



FOR IMMEDIATE RELEASE

Egyptian Regional Human Rights Authority
Report of Findings
10-110-9018
Choate Mental Health Center
Developmental Disabilities Division
April 27, 2010

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

A recipient's guardian was not informed of the facility's change in policy pertinent to cell phones.

Statutes

If substantiated, the allegation would be a violation of the Illinois Probate Act of 1975 (Act), (755 ILCS 5/11a-23 (b)).

Section 5/11a-23 (b) states, "Every health care provider and other person (reliant) has the right to rely of any decision or direction made by the guardian, standby guardian, or short-term guardian that is not clearly contrary to the law, to the same extent and with the same effect as though the decision or direction has been made or given by the ward. Any person dealing with the guardian, stand-by guardian, or short-term guardian may presume in the absence of actual knowledge to the contrary that the acts of the guardian conform to the provisions of the law. A reliant shall not be protected if the reliant has actual knowledge that the guardian, stand-by guardian, or temporary guardian is not entitled to act or that any particular action or inaction is contrary to the provisions of the law."

Investigation Information

To investigate the allegation, the Investigation Team, consisting of two members and the HRA Coordinator (Coordinator), conducted a site visit at the facility. During the visit, the Team spoke with the following: 1) the recipient whose rights were alleged to have been violated; 2) the facility Administrator; and 3) a Unit Manager. The Coordinator spoke with the recipient's legal guardian. The Authority reviewed the recipient's clinical chart with his written authorization. The Authority also reviewed facility policies pertinent to the allegation.

I: Interviews:

A...Recipient:

When the Team spoke with the recipient, he stated that some recipients on the unit where he resides used their cell phones inappropriately to download pornographic material. The recipient informed the Team that he did not want to be accused of the same action; therefore, he voluntarily gave his telephone, which had internet access and a camera, to his therapist. He stated that he purchased a tract phone, which is only used to make telephone calls, and staff placed his camera phone in property storage. He stated that he was never approached by staff to relinquish the phone; however, due to his past history he felt that it would be in his best interest to replace the phone.

B. Facility Administrator:

According to the Facility Administrator, the facility has not changed its policy pertinent to cell phone usage for recipients; however, staff members have been banned from using cell phones in residential and work areas at the facility. The Facility Administrator stated that the policy was implemented following an event when staff members inappropriately used their cell phones to take pictures of client interaction. She stated that the episode involved extensive investigation and subsequent discharge of several employees.

The Facility Administrator informed the Team that recipients are allowed to have cell phones with cameras, unless there is a specific reason listed in their individualized Personal Service Plans. She provided copies of the cell phone usage policies for staff, as well as recipients.

C: Unit Administrator:

The Unit Administrator informed the Team that there had been a change in facility policy regarding the use of cell phones for staff members only. The Unit Manager stated the facility policy ensures that clients have private access to telephones, and recipients are not restricted from using any type of cell phones. He stated that if a recipient has a problem with telephone use, it is addressed on an individual basis and listed in the recipient's Personal Program Plan.

The Unit Manager stated that the recipient whose rights were alleged to have been violated brought his cell phone with a camera to a Qualified Service Professional (QSP) after he was made aware that other recipients on the unit had used their phones inappropriately. The Unit Manager stated that the recipient expressed that he wanted to place the item in property storage and to purchase a cell phone without a camera or internet access so that there would not be any doubt about his inappropriate use of the phone.

D: Guardian:

The recipient's Guardian informed the Coordinator that his ward reported that staff took his cell phone and made him get another cell phone without a camera due to a peer accessing pictures of pornographic materials from the Internet. The Guardian stated that when he contacted a QSP regarding the matter, she stated that there had been some issues involving inappropriate use of cell phones with cameras and internet access, which led to a unit policy that no cell phones with cameras/internet would be allowed. The QSP cited privacy issues, confidentiality, and access to pornography as reasons for the change in policy. The Guardian stated that he was informed that the recipient's cell phone was placed in the chart room, and he was allowed to use it whenever he desired. The Guardian stated that it was reported that the ward used the phone until his minutes were depleted, then he purchased a phone that he keeps on his person and buys minutes for its use. The Guardian reported that his original phone was sent to personal property storage.

The Guardian stated that the Habilitation Plan QSP informed him that no Restriction of Rights Form was completed because the recipient brought the phone to her voluntarily.

II: Clinical Chart:

A...Personal Service Plan

According to documentation in the recipient's clinical chart, the recipient was admitted to the facility in May 2009 after charges of aggravated criminal sexual abuse were dismissed. Prior to his arrest he was living independently in the community. When admitted to the facility the recipient was serving as his own guardian; however, shortly after admission a guardian was appointed.

According to the recipient's 06/02/09 Personal Service Plan, the recipient had a potential for injury to self or others related to his inability to control his behavior. An Individual Behavior Treatment Plan was implemented to assist the recipient with the problem. Documentation indicated that the recipient has the potential for complications related to his alteration in nutrition, which was more than body requirements. Encouragement in exercise, an American Heart Association Diet and monthly weights were employed to assist the recipient in obtaining his ideal weight. A potential for alteration in cardiac output related to elevated cholesterol and triglycerides was listed as a problem area. Administration of Zocor and Aspirin, monitoring of labs, and diet were listed as interventions to assist the recipient in dealing with the elevated cholesterol. Documentation indicated that the recipient would be monitored for any adverse reactions or complications to the prescribed medications.

Documentation in the recipient's Personal Service Plan indicated that the recipient attends vocational development, sex education, money management, check writing, budgeting, cooking, food and nutrition, and self administration of medication classes.

B: Progress Notes

The HRA requested that the facility provide copies of Progress Notes from 05/09 to 10/09. The Authority review did not reveal any documented information pertinent to the complaint.

III: Facility Policies:

A: Telephone Use For Individuals Living At the Choate Development Center Policy (Policy 1)

According to the Policy Statement, "It is the policy of the Clyde L. Choate Developmental Center to ensure that clients have access to telephones with privacy except when clinically indicated and documented in the person's individual program plan."

The procedure is listed as follows: 1) Individuals shall have access to a phone with privacy. Privacy can be accomplished by having a phone in a private area or using a cordless phone that a recipient can take into a private area, such as his/her bedroom. 2) Recipients have the right to make and receive calls without staff monitoring, unless it is clinically indicated and documented in the individual's program plan. 3) The recipient will make the decision as to whether he/she wishes to accept incoming calls. 4) An individual's access to the phone may be contraindicated by factors identified in his/her Personal Service Plan, which has been approved by the facility's Human Rights Committee.

B: Telephone Policy for Employees (Policy 2)

The telephone policy pertinent to employees is outlined in the facility's Employee Handbook. Employees are informed the State telephone system is provided for official State business and not to be used as an employee's personal convenience. Documentation indicated that employees are prohibited from using personal cellular telephones or pagers at work sites without prior supervisor approval.

According to Policy 2, an allowance is made for an employee to make a credit card or a call to a toll-free number if the following exists; 1) Making the call does not adversely affect the employee's performance of his or her personal duties; 2) The call is of reasonable duration and frequency; and 3) The call cannot be reasonably made during non-working hours.

Documentation indicated that certain brief, personal phone calls within local calling areas are allowable without charge to employees. Such calls include, but are not limited to, the following: 1) calls to locations within the local community area to advise an employee's family or child/elder care providers of an unexpected work schedule change; 2) calls to locations within the local commuting area to a spouse of those responsible for child or elder care; 3) calls to location within the local commuting area to phone numbers that can only be reached during agency working hours; 4) calls to locations within the local commuting area to arrange for emergency automobile or home repairs; or 5) calls to announce safe arrival, delay or change in plans while on official business.

Summary

According to the recipient whose rights were alleged to have been violated, when he was made aware of other recipients on the unit using their cell phones to access pornographic material, he voluntarily gave his telephone to his therapist. The recipient informed the Team that he did not want to be accused of the same behavior. He stated that he was never contacted by any staff member requesting that he relinquish his phone. When the Team spoke to the Facility Administrator, she stated that the facility had not banned recipients from using any type of cell phones; however, a change had been made prohibiting staff members from using cell phones in residential and work areas at the facility. The Unit Administrator informed the Team that recipients are not denied the use of any type of cell phones. He stated that if a recipient has a problem with telephone use, the issue is addressed on an individual basis and listed in the individual's Personal Program Plan. The recipient's Guardian stated that the recipient reported that his cell phone was taken, and he was required to purchase another phone without a camera or Internet access. The Guardian stated he contacted a QSP, the same individual that the recipient listed as his therapist, regarding the issue and was informed that there had been some issues involving inappropriate use of cell phones with cameras and Internet Access, which led a unit policy that no cell phones with cameras/internet would be allowed. The Authority reviewed facility policies pertinent to recipient and staff telephone usage. Documentation in Policy 1 (recipient phone usage) indicated that recipients are ensured private, uncensored telephone communication, unless the access is contraindicated by issues that are identified in the recipient's Personal Service Plan and approved by the facility's Human Rights Committee. However, documentation in Policy 2 (employee phone usage) indicated that employees are banned from using cell phones or pagers at work sites.

Conclusion

Since there was no documented change in the facility's policy regarding banning of cell phones for recipients within the developmental disabilities division of the facility, the allegation that a recipient's guardian was not informed of the facility change in policy pertinent to cell phones is unsubstantiated. No recommendations are issued.

Suggestions

The Authority has concerns regarding the lack of communication and miscommunication with the recipient's guardian. Per the Act's requirements, a health care provider should rely on any decision or direction of a guardian; therefore the following suggestions are issued:

1. A recipient's guardian should be notified of any significant event pertinent pertaining to the guardian's ward.
2. Accurate information should be given to the guardian so that the guardian may provide direction and make appropriate decisions relevant to his/her ward's care and services.
3. Facility staff should be provided training regarding current telephone usage policies pertinent to recipients and staff.