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HUMAN RIGHTS AUTHORITY-SPRINGFIELD REGION

REPORT 18-050-9005
Andrew McFarland Mental Health Center

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving complaints of potential rights violations at Andrew McFarland Mental Health Center in Springfield. The allegation is that adequate and humane services are not being provided in the least restrictive environment when a patient endures unwarranted privilege reductions.

Substantiated findings would violate least restrictive environment protections under the Mental Health and Developmental Disabilities Code (405 ILCS 5).

McFarland is a Department of Human Services hospital that cares for civil and forensic populations. This review concerns the treatment of a patient found not guilty by reason of insanity whose privilege advances are court-approved but applied at the treatment and clinical team's discretion. Staff from administration and the patient's team were questioned about the matter and relevant facility policies were reviewed, as were records with consent.

Complaints say that the patient was intentionally targeted for privilege reductions because he filed a petition for conditional release in May 2017, after which he was moved to another unit where he was said to be penalized for the slightest infractions like having talcum powder and a pencil in his room and for not letting staff know he was at a psychology appointment.

FINDINGS

The staff explained during our November 2017 visit that the patient was on staff level, meaning that he could travel between certain areas under staff supervision. A few months had passed since a move to his current unit, and the team planned to request a "to and from" upgrade, or unsupervised grounds to specified activities, given his progress. They acknowledged his filed petition for release but were unsure of its current standing, and denied that any privilege

reduction was in retaliation pointing instead to previous struggles and incidents on another unit. He enjoyed to/from status earlier in the year until he bent some commonly known rules, like having powder and pencils in his room, giving caffeine to peers, getting too physically close with a female peer and going to other units without permission.

They said that patients are aware of prohibited or restricted items like powders and pencils which are to be kept at the front desk, not in their rooms, although some units and staff are more lenient than others. The items are listed in a guide to recovery given on admission, but the list is probably not shared again after that. We were given a copy of that list. They try to investigate situations thoroughly and not just any employee can impose a privilege reduction; that decision is made by a team including a psychiatrist, a clinical director, a nurse manager, a social worker and a technician, that meets every morning and reviews any incidents. Regarding this particular patient's incidents, they said that what he needs to do is very clear to him. He meets with his clinical director and case worker on a weekly basis where his behaviors, expectations and his own opinions about treatment are thoroughly discussed.

The staff described a few examples of incidents that kept this patient from progressing. One involved a peer who was not to have coffee but it was reported that other patients were giving him theirs. All denied doing it but one showed them an empty Taster's Choice packet found in the peer's room and named this patient as the culprit. He denied it at first and then mentioned Taster's Choice before the staff did and he also had a supply of identical packets in his personal box. He later said that he should not be doing that kind of thing. At least two times this patient gave them concern for his whereabouts. In one instance, he was let off the unit to attend his psychology appointment and the psychologist appeared a while later asking for him; he failed to show and was found at another location with a female peer whom he liked. There was considerable history between the two, at times invading appropriate boundaries and being overly engaged with each other during groups for example, to the point they interrupted and delayed whatever was going on. In another instance, he knowingly went to the wrong unit for a state-wide conference meeting, which happened to be a unit where this same female peer resided. Although he knew exactly where the meeting was, he said he was confused. What they found was that he had not signed up to attend state-wide but later decided to go as the group was being sent on their way. He told the staff at the door he was part of the group and was allowed to carry on, which was partly the staff's error, and intentionally went to his friend's unit instead. In that case the employee who allowed him out was counseled and the patient was dropped to the lowest level, restriction to the unit.

All privilege-related incidents since the time of the patient's conditional release filing in May 2017 were verified in the record, throughout which the patient resided on civil units. A March 2017 court order stated that McFarland was authorized to issue privileges allowing the patient to be on facility grounds without supervision at their discretion, at which time he was placed on "to and from", or unsupervised grounds to specified activities, and he remained on that level successfully until his move to another unit in May. Monthly treatment plan reviews at that time described a few brewing concerns. It was stated that during his first weeks there the patient needed reminders to follow unit rules, namely to keep his room tidy and to stop having pencils and Gold Bond powder in there. He was given warnings of a privilege reduction if the problems continued. He then had two altercations with peers in June and his privileges were dropped and

then restored two weeks later. In July, he failed to appear at the psychology appointment and was warned about losing his privileges if he could not be accountable again; he remained at “to and from”. Later that month he was involved in the coffee situation and at the same time was repeatedly warned against his interactions with a female peer. He was knocked down two levels for two weeks, after which he regained one level. The intentional skipping of the state-wide meeting occurred in August, and the review stated that, in summary, the patient had an opportunity to sign up for the meeting but declined and then changed his mind and approached the staff who was letting them out. He was allowed to go but made his own way to a different location where he was not authorized to be. His privileges were reduced to unit, the lowest level, and then he was immediately moved to his current unit and raised one level to staff supervision. He remained there without documented incident through our visit in November.

We followed up with administration and confirmed that the patient’s “to and from” status was restored at the time of this writing, January 2018.

CONCLUSION

McFarland policy states that NGRI privileges will be granted incrementally based on a patient’s treatment progress and demonstration of unstructured abilities without elopement risk or unmanageable and dangerous behaviors. Privilege hierarchy goes as follows: on admission, unit—two types but basically restricted to the unit and area; staff—allowed to go to non-forensic, secure areas; there are transfers to minimum secure or civil units, then unsupervised grounds, supervised off grounds and then unsupervised off grounds through conditional or unconditional releases. The hospital must petition the courts on behalf of NGRI patients for unsupervised grounds (to and from) and greater.

If the court finds the defendant in need of mental health services on an inpatient basis, the admission, detention, care, treatment...treatment plans...review of treatment plans...shall be under the Mental Health and Developmental Disabilities Code.... The Court shall determine the maximum period of commitment by an appropriate order. During this period of time, the defendant shall not be permitted to be in the community in any manner, including but not limited to off-grounds privileges, with or without escort...unsupervised on-grounds privileges...except by a plan as provided in this Section. Not more than 30 days after admission and every 90 days thereafter... the facility director shall file a treatment plan report in writing with the court.... The report may also include unsupervised on-grounds privileges, off-grounds privileges...but only where such privileges have been approved by specific court order.... (Unified Code of Corrections, 730 ILCS 5/5-2-4b).

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.... 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. (Mental Health and Developmental Disabilities Code, 405 ILCS 5/2-102a).

The complaint is that McFarland intentionally reduces the patient's privilege levels to impede his chances for a conditional release. While privileges are earned and not a guaranteed right, NGRI patients enjoy Code protections including the right to treatment in the least restrictive environment, pursuant to an individual services plan, with his views considered. Based on the treatment staffs' statements and the record's support, McFarland addressed incidents where the patient did not follow rules and left without authorization, a great potential hazard. He was allowed to continue living on civil units, given multiple warnings and not always reductions and ultimately has regained his to and from status as he expressly desired. A violation of his rights is not substantiated.

SUGGESTION

-Reaffirm the contraband/restricted items list to long-term patients annually. This patient remarked that he has not seen it in years.

-It is puzzling why some staff/units are more lenient than others and why some patients are able to have restricted items in their rooms in the first place; seems the staff have some responsibility there. Several patients have told the HRA that pencils are allowed in their rooms while the staff say they are not, some "not so rigid" on it and yet they are using that in factoring privileges. This needs to be sorted out. You can imagine feeling targeted if allowed such items on one unit and then not on another.

-It is also disturbing to be assured during our visit that the patient's to/from level was being pursued in November, which the staff had told the patient as well, only to learn that in January the case worker simply hadn't filled out the paperwork yet and there were the holidays in the way, etc. as if this was no big deal. It is a tremendous deal to the patient whose future depends on progress and whose court reports will not reflect that progress accurately. It should be noted in treatment plan reviews and court reports how admirably the patient handled such a frustrating wait without incident.