



FOR IMMEDIATE RELEASE

Egyptian Regional Human Rights Authority
Report of Findings
09-110-9002
Choate Mental Health Center
June 2, 2009

The Egyptian Regional Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission has completed its investigation concerning Choate Mental Health Center located in Anna. The facility is comprised of two divisions, a division for persons with mental health issues and a division for persons with developmental disabilities. This report is regarding services within the mental health services division. The specific allegations are as follows:

1. A staff member at Choate Mental Health Center (MI Division) released confidential information about a recipient's condition without the recipient's consent.
2. The recipient's communication by telephone was inappropriately restricted.

Statutes

If substantiated, the allegations would be violations of the Mental Health and Developmental Disabilities Confidentiality Act (Act) (740 ILCS 110/5) and the Mental Health and Developmental Disabilities Code (Code) (405 ILCS 5/2-103 and 405 ILCS 5/2-201).

Section 110/5 of the Act states, "(a) Except as provided in Sections 6 through 12.2 of this Act, records and communications may be disclosed to someone other than those persons listed in Section 4 of this Act only with written consent to those persons who are entitled to inspect and copy a recipient's record pursuant to Section 4 of this Act. (b) Every consent form shall be in writing and shall specify the following: (1) the person or agency to whom disclosure is to be made; (2) the purpose for which disclosure is to be made; (3) the nature of the information to be disclosed; (4) the right to inspect and copy the information to be disclosed; (5) the consequences of a refusal to consent, if any; and (6) the calendar date on which the consent expires, provided that if no calendar date is stated, information may be released only on the day the consent form is received by the therapist; and (7) the right to revoke the consent at any time...."

Section 5/2-103 of the Code states, "Except as provided in this Section, a recipient who resides in a mental health or developmental disabilities shall be permitted unimpeded, private, and uncensored communication with persons of his choice by mail, telephone and visitation. (a) The facility director shall ensure that correspondence can be conveniently received and mailed, that telephones are reasonably accessible, and that space for visits is available. Writing materials, postage and telephone usage funds shall be provided in reasonable amounts to recipients who

reside in Department facilities and who are unable to procure such items. (b) Reasonable times and places for use of telephones and for visits may be established in writing by the facility director. (c) Unimpeded, private and uncensored communication by mail, telephone, and visitation may be reasonable restricted by the facility director only in order to protect the recipient or others from harm, harassment or intimidation, provided that notice of such restriction shall be given to all recipients upon admission. When communications are restricted the facility shall advise the recipient that he has the right to require the facility to notify the affected parties of the restriction, and to notify such affected party when the restrictions are no longer in effect...."

Section 5/2-201 of the Code states, "Whenever any rights of a recipient of services that are specified in his 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 the Acts therein named', approved September 20, 1985, if either is so designated; and (5) the recipient's substitute decision maker, if any. The professional shall also be responsible for promptly recording such restriction or use of restraints or seclusion and the reason therefor in the recipient's record...."

Investigation Information

Allegation 1: A staff member at Choate Mental Health Center released confidential information about a recipient's condition without the recipient's consent. When the allegation was received the HRA Coordinator went to the facility to speak with the recipient whose rights were alleged to have been violated. The Investigation Team, consisting of one member and the Coordinator conducted a site visit at the facility. During the visit, the Team spoke with the recipient and the facility Administrator. With the recipient's written authorization, the Authority reviewed information from her clinical chart.

Interviews

Recipient:

When the allegation was received at the Egyptian Regional Office, the Coordinator went to the facility to speak with the recipient concerning the matter. According to the recipient, her husband was hospitalized nearby prior to his death in January 2008. She stated that when a psychologist from the hospital contacted a social worker at Choate Mental Health Center, the social worker released confidential information about her condition to the psychologist. She stated that the social worker informed the psychologist that she was not stabilized enough to talk with him or to come to the hospital to see her husband.

When the Team spoke with the recipient about the allegation, she stated that she was unable to be with her husband the days prior to his death. She related that her case manager, who is a social worker at the facility, informed a psychologist at the hospital that she was not stable enough to visit with her husband or be released from the facility. She stated that the confidential information was released in a telephone call that the psychologist had made to the facility. She related that her husband was transferred from the hospital to a hospice program in a community hospital in a northern Illinois city at the request of her husband's other family members. She stated that the family members wanted to be near him at the end of his life. She informed the Team that her husband died shortly after the transfer was implemented. She stated that staff at Choate Mental Health Center prevented her from being with her husband by refusing to discharge her or allow her to visit with him.

The recipient informed the Team that she was the agent under a Power of Attorney (POA) for her husband's medical needs when he was admitted to the hospital, and she had voiced concerns about his care at the hospital. She stated that when she went to an area emergency room at another hospital to make arrangements to have him transferred there, she was met by police. She informed the Team that she was taken by the police to an area psychiatric facility and then transferred to Choate Mental Health Center. She stated that shortly after her hospitalization at the facility she was removed as POA agent, and a member of her husband's family was selected to replace her.

Administrator:

According to the Administrator, a psychologist from where the recipient's husband was hospitalized contacted a social worker at Choate Mental Health Center. The contact was made via telephone so that the psychologist could voice his concerns that the recipient might not be released before her husband died. The psychologist wanted to offer his assistance in coordinating a visit so that the recipient might visit with her husband. The Administrator informed the Team that the social worker did not release any information; however, she spoke with the recipient about the contents of the psychologist's call. The Administrator stated that the recipient would not initially sign a release or provide verbal authorization to let the social worker speak with any staff at the hospital. However, later the recipient agreed to let the social worker speak to the psychologist via speaker phone in her presence.

Chart Review

Documentation in a Psychiatric Nursing Assessment Note indicated that the recipient was admitted to the facility in a manic state on 12/29/07. She was extremely upset concerning her husband's care at a nearby hospital. The Registered Nurse (RN) completing the assessment recorded that the recipient's husband had a very poor prognosis, and it was reported that she was interfering with his care at the hospital.

According to a 12/31/07 Initial Psychiatric Progress Note, the recipient was involuntarily admitted to the facility on 12/29/07. Documentation indicated that the recipient had several previous admissions due to a long history of a Bi-Polar Disorder. The record indicated that the recipient had interfered with her husband's treatment while he was a patient in an area hospital.

According to documentation, her husband was unresponsive and unable to swallow; however, the recipient insisted that he could eat and tried to feed him. The record indicated that she attempted to contact the President of the United States to voice her concerns that hospital staff members were trying to harm him.

In a 01/02/08 Social Service Note, a facility social worker documented that a psychologist from the hospital had called to make arrangements for the recipient to visit with her husband. Documentation indicated that the psychologist had concerns that the recipient might not be released before her husband died, and he wanted to offer any assistance in coordinating a visit. The social worker recorded that she did not give any information to the psychologist. However, she notified the recipient that the psychologist had called and related his concerns as well as his offer to arrange for her to visit with her husband. Documentation indicated that the recipient became very upset concerning the social worker's acceptance of the psychologist's call. The recipient refused to give consent to allow the social worker to talk with staff at the hospital and to arrange a visit. The record indicated that the recipient stated that she wanted to go to court to seek discharge before she would consider having a visit arranged.

In a 01/11/08 Social Service Progress Note, the social worker documented that the recipient had stated "My husband is being shipped to [NAME]. My [NAME] called to tell me he is going into a Hospice program and only has 10 days left." The social worker recorded that the recipient gave her permission to speak with the psychologist via speaker phone in her presence only. According to the documentation, the recipient believed that her husband's decline was due to neglect at the hospital rather than his terminal illness.

According to a facility psychologist's 01/16/08 Progress Note, an independent evaluation was conducted on 01/15/08 and was submitted to the court on 01/16/08. A recommendation in the evaluation report was for the recipient to be discharged from Choate Mental Health Center and admitted to a community hospital psychiatric unit prior to discharge to the community. The court accepted the recommendation on the evaluation report.

In an 11:45 AM 01/18/08 Social Service Note completed by a social worker, documentation indicated the recipient spoke to her about her husband's death. Additional documentation indicated that the recipient was packed and ready to be transported to the community hospital psychiatric unit. The record indicated that the recipient had a court order for her to continue treatment at the community hospital psychiatric unit. Additional documentation indicated that community mental health staff would come to the facility to transport the recipient to the community hospital. The record indicated that the recipient was discharged on 01/18/09 at 12:10 PM.

When the HRA reviewed the recipient's record for her hospitalization from 12/29/07 through 01/18/09, no written authorization for release of information was observed.

Summary of Allegation of 1

According to the recipient whose rights were alleged to have been violated, a social worker at the facility released confidential information about her condition to a psychologist

where her husband was hospitalized. When the HRA Team spoke with the Administrator she stated that the social worker was contacted by the psychologist to attempt to arrange a visit between the recipient and her husband who was near death. When the call was received, the social worker spoke with the recipient regarding the content of the call; however, she refused to sign a release or provide verbal permission for the social worker to speak with any staff at the hospital. Conversely, later she provided verbal permission for the social worker to speak via speaker phone with the psychologist in her presence. Documentation in the recipient's records indicated that no information was provided to the psychologist until the recipient gave her oral authorization to speak with the psychologist via speaker phone in the recipient's presence. According to the record, the only information that was provided during the conversation was regarding the arrangement for the recipient to have a visit with her husband.

Conclusion

Based on information obtained during the course of the investigation, the Authority is unable to determine that confidential information about the recipient was released without the recipient's authorization. Therefore, the allegation is unsubstantiated. No Recommendations are issued.

Allegation 2: The recipient's communication by telephone was inappropriately restricted. To investigate the allegation, the Team spoke with the recipient and the facility Administrator during a site visit at the facility. Additionally, the recipient's clinical chart was reviewed.

Interviews:

Recipient:

The recipient informed the Team that staff at the facility refused to discharge her from the facility to attend her daughter's wedding on 06/21/08. She stated that she was also denied the right to speak with her daughter by telephone prior to the wedding. The recipient stated that she had experienced excessive stress due to the loss of her husband and the inability to be a part of her daughter's important event.

Administrator:

According to the Administrator, the recipient dialed 911 emergency services and requested that the emergency personnel provide her with the telephone number of the State's Attorney. The recipient informed the emergency personnel that she needed to speak with the State's Attorney to convince him that she should be discharged from the facility so that she might attend her daughter's wedding. The Administrator stated that due to the recipient's inappropriate use of emergency services, she was placed on a telephone restriction for a short period of time after the call was made. She informed the Team that a Restriction of Rights Notice pertinent to the restriction was given to the recipient.

Chart Review

Documentation in an Integrated Summary of Assessments dated 06/12/08 indicated that the recipient was admitted to the facility for the second time on 06/11/08. A facility social worker recorded that the recipient had been contacting government officials/agencies, veteran's hospitals, television and radio stations about various concerns. A prescreening completed by a community mental health agency representative indicated that the recipient had exhibited manic behaviors. The social worker documented that upon admission she was extremely agitated, and had rapid, pressured speech. According to the record, the recipient had threatened to kill staff members and had physically assaulted a social worker by grabbing her by the arm and saying "You are going to die." Her diagnoses at the time of admission were listed as follows: AXIS I: Manic psychosis, AXIS II: No Diagnosis, AXIS III: Hypertension, Obesity, Urinary Tract Infections (UTI) and Ulcer on the Hard Palate, and AXIS IV: Death of Husband 01/08.

According to a 06/11/08 Admission Note, the recipient reported being able to see and hear things, which others could not see and hear. Documentation indicated that the recipient was talking nonstop during the admission process and had expressed thoughts of harming others.

Documentation in a 06/15/08 Progress Note indicated that the recipient had requested to make two state paid telephone calls. According to the record, the recipient stated, "My husband was slit and slaughtered at the [hospital]. I want to talk to Senator [NAME].When I get done with you guys, you won't be up here, you will be down there with the roaches."

According to a 06/17/08 Progress Note, the recipient was given a 7-day phone restriction prohibiting her from full use of the telephone because she called 911 for a non-emergency situation. A Restriction of Rights Notice dated 06/17/08 at 9:40 AM was issued for a seven day period. The reason for the restriction was listed as the recipient had called 911 for a non-emergency issue. The record indicated that the patient's preferred intervention was to talk with others about the problem and that intervention was utilized prior to the restriction. According to the documentation, the recipient did not wish for anyone to be notified of the restriction.

In a 06/19/08 Social Service Note, the record indicated that the recipient was upset because she was not able to make telephone calls until "Now". The staff member documented that the recipient spent 55 minutes completing the telephone calls.

Documentation in a 06/20/08 Observation Behavior Note indicated that the recipient had informed a staff member that she wanted out of the facility to attend her daughter's wedding on 06/21/08. The record indicated that the recipient stated, "You people caused me to miss everything in my life. Call the doctor I need to go today."

Documentation in a 06/21/09 Progress Note indicated that recipient blamed her case manager for not being able to be with her husband prior to his death and for missing her youngest child's wedding.

In a 06/27/08 Social Service Note, the recipient's case manager documented that the recipient stated that she wanted to make a phone call. Additional documentation indicated that the recipient exhibited severe agitation and threatening behaviors and accused the case manager of "breaking confidentiality."

A recording in a 06/30/08 Social Service Note indicated that the recipient was on the phone for an hour to resolve some bill payment issues. The social worker completing the note documented that a law enforcement official from the recipient's home town had called the facility to report that the recipient had made threats to him, and he believed the threats to be credible.

In a 07/01/08 Progress Note, a social worker documented that the recipient informed her that she wanted to make a telephone call immediately. The record indicated that the social worker informed the recipient that she was unable to make the phone call at that instant. The social worker documented that the recipient threatened to harm her and others at the facility on a daily basis.

On 07/02/08, a social worker recorded that the recipient had asked her to make some phone calls, and when she dialed the initial number for her, the recipient remained on the phone for thirty minutes complaining to a phone service company provider. When the social worker informed the recipient that she only had a few minutes left to make calls, the recipient stated that she wanted to call a family member. The social worker documented that when she began to dial the recipient's family member, the recipient changed her request and stated that she wanted to make another call to the telephone company. The HRA did not observe a Restriction of Rights Notice regarding the recipient not being allowed to place calls to desired individuals without having staff dial the telephone numbers.

In a 07/11/08 Social Service/Behavior Note, the recipient's case manager documented that the recipient requested to make several calls. Then she stated, "The day before my daughter's wedding you wouldn't let me make calls. You are going to pay for killing my husband, you'll see".

A nurse recorded that the recipient informed her that a man that she was speaking to on the telephone wanted to talk with the nurse and handed her the phone. The nurse documented that the male identified himself as an agent from the ATF (Bureau of Alcohol, Tobacco and Firearms), a federal law enforcement and regulatory organization within the United States Department of Justice. The record indicated that the agent informed the nurse that the recipient had frequently called their 800 number to report unnecessary information, and he requested that the recipient be restricted from calling their agency. Documentation indicated that a restriction of rights pertinent to phone usage would be implemented for a 24-hour period. At the end of that period the restriction would be re-evaluated. Documentation in the note indicated that the restriction was issued due to the recipient's intrusive calls to the federal agency. The restriction was documented in the nurse's note; however, the HRA did not observe a Restriction of Rights Notice or documentation that the restriction had been reviewed at the end of the 24-hour period.

Documentation in the recipient 06/11/08 Treatment Plan indicated that the recipient's potential for dangerousness was her main problem. Long term goals were listed as follows: 1) to regain control of her behavior so that she could be returned to a less restrictive environment 2) to identify coping skills and consistently implement them; and 3) to set two positive affirming goals to achieve after discharge. The Target date was listed as 06/18/08. The HRA did not observe any

documentation to indicate that adjustments had been made to the Treatment Plan to deal with the recipient's inappropriate telephone usage.

Summary of Allegation 2:

According to the recipient, she wanted to be a part of her daughter's wedding on 06/21/08. However, she was required to remain hospitalized at the facility and was restricted from calling her daughter on her wedding day. The Administrator informed the Team that the recipient called 911 emergency services to obtain the telephone number of the State's Attorney. The Administrator stated that the recipient wanted to convince the State's Attorney to release her from the hospital so that she could attend her daughter's wedding.

Documentation in the recipient's clinical chart indicated that the recipient's telephone use was restricted on 06/17/08 for a seven day period due to her inappropriate call to emergency services. The recipient was provided with a Restriction of Rights Notice pertinent to the restriction. However, a recording in a Social Service Note indicated that a staff member aided the recipient in making telephone calls on 06/19/08.

The recipient's record indicated a law enforcement official had contacted the facility about the recipient's threats to cause him harm, and an agent from the ATF agency had spoken to staff about the recipient's inappropriate calls to that agency. The record indicated that the ATF agent had requested that the calls cease, and documentation in the progress notes specified that a 24-hour telephone restriction was to be implemented, with a review conducted at the end of that period. However, the HRA did not observe a Restriction of Rights Notice or any documentation in progress notes that indicated that the recipient was restricted from calling the ATF or contacting law enforcement officials in the recipient's home town.

It appeared from documentation in progress notes that for a period of time when the recipient wanted to make a telephone call she was required to have a staff member dial the desired number for her. However, the HRA did not observe documentation in the recipient's treatment plan, restriction notices, or any other document that outlined the facility's plan to deal with the recipient's inappropriate use of the telephone.

Conclusion

According to the Code, a recipient's rights to communication may be restricted in order to protect the recipient or others from harm, harassment, or intimidation. Documentation indicated that the recipient had made numerous threats to staff at the facility and law enforcement officials, made harassing calls to government agencies, and made an inappropriate call to emergency services. The HRA acknowledges that the recipient's actions were such that a phone restriction would be consistent with Code requirements. The record indicates that the recipient was restricted from making telephone calls for a seven day period (06/17/08 to 06/24/08), which included the date of the recipient's daughter's wedding on 06/21/08. A Restriction of Rights Notice was given to the recipient pertinent to the incident. However, documentation in progress notes indicated that the recipient spent 55 minutes on the telephone on 06/19/08.

The HRA assumes that a staff member assisted the recipient in making the call on 06/19/08 since the restriction was implemented on 06/17/08 and was extended to 06/24/08. Based on this information, the HRA questions the reason that staff did not assist the recipient in the same manner in making a telephone call to her daughter on her wedding day. The Authority has determined that the facility did not follow the Code requirements; therefore, the allegation that the recipient's telephone communication was inappropriately restricted is substantiated. The Authority has determined that the recipient should have been restricted only from calling those persons or places she was harassing and not restricted from contact with all individuals outside the hospital environment.

Recommendations:

The following recommendations are issued:

1. When a restriction is implemented, the terms of the restriction should be clearly defined and in accordance with the Code's requirements.
2. A recipient's Treatment Plan should reflect goals and objectives to deal with persistent problems, such as the recipient's inappropriate, harassing calls to others.
3. The facility should ensure consistent implementation when it is necessary to restrict an individual's rights.
4. A Restriction of Rights Notice should be given to a recipient for each restriction implemented. The restriction should be time-limited and list measures for review in order to determine if the restrictive measure remains necessary.
5. Per the Code's requirements, telephone communications should only be restricted to prevent harm, harassment and intimidation to a recipient or to others. When it is necessary to restrict a recipient's communication rights, the restriction should be specific to the individual(s) who are harassing the recipient or who the recipient is harassing rather than a generalized restriction

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

Carol L. Adams, Ph.D., Secretary

CLYDE L. CHOATE DEVELOPMENTAL CENTER
1000 NORTH MAIN • ANNA, IL 62906

August 31, 2009

RECEIVED

SEP 02 2009

GUARDIANSHIP &
ADVOCACY COMMISSION
EGYPTIAN REGIONAL OFFICE

Ms. Sue Barfield, Chairperson
Egyptian Regional Human Rights
Guardian & Advocacy Commission
#7 cottage Drive
Anna, Illinois 62906

RE: HRA No. 09-110-9002

Dear Ms. Barfield,

Please accept my sincere apologies for the delay that occurred with the facility's reply to your recommendations on HRA No. 09-110-9002. I assure you we want to continually better our service to patients and sincerely appreciate your valuable feedback.

I have listed our response and plan of action for each of the recommendations that were submitted. If you have any questions or further suggestions, please do not hesitate to contact me at 833-5161 extension 2212.

The following recommendations were issued:

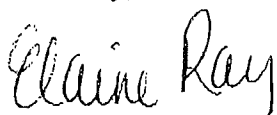
1. When a restriction is implemented, the terms of the restriction should be clearly defined and in accordance with the Code's requirements. **Staff receive training during new employee orientation and as needed for competence during employment. All restrictions of rights are reviewed every workday in the Patient Safety Committee comprised of leadership staff. The documents are reviewed for appropriateness as well as to ensure an adequate explanation is given.**
2. A recipient's Treatment Plan should reflect goals and objectives to deal with persistent problems, such as the recipient's inappropriate, harassing calls to others. **If the problem is persistent, the treatment team should address the issue in a manner that will either prevent or subdue the behavior. This is now more closely monitored in the Patient Safety Meeting as well as being a trigger for our new Patient Care Monitoring review. All treatment team members have received training on the PCM policy and procedure as well.**
3. The facility should ensure consistent implementation when it is necessary to restrict an individual's rights. **Staff have and will be retrained. In addition, I am asking that members of the Human Rights Committee as well as direct line staff form a small workgroup to review our current restriction practices. This procedure has been in place for several years and may need updating. In addition, the form may need additional qualifiers to ensure staff are specific and consistent with its implementation.**
4. A Restriction of Rights Notice should be given to a recipient for each restriction implemented. The

restriction should be time-limited and list measures for review in order to determine if the restrictive measure remains necessary. **Please note my previous responses.**

5. Per the Code's requirements, telephone communications should only be restricted to prevent harm, harassment, and intimidation to a recipient or to others. When it is necessary to restrict a recipient's communication rights, the restriction should be specific to the individual(s) who are harassing the recipient or who the recipient is harassing rather than a generalized restriction. **Please note my previous responses.**

I hope you find our responses in line with your recommendations and if clarification or additional information is required, please contact my office.

Sincerely,



Elaine Ray, RN, BSN, MBA
Hospital Administrator