



FOR IMMEDIATE RELEASE

**METRO EAST HUMAN RIGHTS AUTHORITY
REPORT OF FINDINGS
HRA CASE # 16-070-9003 & 16-070-9004
ALTON MENTAL HEALTH CENTER**

The Metro East Regional Human Rights Authority (HRA) has completed its investigation of two 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. The facility does not adequately ensure the provision of humane services, least restriction and adequate treatment planning when it drops patients' privilege levels without just cause and 2. The facility policy entitled Patient Interaction-Interpersonal Relationships and Displays of Affection does not align with the Mental Health Code when it discourages interpersonal relationships.

If substantiated, the allegations represent violations of the Mental Health and Developmental Disabilities Code (405 ILCS 5/1-101.2, 5/2-100,102,104, 201), the Illinois Administrative Code and facility policies and procedures.

METHODOLOGY

To pursue the investigation, an HRA team interviewed Alton Mental Health Center staff, and obtained and reviewed agency policies, the Alton Mental Health Center Consumer Handbook, and patient records. In addition, the team interviewed consumers.

FINDINGS

The first complaint states that a staff member demanded that a patient give her the newspaper the patient was reading at that time. The demand was made because the staff member's personal contact information was reportedly published in the newspaper and she did not want such information disclosed to the patients. The patient refused to turn over the newspaper without first being issued a restriction of rights (ROR) and advised the staff of this. Multiple staff members subsequently refused to issue an ROR and allowed the patient to keep the newspaper in his possession. A security officer later came to the unit, interviewed the patient regarding an alleged assault perpetrated on the patient by the staff member, and asked for the newspaper as evidence in an OIG investigation that was being conducted over the incident. An ROR was then issued and the patient turned the newspaper over to security. The treatment team subsequently met and

decided to decrease the patient's pass level, citing the fact that the patient did not comply with staff's order to turn over the paper.

Alton Mental Health Center Policy number 2B.01.012, Restriction of Rights by Notice Policy Statement states: "It is the policy of AMHC to respect the rights of patients and not to abridge said rights without cause or due process. Restrictions, as such, should have a clinical rationale based on safety (e.g., to protect the recipient or others from harm, harassment, intimidation...) the goal in restricting patients' rights is to ensure safety while continuing to facilitate a therapeutic treatment setting. And a restriction of a patient's rights should be based on clinical assessment of the patient and/or the situation, by (at a minimum) a Registered Nurse or Licensed Physician. A notice regarding ROR of Individuals can be issued to temporarily restrict the patient's rights. These restrictions can include, but are not limited to, the patient's rights to: ...Use or possession of personal property..." When a restriction of rights is issued, it does not automatically mean that a patient's pass level will be dropped, it is only issued to ensure that staff follow proper procedure and have documentation when restricting the rights of an individual. If an issue occurs that may warrant a reduction in pass level, the team meets with the patient, discusses the issue and decides whether a pass level reduction is warranted. A restriction of rights and pass level reductions are separate topics and one does not necessarily lead to the other.

The ROR issued to this patient states "newspaper turned over to OIG due to complaint of abuse per staff per client." No ROR was issued for safety reasons in this instance as the paper posed no threat to the patient or others. Newspapers are not a restricted or contraband item. In fact, a patient on the same unit purchased a subscription for a newspaper and has it delivered to the facility daily.

The second complaint states that a consumer's pass level was dropped due to a staff member reporting that he was hugging another patient while out on his grounds pass. Both involved patients state that the female patient was braiding the male patient's hair. The male was reportedly seated on a swing and the female patient was braiding his hair from behind. The HRA was notified immediately when the patient's pass level was dropped and the HRA coordinator was able to speak with staff involved in the initial team meeting. The staff confirmed that when the patient returned from the grounds pass, his hair was half braided. Following the HRA call, a facility review was done and the pass level was restored. Patient Interaction policy 2B01.017 states that patients are discouraged from developing romantic and or sexual relationships between each other and intimate physical displays of affection are considered clinically inappropriate. The psychiatrist gave the patient a copy of this policy and was told that this was the justification for his pass level being dropped although pass levels reductions are not specifically addressed in the patient interaction policy. In fact, there is no provision in the Mental Health Code that prohibits relationships between consumers. This type of decision should be

made on a case-by-case basis and through the treatment planning process with input from the recipient/guardian.

MANDATES/REGULATIONS

According to the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-100, 102, 104, 201):

*Sec.2-100. (a) No recipient of services shall be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of **Illinois**, or the Constitution of the United States solely on account of the receipt of such services.*

*(b) A person with a known or suspected mental illness or developmental disability shall not be denied **mental health** or developmental services because of age, sex, race, religious belief, ethnic origin, marital status, physical or mental disability or criminal record unrelated to present dangerousness.*

Sec. 2-102. (a) 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.... and the recipient's guardian, the recipient's substitute decision maker, if any, or any other individual designated in writing by the recipient. The facility shall advise the recipient of his or her right to designate a family member or other individual to participate in the formulation and review of the treatment plan. 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. The recipient's preferences regarding emergency interventions under subsection (d) of Section 2-200 shall be noted in the recipient's treatment plan.

Sec. 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.

Sec. 2-201. (a) Whenever any rights of a recipient of services that are specified in this Chapter are restricted, the professional responsible for overseeing the implementation of the recipient's services plan shall be responsible for promptly giving notice of the restriction or use of restraint or seclusion and the reason therefor to:

(1) the recipient and, if such recipient is a minor or under guardianship, his parent or guardian;

(2) a person designated under subsection (b) of Section 2-200 upon commencement of

services or at any later time to receive such notice;

(3) the facility director;

(4) the Guardianship and Advocacy Commission, or the agency designated under “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, 1985,¹ if either is so designated; and

(5) the recipient's substitute decision maker, if any.

The Illinois Administrative Code (59 Ill. Admin. Code 110.30) states the following:

Section 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. in accordance with this Section.....

c) Media Usage

1) For the purpose of this Section, "media" means print media (e.g., newspapers, magazines, books, etc.), audio media (e.g., records, cassette tapes, compact discs, etc.), visual media (e.g., video tapes, video games and associated paraphernalia, DVDs, blank media (blank tape cassettes, blank video tapes, blank compact disks, etc.), and media storage devices (e.g., MP3 players, Ipods, etc.), digital audio files (e.g., MP3 files, iTunes, etc.), and related items. Media is a type of property and subject to the provisions of this Section.

2) DVD/CD/Video Game Usage

A) CDs/DVDs can be restricted under subsection (a)(1) only if there is a facility wide determination that CDs/DVDs are dangerous objects, irrespective of their content.

B) The facility director may not impose an across the board restriction on the possession and use of media based on its content unless that content violates the law.

3) Facility staff may only inspect the contents of an individual's media pursuant to subsection (a)(3)....

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.

f) This Section applies to all adult individuals admitted to a Department mental health facility.

g) The facility director shall conduct training on this Section at least once a year and a written record of such training will be made.

Alton Mental Health Center Policy States:

RIGHTS: RESTRICTION BY NOTICE 2 B.01.012

POLICY STATEMENT:

It is the policy of Alton Mental Health Center (AMHC) to respect the rights of patients and not to abridge said rights without cause or due process. Restrictions, as such, should have a clinical rationale based upon safety (e.g., to protect the recipient or others from harm, harassment, intimidation or a medical or dental emergency exists when delay for the purpose of obtaining consent would endanger the life or adversely and substantially affect the health of a recipient of services). The goal in restricting patient's rights is to ensure safety while continuing to facilitate a therapeutic treatment setting.

PROCEDURE:

1. *A restriction of a patient's rights should be based on clinical assessment of the patient and/or the situation, by (at a minimum) a Registered Nurse and a Licensed Physician. A Notice Regarding Restricted Rights of Individuals (IL462-2004M) can be issued to temporarily restrict the patient's rights. These restrictions can include, but are not limited to, the patient's right to:*

- a. *Send or receive mail;*
- b. *Make or receive telephone calls;*
- c. *Receive visits;*
- d. *Use or possession of personal property, or personal funds;*
- e. *Freedom of movement (includes movement about the unit).*
- f. *Refusal of clinically indicated services (this includes, when a behavioral/medical emergency exists, medications and lab tests)*

In non-emergency medical situations or if the urgency of the patient's medical status is unclear and a restriction of rights is to be considered for medical purposes (i.e. lab draws and other medical testing or procedures) the approval of both the Medical Director and the Hospital Administrator must be obtained prior to the treating physician issuing a restriction of rights.

In addition, a Notice Regarding Restricted Rights of Individuals will be issued on each occasion when an individual is restrained or secluded.

NOTE: Patients may not be restricted from contact by phone, mail, or in person with 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", officers of the Department, or licensed attorneys at law.

2. *A restriction of rights may be issued to a patient only after a physician's order has been written which authorizes the restriction of the rights. The duration of the order is based on the following:*
 - a. *If the order and restriction are written as a result of an event/situation which threatens the safety of the patient or others, the order and restriction are not to exceed the length of time beyond the unit morning report of the next business day. At that time, the treatment team shall determine if the restriction should be upheld. If upheld, a new physician order and a new restriction of rights (NOT TO EXCEED 7 DAYS) must be written defining behavioral reasons for continuation.*
 - b. *If an initial order and restriction are written as a result of review and discussion at a unit morning report, the order is NOT TO EXCEED 7 DAYS.*

A progress note will be entered by the social worker (or nurse when no social worker is present) into the clinical record documenting the review and its outcome.

3. *If a renewal restriction of rights is ordered, each renewal of restriction of rights shall NOT EXCEED 7 DAYS and a progress note must be written (see above) defining behavioral reasons for continuation. In addition, for each renewal, a new restriction of rights form will be issued to the patient indicating the duration and specific behavioral observations providing the rationale (i.e., evidence of harm, harassment, or intimidation which makes continued telephone communication clinically contraindicated for safety) for the restriction.*

The CNM [Certified Nurse Manager] shall communicate renewal restrictions at

the morning clinical review team meeting. If there are any modifications, the Medical Director will address it with the designated physician.

4. *A Restriction of Rights is to be completed by a nurse, on the form IL462-2004M, with the following information being noted: the patient's name, ID#, the facility name, the date and time the right was restricted, the REASON the right was restricted in specific behavioral terms (e.g., evidence that the restriction was issued to protect the recipient or others from harm, harassment, intimidation or that a medical or dental emergency existed when delay for the purpose of obtaining consent would have endangered the life or adversely and substantially affected the health of a recipient of services), and the type of restriction that was issued. Documentation on both the restriction of rights form and the progress note must clearly state the behaviors that represent harm, harassment, intimidation, or medical necessity.*

If a patient's rights are restricted as a component of an emergency intervention (i.e., a physical hold, restraint, seclusion, emergency medication), it shall be noted on the Restriction of Rights form whether the patient's identified preferred form of intervention was utilized, or the reason(s) it was not. The patient's preferred mode of intervention can be found in the Designation of Emergency Treatment Preference and Emergency Notification form. This form documents the emergency preferences that are to be considered by the staff at such time that restrictive interventions are being considered. In addition, the date and the name of the staff completing the form IL462-2004M are to be noted, along with the method of delivery, as well as who shall receive a copy of the form.

5. *The staff person completing the Restriction of Rights form must note the individuals to whom the patient wants the Restriction of Rights Notice sent to, which can include a legal guardian (required), family members, and/or the Guardianship and Advocacy Commission. A nurse shall date and sign the Notice Regarding Restricted Rights of Individual, and will forward a copy to the Hospital Administrator's Office through the Security pickup box, with the original remaining in the clinical record. The nurse completing the form is responsible to assure that the appropriate sections have been completed, and will forward the designee's copy in an addressed envelope in the unit mailbox.*
6. *The Restriction of Rights notice is to be delivered to the patient by a registered nurse, or designee.*
7. *Since active treatment and activities are an integral component in a patient's recovery, all efforts will be made to ensure that the patient can continue to participate in unit activities, or that alternate options are provided (which can be determined by the treatment team and added into the individual care plan).*

CONCLUSION

With regard to the first complaint that the facility did not adequately ensure the provision of humane services, least restriction and adequate treatment planning when it dropped a patient's privilege levels without just cause, the HRA finds that this complaint is **substantiated**. According to the Director of Nursing, the team met and decided to drop the patient's pass level due to "failure to follow staff directions". However, the patient had not been issued an ROR and, therefore, had the right to possess the newspaper until the proper ROR procedure was followed. A recipient's access to personal property can be restricted and a ROR issued as a result of a clinical determination that the property represents a safety concern and a restriction is needed to protect the recipient or others from harm. In this case, the need for a restriction or the need for a pass level reduction due to safety concerns had not been established.

The second complaint claiming that the facility's policy regarding relationships and displays of affection does not align with the Mental Health Code is also **substantiated**. The patient's pass level had been dropped citing facility policy 2B01.017 entitled Patient Interaction-Interpersonal Relationships and Displays of Affection. However, after reviewing the details of the complaint, the facility restored the patient's pass level and acknowledges that the policy should and will be reviewed and amended to align with the Mental Health Code.

The HRA would like to acknowledge the facility's quick review of the second complaint and subsequent restoration of the patient's pass level.

RECOMMENDATIONS

The HRA recommends that Alton Mental Health Center train staff to respect the rights of patients and to follow the facility's ROR policy. Restrictions must have a clinical rationale based upon safety. Since the newspaper did not pose an immediate safety hazard, the staff should have reviewed the situation and met with the patient regarding the issue before considering a restriction or a pass level reduction. Additionally, staff should recognize and remove themselves when interactions with patients become too personal and should request that another staff member step in to evaluate a situation.

The HRA also recommends that Alton Mental Health Center follow through with their proclamation of reviewing and amending their policy 2B01.017, Patient Interaction-Interpersonal Relationships and Displays of Affection, consistent with constitutional rights guaranteed by the Mental Health and Developmental Disabilities Code to ensure that further incidents are reviewed on a case-by-case basis and via the treatment planning process with recipient input.