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Egyptian Regional Human Rights Authority
Report of Findings
19-110-9010
Chester Mental Health Center
June 10, 2020

The Egyptian Regional Human Rights Authority (HRA), a division of the Illinois Guardianship and Advocacy Commission, accepted for investigation the following allegations concerning Chester Mental Health Center:

1. **A patient's confidentiality was breached**
2. **A patient was inappropriately restrained.**
3. **A patient received inadequate medical treatment.**

If found substantiated, the allegations represent violations of the Mental Health and Developmental Disabilities Code (405 ILCS 5 et al.), Confidentiality Act (740 ILCS 110/1) and facility policies. Chester Mental Health Center is a state-operated mental health facility serving approximately 280 recipients; it is considered the most secure and restrictive state-operated mental health facility in the state. To investigate the allegations, an HRA team interviewed the recipient, reviewed the recipient's record, with consent, and examined pertinent policies and mandates.

Complaint Statement

The complaint that was presented to the HRA is that a patient's confidentiality was breached when a staff person told a peer what the recipient's legal charges were and discussed his restrictions. Another allegation is that the recipient was restrained when he did not present an immediate danger of harm to self or others. Finally, it was alleged that the recipient received inadequate medical treatment when he was administered Haldol after telling staff that he was allergic.

I. Interviews:

A. Recipient: The recipient states that a peer informed him that a staff member revealed the recipient's legal charges and the restrictions the recipient is under. The peer in question declined to interview with the HRA. The recipient filed a complaint with the Office of Inspector General and a staff person spoke with him, but he never received anything from them saying they opened a case. He claims he was restrained for refusing to go to his room and that he was not a threat when he was restrained. While restrained, the recipient recalls staff taking his vital signs but only "every three to four hours or maybe hourly." Finally, while restrained a nurse began administering Haldol to the patient. He told the nurse that he was allergic, and she replied that he

was not allergic, he was just sensitive. The nurse stated that they would "deal with (side effects) if it happens."

II. Clinical Chart Review:

A. Progress Notes: Progress notes dated 8/4/18 show that the patient was verbally threatening while restrained, saying things such as "I'll [explicative] you up" to the staff. It also notes that the patient is argumentative, but the patient later calms down and is released from restraints. Progress notes dated 8/5/18 noted little difficulty with the recipient. A note from 8/6/18 documented that the recipient had a history of aggressive and sexually inappropriate behavior at his previous placement and noted that he showed no remorse or guilt for his actions. Another progress note from 8/6/18 documented that the recipient alleged abuse from staff. An injury report was completed with no bruising, swelling or redness noted. The physician was notified along with the registered nurse.

B. Restraint Orders: An order for restraint was put into place for 8/4/18 at 1900 (7:00 pm). The justification section within the restraint order states that the recipient was threatening staff and calls the recipient's behavior an "imminent risk of harm." The justification fails to specify if the harm is physical and how the risk is imminent. There is a section within the form that lays out criteria for the patient to be released. On the recipient's form, this includes the criteria that the patient must recognize his "suicidal/homicidal behavior." There is also a restraint evaluation for the same date and time that states "*patient is no longer threatening but not taking responsibility*" and continuation of the restraint was ordered. This restraint evaluation also notes that the patient was dangerous, unpredictable, severely mentally ill, not meeting release criteria but it did document that he was not exhibiting medical issues. The restraint packet also notes that vitals were taken from the patient every fifteen minutes from 1915 (7:15 pm) to 2230 (10:30 pm).

D. Restriction of Rights: A restriction of rights form dated 8/4/18 details that the recipient was placed in a physical hold for "disrupting module threatening staff refusing to go to room for shift change threatening peers and staff." He became aggressive in the physical hold and was subsequently placed in restraints. The recipient was also administered emergency medication for these reasons.

Emergency Medication Progress Note: An emergency medication was given to the recipient on 8/4/18, while in restraints. The recipient was threatening others and disrupting the module. A director instructed him to go to his room to calm down and the recipient refused. The recipient was also noted to pose an imminent risk of harm to himself and others. There is no documentation of the patient having a negative reaction to the emergency medication.

E. Medication Orders: Three medications were prescribed to the recipient: Haldol (Haloperidol) Lorazepam and Diphenhydramine. These medications were ordered 8/4 through 8/8 and were to be emergency enforced. No reason for the prescription is stated on the medication order and there is no acknowledgment that a telephone order for the medication was completed.

E. Injury report dated 8/6/18: In an injury report dated 8/6/18 the recipient alleges that staff abused him while restraining him by putting "their knee on (his) neck." He reported that his throat was sore. A staff member evaluated and noted that no treatment was required for the injury.

F. Office of Inspector General (OIG) Information: The HRA made inquiries with the OIG as to whether or not a case was opened during the time the recipient reported a complaint was filed. The HRA was informed that there were two complaints filed and staff spoke with the recipient, but no allegations came from it.

Facility Policies

RI.01.01.02.01 Patient Rights policy states *"A patient shall be provided with adequate and humane care and services in the least restrictive environment, pursuant to an individual treatment plan… Individuals shall have the right not to be restrained or secluded except as specified in Sections 2-108 and 2-109 of the Mental Health and Developmental Disabilities Code."*

TX.06.00.00.03 Use of Restraint and Seclusion policy states *"The goal of Chester Mental Health Center is to limit the use of Restraint or Seclusion to emergencies in which there is a clear and present danger of an individual harming himself, other patients, or staff. Neither Restraint nor Seclusion may ever be used as a means of coercion, discipline, punishment, convenience or staff retaliation. The least restrictive intervention that is safe and effective for a given individual will be used. Additionally, CMHC will follow the program directive, 02.02.06.030 Use of Restraint and Seclusion (Containment) in Mental Health Facilities, as a guide and discontinue use of Restraint or Seclusion will be at the earliest possible time, regardless of the scheduled expiration of the order. CMHC's goal is to provide treatment in a non-coercive, violence free, recovery oriented, consumer focused and trauma informed treatment environment."* The policy defines emergency as "an instance in which there is a clear and present danger of a patient harming himself or others; when nonphysical interventions are not viable; and safety issues require an immediate physical response."

DHS Directive 02.02.06.030 requires that *" The decision to use Physical Hold, Restraint, or Seclusion is driven by an individual assessment which concludes that for this individual at this time, the risk of using less restrictive measures outweighs the risk of using Physical Hold, Restraint, or Seclusion.*

2. The determination of which Emergency intervention to use should be based on assessment and monitoring of the individual, staff experience with the individual, patient and staff safety, and the Emergency intervention as identified by the individual and documented on the treatment plan or the individual's Personal Safety Plan.

3. If the Emergency intervention used differs from the Emergency intervention identified by the individual and documented on the treatment plan or the Personal Safety Plan, the rationale must be documented on the Notice Regarding Restricted Rights of Individual form

4. Physical Hold, Restraint, or Seclusion may never be used when the possible risk to the individual's medical condition outweighs the behavioral risk, as assessed by the physician or an

R.N…Mechanical Restraint and Seclusion may be used only on the written order of a physician…Within 15 minutes of the initial application of mechanical Restraint or Seclusion, an R.N. must personally assess the individual to confirm that mechanical Restraint or Seclusion does not pose an undue risk to the individual in light of his or her physical or mental condition…
5. Initial order for mechanical Restraint or Seclusion for individual patients is valid as follows… b. Maximum Security Setting

- *(1) For no more than four hours for adults age eighteen years and older.*
- *(2) A physician must personally examine the individual patient and complete a written order within one hour of the initial implementation of mechanical Restraint or Seclusion.*
- *(3) The physician ordering the mechanical Restraint or Seclusion must write a progress note within one hour of the initiation of the Restraint that summarizes the in person evaluation and includes the following:*
- *(a) An evaluation of the patient's immediate situation;*
- *(b) The patient's reaction to the intervention;*
- *(c) The patient's medical and behavioral condition;*
- *(d) The need to continue or terminate the Restraint or Seclusion…*
- *(5) The use of mechanical Restraint or Seclusion may be authorized temporarily by an R.N. only where a physician is not immediately available."*

IM 03.01.01.03 Treatment Plan policy states that *"Within 72 hours following the admission date: The 72 Hour Treatment Plan meeting is held with a multidisciplinary team consisting of a minimum of the core staff of psychiatrist, nurse, STA and therapist to develop and complete the Treatment Plan for a 72-hour review. The patient's involvement in the planning process is documented on the Treatment Plan/Review Attendance Record. A copy of the Treatment Plan/Review Attendance Record is placed in the medical record as verification of the meeting and a placeholder until the final plan is entered into the record…The Treatment Plan Coordinator (Assigned Therapist) develops the multi-disciplinary Treatment Plan for a 72 hour review based upon the nursing, psychiatric, and social services assessments and recommendations from the team, and in collaboration with the patient. This 72 Hour Treatment Plan must be entered into the record within 2 working days of the meeting… IV. Treatment Plan Responsibilities. It is the responsibility of all disciplines to participate in the development of a multidisciplinary treatment plan. It is the responsibility of the primary therapist to serve as the coordinator of the treatment plan, ensuring the following…The plan is comprehensive and individualized based upon the assessment of the individual's clinical needs, strengths and limitations and is written in behaviorally defined and measurable terms."*

TX 02.04.00.02 Use of Psychotropic Medication policy states the following regarding emergency medication *"to prevent an individual from causing serious and imminent physical harm to self or others and no less restrictive alternative is available.*
1. *The physician and RN initiating the use of emergency medication shall give the patient, guardian or substitute decision maker, if any, notice of alternate services available and the risks of such alternate services, as well as the possible consequences to the patient of refusal of such services. The physician, RN, and or Treatment team members must document in the progress note that due consideration was given to the patient's treatment preference regarding emergency medication and must include justification for deviation from the patient's preference. (A Notice*

Regarding Restricted Rights of Individuals (IL 462-2004M) shall be completed for emergency medication administration).
2. When Emergency medication is determined to be administered, the nurse shall provide medication education including the name, dosage, and expected effect as well as document the patient's response in the progress notes.
3. In addition, the nurse shall assess for side effects and adverse reactions and document in progress notes.
4. Emergency medication shall not be administered for a period in excess of seventy-two (72) hours, unless a Petition for the Administration of Authorized Involuntary Treatment (IL 462-2025) has been completed (A Notice Regarding Restricted Rights of Individuals (IL 462-2004M) shall be completed for emergency medication administration).
5. All refusals of psychotropic medication shall be documented on the Psychotropic Medication Refusal form CMHC-748 and in the progress notes by the nurse…"

Facility Code of Ethics *Employees will assure that patients be involved in decisions regarding the care they receive (*page 4). *Employees are expected to commit to the following principles… 8. To be straightforward in all forms of communication and avoid false, misleading, and deceptive information that would create unreasonable expectations or present a distorted picture of the operation of the service delivery system* (page 5).

Statutes

The Confidentiality Act (740 ILCS 110/9.2) states *"…Entities shall not redisclose any personally identifiable information, unless necessary for admission, treatment, planning, coordinating care, discharge, or governmentally mandated public health reporting. …"*

Section 16 of the Act states that *"Any person who knowingly and willfully violates any provision of this Act is guilty of a Class A misdemeanor"*

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-100) guarantees that *"(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."

The Code (405 ILCS 5/2-102) states *"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 Code (405 ILCS 5/2-108) provides that *"Restraint may be used only as a therapeutic measure to prevent a recipient from causing physical harm to himself or physical abuse to others. Restraint may only be applied by a person who has been trained in the application of the*

particular type of restraint to be utilized. In no event shall restraint be utilized to punish or discipline a recipient, nor is restraint to be used as a convenience for the staff.

The Code (405 ILCS 5/2-112) requires that *"Every recipient of services in a mental health or developmental disability facility shall be free from abuse and neglect."*

The Code (405 ILCS 5/2-107) states that *"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…*

(b) Psychotropic medication or electroconvulsive therapy may be administered under this Section for up to 24 hours only if the circumstances leading up to the need for emergency treatment are set forth in writing in the recipient's record.
(c) Administration of medication or electroconvulsive therapy may not be continued unless the need for such treatment is redetermined at least every 24 hours based upon a personal examination of the recipient by a physician or a nurse under the supervision of a physician and the circumstances demonstrating that need are set forth in writing in the recipient's record.
(d) Neither psychotropic medication nor electroconvulsive therapy may be administered under this Section for a period in excess of 72 hours, excluding Saturdays, Sundays, and holidays, unless a petition is filed under Section 2-107.1 and the treatment continues to be necessary under subsection (a) of this Section. Once the petition has been filed, treatment may continue in compliance with subsections (a), (b), and (c) of this Section until the final outcome of the hearing on the petition."

The Code (405 ILCS 5/2-201) states that *(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…"*

Conclusion

The complaint alleges that the patient was improperly restrained. Per Mental Health Code requirements regarding restraint use (405 ILCS 5/2-108), the only reason a patient should be restrained is if they pose a need to prevent physical harm to themselves or others. The restraint order specified the failure to follow staff directives under the restraint criteria and the restraint evaluation stated that the patient was no longer threatening but ordered the continuation of the restraint anyway. However, the justification for the restraint order does list that the patient was threatening staff. The page after the restraint evaluation does mention that the recipient was threatening staff. Due to the inconsistency within the restraint order and evaluation and the failure to specify how the patient was a physical threat to himself or others, the HRA believes that Chester Mental Health center has failed to meet the minimum criteria for restraint and their continuation as laid out in 405 ILCS 5/2-108. **Therefore, the HRA finds this complaint substantiated**. The HRA gives the following recommendations:

1. **Staff should be retrained on proper restraint use and ensure criteria for restraint as outlined in the Mental Health Code is met before restraints are used.**

The complaint alleges that the patient's confidentiality was breached when a staff member revealed information to another patient. There is no physical proof that a breach occurred, and the patient named as a witness declined to speak with the HRA. **Therefore, the HRA finds this complaint unsubstantiated**. However, we offer the following suggestions:

1. Retrain all staff about the importance of confidentiality, how it can be protected as well as the consequences for breaching confidentiality as stated in the Confidentiality Act (740 ILCS 110/16).

2. Setting a time limit within which staff must begin looking into a complaint of breached confidentiality. The patient who made the complaint must be given documented notification with the investigation begins.

The complaint alleges that the patient received inadequate medical treatment when he was administered Haldol after telling the nurse he was allergic to the medicine. The facility policy *IM 03.01.01.03 Treatment Plan* requires the team to develop a plan "in collaboration with the patient." The Mental Health Code (405 ILCS 5/2-107) also ensures the right for a patient to refuse medication unless necessary to prevent serious and imminent physical harm and no less restrictive alternative is available. There was no evidence that alternative medication was considered prior to administration of Haldol or that the physician was notified of a possible allergy to the drug. Due to inconsistency within the papers dealing with the restraint that happened at the same time Haldol was given, the HRA believes that Chester Mental Health facility has failed to meet the minimum criteria laid out in (405 ILCS 5/2-107) that states the patient must pose "serious and imminent physical harm." There is also no documentation that the staff who gave the recipient the drug first checked for a "less restrictive alternative," which is also laid in (405 ILCS 5/2-107). The patient was also already restrained when the medication was administered. **Therefore, the HRA finds this complaint substantiated.** The HRA gives the following recommendations:

1. Although this recipient did not have an allergic reaction to Haldol, the patient was already restrained and did not pose an imminent physical threat to himself or others and consideration to his potential allergy should have been given to ensure patient safety. The HRA recommends that in the future, when a patient notifies staff of a potential drug allergy that should be discussed upon admission, in treatment meetings and documented in his chart.

2. Medical staff should be retrained the Mental Health Code requirements for administration of emergency medication.

The HRA also offers the following suggestions:

1. Retrain staff about medicinal alternatives that can be given in an emergency if a patient has a sensitivity to a medication.