitted statement relating thereto shall accompany the disclosed part. Additionally, any person entitled to access may request modification of any part of the record which he believes is incorrect or misleading. If the request is refused, the person may seek a court order to compel modification. (d) Whenever access or modification is requested, the request and any action taken thereon shall be noted in the recipient's record."

The HRA cannot discredit the consumer's claim that staff members do not document accurate information in the clinical chart, however no evidence was found to support the assertion.

Based on the information obtained, it is concluded that the consumer can give information from her chart to her attorney and she is receiving copies of progress reports from her chart.

For about a week, the consumer was restricted from reviewing her clinical chart; the allegation is substantiated.

Recommendation

Center administration must ensure that each consumer is given the absolute right to read his/her clinical record.

Allegation #5: staff members conducted a room search with a consumer being present

The consumer reported that a staff member went through her movie collection while she was not in the room. The consumer reported that she was not told of this and only learned of it from her roommate.

According to the clinical record in March 2013, the consumer's room was searched; candy, a towel and a drink container were found in her drawer and cabinets. Documentation did not indicate if the consumer was or was not present during the search. It was documented that the unit expectations regarding not keeping those possessions in her room were explained to the consumer. The consumer reported that she did not know that she had the items in the room; she stated the items had been there since Christmas and she forgot about them. The staff member documented that the consumer has a history of sneaking out candies from the dining room. Nothing was found in the record regarding staff members searching the consumer's movie collection.

At the site visit, staff members explained that the consumer receives many movie disks for her personal viewing from family members. Center personnel recalled that a staff member was in the bedroom and counted the disks that were out in the open, noting the volume of disks. It was stated that the consumer was asked to place the overflow of disks in storage and/or return them to the family. Center personnel stated that a room search had not been conducted and they were quite adamant that the patient must be present during searches. It was explained that the unit does a random room search once per week by placing all room numbers in an envelope and room number drawn-out is searched. Consumers are not allowed to have food items in their rooms for safety and sanitary reasons.

The Center's Scans and Searches of Patients policy states (in part) that a "search" means a systematic procedure performed to locate concealed weapons, drugs, alcohol, sharps or other contraband items, which are undetectable by simply viewing of the patient or the environment. There are six different types of searches: scan, pat-down, field search, full body search, cavity search, unit search. A unit search is a systematic inspection of all patient living areas conducted by unit staff in cooperation with security officers. A unit search includes the inspection of all patient storage areas; e.g. closet, drawers, shelves, other storage compartments, stored clothing, all personal items, and bedding. A full unit search shall include a pat-down search and metal scan of each individual patient. Confinement of patients in one area is necessary until each is processed past a checkpoint where they are individually searched and scanned; a limited version of a unit search may be conducted involving one patient room or a targeted group of rooms based on staff's knowledge and/or reasonable belief of the location of contraband. The policy states that staff must permit a patient to be present while their personal belongs are being searched. The policy goes on to say that the definition of contraband does not cover all items which may be potentially harmful to patients, or others, in the hands of patients. Excess personal items (luggage, furniture) that cannot be accommodated on the unit, but are not contraband are to be placed in storage.

Conclusion

Pursuant to the Illinois Mental Health and Developmental Disabilities Code, Section 5/2-102, "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." Section 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 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."

A room search was conducted and food items were found in the room. The entry indicated that the unit expectation to not have food items in the room was addressed with the consumer. There is nothing further in the clinical record regarding a search of the consumer's movie collection. And, as explained by Center personnel, those items were not searched but merely counted due to the amount noted. It is concluded that rights were not violated; the allegation is unsubstantiated.

The HRA takes this opportunity to remind staff member to documentation whether or not the consumer was present during a room search.

Allegation #6: a staff member reported parts of a telephone conversation that a consumer had with her Psychiatrist

According to consumer, she was on the patient telephone (6/14/13) discussing a meeting that she had just had with her psychiatrist. She stated that a little while later, she crossed paths with the psychiatrist, and he said that she had been overheard on the telephone being upset about their meeting. The consumer stated she had not been upset while on the telephone.

On June 14, 2013, the consumer's psychiatrist documented that they discussed medications changes and he documented that she "appeared receptive and said she would think about it." It was further documented that a few minutes later an STA reported that the "consumer was on the phone hyper & angry, complaining about being tricked and phony forms."

At the site visit, Center personnel stated that when a patient is on a phone call and becomes visibly upset, it is that staff member's responsibility to report this to the team so that it can be addressed with the consumer. If the patient is on patient phone, staff have no way of knowing who the patient is taking to.

Conclusion

Pursuant to Section 3 of the Illinois Mental Health and Developmental Disabilities Confidentiality Act, "All records and communications shall be confidential and shall not be disclosed except as provided in this Act." Based on the information obtained, it is concluded that rights were not violated when the staff member reported to the consumer's psychiatrist that the consumer was observed being upset while on the telephone. The allegation is unsubstantiated.

Allegation #7: staff members yell at the consumers

The consumer told the HRA that some staff members yell at her all the time and will write her up with falsifications. The consumer provided no further information.

At the site visit, it was stated that staff members do not yell at the consumers. It was further stated that this patient talks very loudly and staff must talk over her at times to be heard. Center personnel acknowledged that the consumer might perceive this as yelling.

The Center's Code of Ethics policy states that "For all persons employed at the Center, relations and activities in or involving the workplace are to be conducted with honesty, integrity, respect, fairness and good faith, recover, and the welfare and safety of patients and their families are to be considered above all other concerns. Deliberate harm whether physical, psychological, or as a consequence of neglect must never be tolerated, or allowed to pass unreported. Empathy and compassion must be presented at all times, but especially in the employees' understanding of the challenges faced by a patient. The FTP Staff Training policy states that before any new employee in a direct care position can begin working on a unit, he or she must complete training in the facility's policies and procedures; CPI (Crisis Prevention Intervention) training which is training in the proper procedures for working with patient who becomes upset and difficult to manage and abuse/neglect training is training in identifying and avoiding any abuse or neglect of a patient.

Conclusion

Pursuant to the Illinois Mental Health and Developmental Disabilities Code, Section 5/2-112, "Every recipient of services in a mental health or developmental disability facility shall be free from abuse and neglect." The HRA cannot discredit the consumer's claim that staff members yell at

the consumers, however no evidence was found to support the assertion; the allegation is unsubstantiated

Allegation #8: consumer cannot converse with attorney during unit visitation

At the site visit, Center personnel stated that when this first came up, staff were told by Administration that visitation with attorneys can only take place in the attorney room and not during standard visitation time. It was stated that this has been subsequently changed - patients can visit with attorneys at anytime in addition to the standard visitation periods.

The Center's Patient Visitation policy states that all patients shall be permitted unimpeded, private, and uncensored visitation with persons of their choice. Unimpeded, private, and uncensored visitation may be reasonable restricted by the Nurse Manager or program administrator/director in order to protect the patient or others from harm, harassment, or intimidation; to prevent elopement; or to preserve the safety and security of the environment.

Conclusion

Pursuant to the Illinois Mental Health and Developmental Disabilities Code, Section 2-103, "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. No facility shall prevent any attorney who represents a recipient or who has been requested to do so by any relative or family member of the recipient, from visiting a recipient during normal business hours, unless that recipient refuses to meet with the attorney." Based on the information obtained, the consumer was not allowed to visit her attorney during the standard visitation periods; this has now been changed and the matter is resolved. Thus no recommendation will be made.

Allegation #10 -consumer does not want to take medication

The consumer told the HRA that she does not want to take Narcoleptics because it causes a "slow death as you are overcome by side effects like Tardive Dyskinesia, Diabetes, Cancer, etc." The consumer stated that she is already obese, and that staff members are checking her sugar levels and thyroid. She reports muscle problems, eyesight problems, dry mouth and panic symptoms.

According to the clinical record, the consumer (6/13/4) asked about being weaned off Seroquel, feeling that she is in the perfect environment to try to go unmedicated. She reported that the medications were causing side-effects and were a "bodily death sentence" and a "slow death". The chart also documented that the consumer demonstrated 100% medication compliance.

At the site visit, Center personnel stated that the consumer's medication was decreased a few times and it was evidently discontinued. The consumer's Psychiatrist stated he is not a big supporter of medication, but she had been on medication prior to admission and she had committed a violent crime. She consented to the medication and when she no longer consented it was discontinued. A subsequent call to the consumer confirmed that she no longer takes medication. The Psychiatrist also stated that the consumer in no way meets the criteria for court ordered medication.

The Center's Refusal of Services/Psychotropic Medication policy states that the consumer is given the right to refuse services, including medication and that medication will only be given to prevent the consumer from causing serious and imminent physical harm to self or others or are court ordered.

Conclusion

Pursuant to Section 5/2-107 of the Illinois Mental Health and Developmental Disabilities Code, "(a) An adult recipient of services or the recipient's guardian, if the recipient is under guardianship, and the recipient's substitute decision maker, if any, must be informed of the recipient's right to refuse medication or electroconvulsive therapy. The recipient and the recipient's guardian or substitute decision maker shall be given the opportunity to refuse generally accepted mental health or developmental disability services, including but not limited to medication or electroconvulsive therapy. If such services are refused, they shall not be given unless such services are necessary to prevent the recipient from causing serious and imminent physical harm to the recipient or others and no less restrictive alternative is available."

The consumer was medication compliant; when she refused to take the medication it was discontinued. Consumer rights were not violated; the allegation is unsubstantiated.

Allegation #11 - consumer cannot have a personal computer

The consumer stated that she asked if she could have her laptop computer so that she could work on the Veteran's Newsletter and she was denied this request. She also stated that she wanted to write and brush-up on her typing skills.

At the site visit, it was stated that only patients in distance learning programs are allowed to have computers.

The FTPs Possession & Use of Computers & Modems and other Electronic Equipment policy states that the program will allow some consumers on non-UST units to own and possess personal computers. The Program does not allow said patient to own or possess modems during the course of the hospitalization. So as to protect the interest and confidentiality of both staff and patients, this policy underscores the conditions under which computers can be purchased and utilized, for safety and sanitary reasons, limitations must be placed on the amount of all electronic equipment patients may have in their rooms and possession. Forensic patients desiring to purchase computers for personal use should have prior approval from their case counselor and the unit's clinical treatment team. The purchase and use of these computers will be determined by the following: a) the patient must meet the criteria for possession and the use of a computer as described in DHS Policy #109; b) the number of pieces of electronics equipment he/she already possesses (2); c) no extension cords are allowed.

The Center's Patient Possession & Use of Personal Computers, Printers, CD-Rom & CDs policy states that all patients shall be informed that personal computers, printers, peripherals, modems, CD-ROM and CDs, software or other equipment used with the computer shall be considered restricted property. The only exception shall be that the patient may use their personal laptop computer while in the hospital only if the use has been reviewed and recommended by the patient's treatment team and approved by the Clinical Nurse Manager. The policy references the Illinois Administrative Code (59 Il Adm 109) which states (in part) that the facility director may restrict the possession or use of computers, peripherals, modems, CDs, disks, software, or other equipment used with the computer for all individuals in a facility, when necessary to protect an individual or others from harm, provided that notice of such restriction shall be given to all individuals upon admission. E-mail and internet use on State-owned computers by individuals is prohibited. Facilities are not required to provide individuals with e-mail or internet access on State-owned computers. Individuals may request to have e-mail and internet access for educational purposes only. No other e-mail and internet related uses of State-owned computers by individuals are permitted. If an individual inappropriately uses a computer, the treatment or interdisciplinary team may restrict his or her use of the computer until the treatment or interdisciplinary team meets

to determine the programmatic action warranted. Computers are approved for the individual's personal use. Allowing another individual to use a computer or using the computer to obtain personal gain from other individuals is a violation that can result in restrictions on the use of the computer.

Conclusion

The Mental Health and Developmental Disabilities Code, states "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" (405 ILCS 5/2-104) and the Illinois Administrative Code (59 Ill. Admin. Code 109.30) states that the individual's use of the computer will be determined based on clinical review and assessment, as well as the availability of space. Also the Code states that "the facility director shall be responsible for implementing this Part and he may restrict the possession or use of computers or other equipment used with the computer for all individuals in a facility when necessary to protect an individual or others from harm."

It is concluded that rights are violated when computers are restricted simply because the consumer is not involved in a long-distance educational program; the allegation is substantiated

Recommendation

The Center should adhere to the Code and ensure that consumers may possess computers upon approval of individual treatment teams.

Allegation #12 - consumers cannot use personal beverage cups during the evening hours

The consumer stated that at one time, the personal beverage cups were locked up in the dining room cabinet (which is located off the unit) and consumers were allowed access to the cups only during dinner. The consumer told the HRA that proper hydration helps keep her headaches away. In addition, at night she has been woken up almost choking because of a dry throat and needing a cup of water - only to have to get out of bed and walk to a drinking fountain. She relayed when this happens her sleep is disturbed and she is tired all day.

At the site visit, it was stated that for about a two week period the personal beverage cups were locked up because some consumers were drinking way too much caffeine in the afternoon and PRN (as needed) sleep medication had greatly increased. It was stated that now consumers are allowed their personal cups during the evening for water only.

Conclusion

Pursuant to the Illinois Mental Health and Developmental Disabilities Code, Section 5/2-102, "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."

For about a two week period consumers were not allowed to have personal beverage cups during the evening; thus the allegation is substantiated. Since the cups are now allowed, no recommendation is made.

Allegation #13 - consumers cannot have hard candy that aids with dry mouth symptoms

The consumer told the HRA that the consumers are allowed to possess gum so she questions why pieces of hard candy are not allowed. The consumer notes that the hard candy is less taxing on the jaw and not as messy.

At the site visit, the Psychiatrist showed the HRA a bowl of hard candy that he keeps on his desk just for consumer use. He stated that he consumers can help themselves to the candy at any time. Center personnel stated that no food items are allowed in consumer bedrooms due to safety

and sanitary reasons and this includes gum and hard candy. It was stated that consumers can have gum and/or hard candy in their personal bins.

Conclusion

Pursuant to the Illinois Mental Health and Developmental Disabilities Code, Section 5/2-102, "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."

Since the consumers have access to a food item to relieve dry-mouth symptoms, it is concluded that rights are not being violated; the allegation is unsubstantiated.

Allegation #14 staff are resistant allowing consumers to use the conference room for attorney/advocacy calls

The consumer told the HRA that on one occasion she asked to use the attorney telephone and she was told that there were no staff members available, yet there were three STAs sitting talking near the back of the day room. On another occasion, an STA told her that he did not know how to assist her with making the call; the consumer said she would tell him how to do it but he said he was conducting face-checks so he could not help her.

According to the clinical record in May 2013, the consumer was observed using the unit telephone during an undesignated time. (Consumers are to sign-up to use the phone for 15 minute intervals). The documentation indicated that the consumer reported to staff that she had switched times with another consumer. The staff noted that the consumer did not advise staff members of the switch and they noted that the other consumer was not signed up for that time. At about 9:15 p.m. the consumer was observed on the phone and again it was not her phone time; the consumer told staff that she was talking to her attorney. It was documented that the consumer is to use the legal/lawyer phone for calls to her attorney. A few days later, the consumer met with the Program Director and he wrote that they discussed that staff are concerned that the consumer is making too many inappropriate phone calls. He reviewed the lawyer phone protocols with the consumer and she was asked to give her team a list of her lawyer contacts. It was documented that the consumer denied making excessive phone calls. There was nothing in the clinical record to indicate the consumer was having difficulty using the attorney telephone.

During the site visit, Center personnel explained that the lawyer phone is in a conference room. The consumer requests to use the phone, the consumer then calls the Center operator to obtain outside line. The door to the conference room is closed and the staff member must remain outside the room.

The FTPs Phone Procedures policy states that "patients shall be allowed to place calls to attorney with minimal reasonable limitations to the number, length, and time of calls. Patients have 2 options when making calls: a) they may use the free phones located in the unit dayrooms during approved items or; b) they may use the designated attorney phones (located in the conference room) with assistance from staff (available 24 hours a day/7 days a week. Those patients wishing to use on-unit attorney phones to contact their attorneys, will comply with the following protocol: a) the patient will notify staff (caseworker, charge nurse) that they wish to use the attorney phone to place a phone call to their attorney; b) staff work schedule a time for the phone call in a timely manner - no later than the end of the shift during which the request is made..."

Conclusion

Pursuant to the Illinois Mental Health and Developmental Disabilities Code, Section 5/2-103, "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. 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, 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. (d) No facility shall prevent any attorney who represents a recipient or who has been requested to do so by any relative or family member of the recipient, from visiting a recipient during normal business hours, unless that recipient refuses to meet with the attorney."

When a consumer wants to contact his/her attorney on the attorney phone the consumer must wait for staff availability which could be frustrating; however according to policy this request must be honored by the end of the shift in which the request was made. The HRA found no evidence to support the claim that staff members are resistant in allowing consumers to use the attorney telephone; the allegation is unsubstantiated. However, the HRA takes this opportunity to say that requesting a consumer to provide an attorney contact list is a violation of that consumer's right to unimpeded communication.

Allegation #15: consumers are not given unit rules before the rules are implemented

The consumer told the HRA that since her admission to the Center over a year ago, she has been rarely told a rule ahead of time and at times rules have been changed so that she could not do something. As example, the consumer stated that the soothing room used to allow 2 people to exercise, 2 people could watch a movie or listen to the radio/cd player and if someone else needs the room those others have to leave. The consumer stated that she would do yoga in this room; one evening it was ok to exercise in the room, the next day it was not ok. Another rule is regarding the unit television-if a consumer wants to watch a specific program they must sign-up for it. The consumer stated that she was told that she cannot sign-up/watch a movie that is over an hour - which the consumer admits is written on the sign-up sheet, but the Activity Therapy movies are over an hour and some consumers are allowed to sign-up to watch movies that are over an hour. It was also stated that the consumer had to stop a movie that she was watching so that 2 other consumer could watch a program that they had forgotten to sign-up for.

According to the clinical record at the time of admission, the consumer received the Patient/Family Handbook and other procedures like the Trust Fund and Visitation were explained to her. The record showed many notes that the consumer was always complaining about the unit rules, she always questioned the unit rules and she had no regard for the unit rules. The chart contained an entry regarding the soothing room. It was documented that the consumer was observed coming out of the soothing room and advised the staff member that she was going to make a phone call and that she had 10 more minutes of the movie. The staff member asked is she had permission to watch a movie in the soothing room as it was his/her understanding that movies are only to be watched in the dayroom. The consumer responded that she had obtained prior permission. The Social Worker met with the consumer the following day regarding the soothing room. He documented that the consumer reported that she was watching a "soothing room" movie and not one of her own. It was documented that the soothing room rules that had been updated were discussed and the updated rules posted to clear up any confusion patient and staff may be having.

At the site visit, Center personnel stated that in the Program, rules are called expectations. It was stated that unit expectations are reviewed during community meetings. It was offered that this consumer wants everything that is being asked of her to be in writing.

The FTP Manual Patient Expectations policy states that because the Forensic Treatment Program is a part of a larger institutional setting in a group living environment, it is necessary to have some expectations and rules to guide the behavior of all patients of the Program. The FTP Environmental Expectations that are shared with each consumer at the time of admission include: "we are expected to practice respect and dignity for other consumers and staff-which includes no violence or fighting, and no foul language; we are expected to adhere to safety practices which maintain the safety of all consumers and staff; we are expected to maintain and respect the environment-which includes no destruction of others' property and keeping our living spaces and working spaces clean; we are expected to take care of our own property and not to borrow, lend, share, or give things away-which includes food and other items; we are expected to keep ourselves appropriately dressed, groomed, and clean both on the unit and off."

Conclusion

Pursuant to the Illinois Mental Health and Developmental Disabilities Code, Section 5/2-102, "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."

Center personnel stated that unit expectations are addressed during the community meetings and the written expectations are given to each consumer at admission. Although we cannot discredit the claim that expectations are implemented without consumer notice, no evidence was found to support the claim. The HRA takes this opportunity to say, however, that it is important to ensure that consumers receive the courtesy of expectations changes before the change is implemented.

RESPONSE

Notice: The following page(s) contain the provider response. Due to technical requirements, some provider responses appear verbatim in retyped format.



Pat Quinn, Governor

Michelle R.B. Saddler, Secretary

Division of Mental Health - Region 2
Elgin Mental Health Center

RECOVERY IS OUR VISION
Recovery is a Personal Journey of Hope, Healing, Growth, Choice, and Change

August 14, 2014

Ms. Kori Larson - Chairperson
North Suburban Regional Human Rights Authority
9511 Harrison Street, W-300
Des Plaines, IL 60016-1565

Re: HRA #14-100-9004

Dear Ms. Larson:

In response to your letter dated May 5, 2014, as stated previously, personal computers and related equipment are listed on our EMHC Forensic Program contraband/restricted list. We continue to feel that computers and related equipment pose a serious risk to both patients and staff in a medium secure environment. We believe any approval of personal computers should be carefully reviewed and closely monitored. We have historically only allowed patients enrolled in the college distance learning program to have access.

We have acknowledged that some patients require more computer time to complete their homework assignments than our computer lab schedule would allow. We also understand some students required more sophisticated computers than what the State-provided computers offer. Over the years, we have made the accommodations for a small group of students to ensure their progress in the educational programs. We have been very careful to specify this exception in our policies and procedures. We at no time have ever considered computers being allowed in the general population due to the inherent safety/security risks involved. Again, computers are available in the Rehabilitation Program under staff supervision.

I hope this clarifies our position. If you have any further questions, please feel free to contact me. Please include our response with any public release of your Report of Findings.

Sincerely,

Paul N. Brock, M.S., M.P.A., M.H.A.
Hospital Administrator

PNB//JP/aw