



FOR IMMEDIATE RELEASE

**METRO EAST HUMAN RIGHTS AUTHORITY
REPORT OF FINDINGS
HRA CASE # 16-070-9008 & 16-070-9012
ALTON MENTAL HEALTH CENTER**

The Metro East Regional Human Rights Authority (HRA) has completed its investigation of two complaints at Alton Mental Health Center (AMHC), 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 provide adequate and humane services when it does not address patients' dental needs in a timely manner.
2. The facility violates patients' rights when it does not ensure the confidentiality of patients' identifying information.

If substantiated, the allegations represent violations of the Illinois Mental Health and Developmental Disabilities Code (405 ILCS 5/1-101.2, 5/2-100,102.), the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110 et seq.), the Illinois Identity Protection Act (5 ILCS 179/10), the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule (45 C.F.R. 164.514), the Illinois Administrative Code and Alton Mental Health Center policies.

METHODOLOGY

To pursue the investigation, an HRA team visited AMHC and interviewed staff, obtained and reviewed applicable agency policies and procedures, the Alton Mental Health Center Consumer Handbook and patient records with consent.

FINDINGS

The first complaint alleges that a consumer did not receive dental care in a timely fashion and suffered undue pain as a result. AMHC's Dental Services Policy states: "Patients will receive, as appropriate, an oral and regional assessment as follows; within 6 months (180 days) of admission for all patients unless referred by a physician for specific dental complaints."

The consumer, admitted to AMHC on 12/18/15, was experiencing tooth pain at the time of admission. According to the Director of Nursing, the facility was without a dentist on staff at that time and continued to be without a dentist for an additional 3-4 months. At admission, the attending physician ordered a referral and prescribed pain medication. The patient reports that the medication was ineffective and he was unable to sleep due to the pain. The consumer

subsequently filed a complaint on January 19, 2016 and was informed by the Clinical Nurse Manager that he had an appointment coming up with the dentist. However, when he attempted to verify the exact date with the unit nurse, he was advised that he had no appointment on the books. After requesting an appointment on multiple occasions and being told each time that his appointment was the following week, the consumer filed a complaint with the HRA. The HRA coordinator, upon receipt of the complaint on 1/26/16, immediately visited the consumer to obtain a release of information. During the coordinator's visit, the doctor asked to see the consumer and prescribed additional pain medication for the tooth pain. The HRA coordinator contacted the consumer on 1/27/16 and was told that the new pain medication was effective and he was able to rest the previous night. On 2/10/16, SIUE Dental School technicians extracted the problem tooth, thus alleviating the consumer's pain.

The second complaint alleges that a consumer's name, date of birth and social security number were obtained by another patient as a result of the information being printed on a facility label. Labels are printed by AMHC staff for identification purposes and are attached to all paperwork that doesn't already contain the consumer's printed information. According to AMHC staff, the consumer's name, date of birth, social security number, gender, Illinois Department of Human Services (DHS) number, living unit, and date of admission are all included on the labels, in accordance with DHS regulations. AMHC staff acknowledged that they are unsure if they are allowed to black out the SS numbers on the labels as this may be a violation of DHS rules and regulations but they agreed to address the issue with their HIPAA compliance person and DHS in an effort to guarantee patient privacy. Per the AMHC handbook, all AMHC patients receive a copy of the Department of Human Services (IDHS) Notice of Privacy Practices upon admission which states "IDHS will use and share only the minimum necessary health information that our staff and contractors need to do their jobs. IDHS and its contractors are required by law to maintain the privacy protected health information, and to provide you with notice of IDHS's legal duties and privacy practices with respect to your protected health information. "

MANDATES/REGULATIONS

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

"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.”

According to the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110/3, 110/7, 110/9.4):

“Sec. 3. (a) All records and communications shall be confidential and shall not be disclosed except as provided in this Act. Unless otherwise expressly provided for in this Act, records and communications made or created in the course of providing mental health or developmental disabilities services shall be protected from disclosure regardless of whether the records and communications are made or created in the course of a therapeutic relationship.

Sec. 7. Review of therapist or agency; use of recipient's record.(a) When a therapist or agency which provides services is being reviewed for purposes of licensure, statistical compilation, research, evaluation, or other similar purpose, a recipient's record may be used by the person conducting the review to the extent that this is necessary to accomplish the purpose of the review, provided that personally identifiable data is removed from the record before use. Personally identifiable data may be disclosed only in accordance with Section 5 of this Act [which requires written consent for disclosure]. Licensure and the like may not be withheld or withdrawn for failure to disclose personally identifiable data if consent is not obtained.

Sec. 9.4. Disclosure for treatment and coordination of care.(a) For recipients in a program administered or operated by the Department of Healthcare and Family Services or the Department of Human Services (as successor to the Department of Mental Health and Developmental Disabilities), records of a recipient may be disclosed without consent by county jails, insurance companies, integrated health systems, and State agencies, including the Department of Corrections, the Department of Children and Family Services, the Department of Healthcare and Family Services and the Department of Human Services, to hospitals, physicians, therapists, emergency medical personnel, and members of an interdisciplinary team treating a recipient for the purposes of treatment and coordination of care. (b) An interdisciplinary team treating a recipient may disclose the recipient's records without the recipient's consent to other members of the team. (c) The records that may be disclosed under this Section are services rendered, providers rendering the services, pharmaceuticals prescribed or dispensed, and diagnoses. All disclosures under this Section must be made in a manner consistent with existing federal and State laws and regulations, including the federal Health Insurance Portability and Accountability Act (HIPAA).”

The Health Insurance Portability and Accountability Act of 1996 HIPAA Privacy Rule (45 CFR 164.514) states the following:

“(a) *Standard: de-identification of protected health information.* Health information [defined above] that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual is not individually identifiable health information.

(b) *Implementation specifications: requirements for de-identification of protected health information.* A covered entity may determine that health information is not individually identifiable health information only if:

(1) A person with appropriate knowledge of and experience with generally accepted statistical and scientific principles and methods for rendering information not individually identifiable:

(i) Applying such principles and methods, determines that the risk is very small that the information could be used, alone or in combination with other reasonably available information, by an anticipated recipient to identify an individual who is subject of the information; and

(ii) Documents the methods and results of the analysis that justify such determination; or

(2)

(i) The following identifiers of the individual or of relatives, employers, or household members of the individual, are removed:

(A) Names;

(B) All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code if, according to the current publicly available data from the Bureau of the Census:

(1) The geographic unit formed by combining all zip codes with the same three initial digits contains more than 20,000 people; and

(2) The initial three digits of a zip code for all such geographic units containing 20,000 or fewer people is changed to 000.

(C) All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older;

(D) Telephone numbers;

- (E) Fax numbers;
 - (F) Electronic mail addresses;
 - (G) Social security numbers;
 - (H) Medical record numbers;
 - (I) Health plan beneficiary numbers;
 - (J) Account numbers;
 - (K) Certificate/license numbers;
 - (L) Vehicle identifiers and serial numbers, including license plate numbers;
 - (M) Device identifiers and serial numbers;
 - (N) Web Universal Resource Locators (URLs);
 - (O) Internet Protocol (IP) address numbers;
 - (P) Biometric identifiers, including finger and voice prints;
 - (Q) Full face photographic images and any comparable images; and
 - (R) Any other unique identifying number, characteristic, or code, except as permitted by paragraph (c) of this section; and
- (ii) The covered entity does not have actual knowledge that the information could be used alone or in combination with other information to identify an individual who is a subject of the information.”

The Identity Protection Act (5 ILCS 179/10) states that “...no person or State or local government agency may do any of the following: (1) Public post or publicly display in any manner an individual’s social security number.”

CONCLUSION

With regard to the complaint that the facility did not ensure the provision of adequate and humane services when a recipient's access to needed dental care was delayed due to the facility not having a dentist on staff is **substantiated**. The recipient suffered undue pain as a result of the delay and was not offered additional pain medication until the HRA received a complaint and visited the facility. On the day of the HRA visit, the primary physician assessed the recipient, prescribed pain medication that alleviated much of the pain, and arranged the subsequent extraction of the problem tooth at a local dental school.

According to the Director of Nursing, the facility has since hired a dentist that will be available to see consumers twice monthly.

The complaint alleging that the facility violates patients' rights when it does not ensure the confidentiality of patient identifying information is also **substantiated**. As a result of AMHC efforts, DHS has removed the social security numbers from consumer labels.

RECOMMENDATIONS

Consistent with Mental Health Code guarantees for adequate and humane care and treatment, the HRA recommends that Alton Mental Health Center arrange alternate treatment for those times when the staff dentist or physicians are unavailable to treat consumers who have an immediate need and to include the use of alternate treatment options in their medical, dental and referral policies.

Consistent with Confidentiality Act, HIPAA and Identity Protection Act provisions, the HRA recommends that AMHC staff ensure the confidentiality of consumer information by keeping all documentation, forms, and patient identifiers out of view of other consumers at all times. The HRA also recommends that AMHC routinely educate the staff and patients on the importance of patient confidentiality.