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EGYPTIAN REGIONAL HUMAN RIGHTS AUTHORITY
REPORT OF FINDINGS

Case # 13-110-9036
Chester Mental Health Center

INTRODUCTION

The Human Rights Authority (HRA), a division of the Illinois Guardianship and Advocacy Commission, opened an investigation after receiving a complaint of possible rights violations at Chester Mental Health Center. The complaint alleged the following:

A recipient is not being served in the least restrictive environment.

If substantiated, the allegation would be a violation of the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.).

Chester Mental Health Center is a state-operated mental facility serving approximately 240 recipients. It is considered to be the most secure and restrictive state-operated mental health facility in the state.

To investigate the allegations, HRA team members interviewed the recipient and reviewed documentation that is pertinent to the investigation. Such documentation included recipient records, with consent.

COMPLAINT STATEMENT

The recipient stated that he was being wrongfully held at Chester Mental Health Center, as a result of his adverse reactions to medicine inappropriately administered at a different facility. The recipient claimed that the medications he had received at the previous institution were responsible for his psychosis and aggression, and that he did not require medication. The recipient had been requesting a transfer to a Veterans Administration (VA) hospital since his commitment, claiming that he only took his medications at Chester so that the staff would not call him non-compliant. He complained that he was being given the wrong (or too much) medication at Chester, repeating that he had no need for it.

FINDINGS (including record review, mandates, and conclusion)

With the proper consent, the HRA reviewed records and documents related to the complaints alleged in this case.

A. Recipient Record Review

The recipient's 5/29/13 treatment plan reported that the recipient was transferred from another mental health facility on 5/6/13 under emergency circumstances, due to incidents of violence. According to the treatment plan, the recipient refused psychotropic drugs, stating that he did not believe he was delusional. Also according to the treatment plan, at the facility where the recipient transferred from, the recipient had threatened others, yelled, stomped, slammed doors, and made threats to kill the staff. The same treatment plan indicated that the patient was restrained by state police at that previous facility, and he had insisted that he had authority over the staff as "second-in-command."

Upon reaching Chester Mental Health Center, the recipient expressed his beliefs that he was wealthy and of royal blood, and that others were against him as a result of that status and because his race was African American. Furthermore, the recipient claimed that he was not being allowed to leave Chester because of his past relationships with Caucasian women, and the recipient claimed that people were ejaculating in his food. He was prescribed Risperidone and Valproic Acid (VPA) syrup for his psychosis and aggression.

The recipient's interim treatment plan dated 5/9/13 indicated that the day before, on 5/8/13, the recipient had demanded to be released and threatened staff. When his threats escalated to an attempt to strike staff, he was placed in a physical hold, and as he continued to fight, he was then placed in metal cuffs, and finally, restraints. This was the only time the patient was placed in restraints at Chester. According to the recipient's Designation of Emergency Preference and Notification, the recipient preferred, in the event that he were to pose some imminent physical threat to himself or others, that emergency intervention come first in the form of emergency medication, then seclusion, and then restraint as a last resort.

In his initial psychiatric evaluation, staff indicated that the recipient was receiving emergency enforced Chlorpromazine (100mg), Lorazepam (2mg), and Benztropine (1mg) for 24 hours, with the last dose having been given on 5/6/13, although the psychiatric evaluation did not note whether that medication was administered at Chester or the previous facility. The psychiatric evaluation indicated that the recipient had no known drug allergies. However, a drug alert from the State of Illinois Department of Human Services dated 5/6/13 listed the recipient as being sensitive to the drug Haloperidol. The initial psychiatric examination also recommended "discharge to a less secure facility when stable."

The recipient's interim treatment plan dated 5/9/13 notes that the recipient was placed on emergency enforced medication following an incident where he demanded to be released and attempted to strike staff. The progress notes indicate that he voluntarily took the physician-ordered emergency medication, and then that the recipient signed a voluntary consent form for medications on 5/10/13. The 5/29/13 treatment plan also indicates that as early as 5/8/13, nurses were engaging in medication education with the recipient, which continued once per week. The recipient made no changes to his emergency preferences.

The progress notes regarding the recipient's treatment described the recipient as becoming increasingly calmer with treatment, and that he improved on Risperidone. The progress notes do indicate that the recipient had one violent encounter with another patient on 5/13/13, claiming that the recipient had been hit first and that he struck back in self-defense, but his demeanor in the days following was "respectful," according to the progress notes.

On 5/22/13, the recipient was involuntarily committed to Chester in a court hearing, for a period not to exceed 90 days. By 5/24/13, the recipient's progress reports indicate that he was no longer making any delusional statements, and that his dosage of Risperidone was being reduced with his consent. On 6/7/13, the recipient himself requested that that dosage be temporarily raised, and that same day, his progress reports state that he was now "rational" and "calm," and that he had plans to live with his grandmother and to continue taking Risperidone upon his release. The recipient claimed that a staff member was prepared to recommend him for transfer in July.

The recipient's 5/29/13 treatment plan, in the criteria for separation section, indicated that in order to be recommended for transfer to a less secure facility, the recipient must show that he would not be an unauthorized absence (UA) risk, that he has an ability to inhibit any significant impulses of violence toward himself or others, that he desires a transfer, and that he is "cooperative in his adjustments" by taking essential medication and making reasonable plans. Furthermore, as an individualized treatment goal, the recipient's 5/29/13 treatment plan called for the recipient to act without aggression for three consecutive months by 8/30/2013.

On 6/21/13, the recipient completed and signed an application for voluntary admission to Chester Mental Health Facility, which was also signed by a Chester employee.

The recipient's treatment plan dated 6/24/13 states that he showed significant progress by his compliance with medication, by not exhibiting any verbal or physical aggression during that reporting period (twenty-six days), regularly meeting with his therapist, increasing his attendance of leisure activities, and ceasing to manifest any delusional thoughts. His treatment plan states that the recipient had established long-term plans to live with a family member, which the treatment plan indicated the family member had confirmed. The 6/24/13 treatment plan repeated the same criteria for separation as the 5/29/13 treatment plan.

The recipient voluntarily transferred to a less secure facility on 8/27/13.

B. Policy Review

The HRA examined policies pertinent to the allegations. Chester Mental Health Center's "Patient Rights" policy guarantees the right to adequate and humane care and services in the least restrictive environment, pursuant to an individual treatment plan. This right is repeated in the Patient Guide, within the "Rights of Recipients" section, stating, "You are entitled to adequate and humane care and services in the least restrictive environment and to an individual service plan."

The "Patient Rights" policy also indicates that patients have the right to refuse medication, and that the restriction of any of those rights (including that of adequate care in the least restrictive environment) may only take place based on an assessment of whether the patient or situation is affecting the safety of the patient or others.

The "Treatment Plan" policy lists certain things which must be included in a given treatment plan, including the criteria of separation. These are defined as "the criteria that must be met before the patient can be transferred to another facility or be returned to court."

Chester's "Continuity of Care" Manual includes a section entitled "Transfer Recommendation of Behavior Management Patients." This describes a policy which dictates that the patient's treatment team must "evaluate on an ongoing basis the patient's continuing need for a maximum security environment," considering the Mental Health and Developmental Disabilities Code mandate on treatment in the least restrictive manner appropriate for that patient. This policy calls for documentation of the Transfer Recommendation, as well as documentation in the patient's progress notes that address the patient's ability to cope with the changes that correlate to his transfer.

Chester's "Patient Guide," under the heading "Restriction of Rights," states that patients would be asked at the beginning of their stay their preferences on the order in which emergency methods may be employed in the event that they pose a risk to themselves or others. The three options are seclusion, restraint, and emergency medication. The "Patient Guide" states that "when possible, the staff will use the choices in the order you chose. Sometimes, to keep you and others safe, staff may have to make these choices based upon what the situation requires."

C. Mandates

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102) guarantees the right to:

...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.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...shall be noted in the recipient's treatment plan.... If the services include the administration of electroconvulsive therapy or psychotropic medication, the physician or the physician's designee shall advise the recipient, in writing of the side effects, risks, and benefits of the treatment, as well as alternatives to the proposed treatment, to the extent such advice is consistent with the recipient's ability to understand the information communicated.

The Code (405 ILCS 5/2-107) guarantees the right to refuse medication and, if refused, the medication is not to be administered except as follows:

...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. The facility director shall inform a recipient, guardian, or substitute decision maker, if any, who refuses such services of alternative services available and the risks of such alternate services, as well as the possible consequences to the recipient of refusal of such services....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....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....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....Under no circumstances may long-acting psychotropic medications be administered under this Section.

The Code (405 ILCS 5/3-400 and 5/3-502) outlines the rights of voluntary admittees to mental health facilities in the state of Illinois, which states the following:

You have the right to request discharge from this facility. Your request must be in writing. After you give your request, the facility must discharge you at the earliest appropriate time. This time may never exceed 5 days, excluding Saturdays, Sundays, and holidays, unless it is expected that you are likely to inflict serious physical harm on yourself or others in the near future. If the facility director believes you are likely to harm yourself or others, he/she must file a petition and 2 certificates with the court within the same 5-day period. You will then have a hearing in court and the court will determine if you must remain at the facility.

D. Conclusions

In reviewing the documentation, it was impossible to determine whether the recipient's placement at Chester was the result of improper medication at a previous facility. Chester's admission records showed that he was transferred for specific acts of violence.

Decisions regarding the clinical need for medication are outside of the expertise of the HRA, but the recipient's claim that he was being given too much or the wrong medication while at Chester appears unfounded, as medications were either ordered on an emergency basis or the recipient took them willingly after providing informed consent. The recipient attended his treatment plan reviews, and rather than objecting to the medications prescribed, he gave his voluntary consent. Additionally, the recipient underwent continuous medication education to ensure that his consent to the medication was indeed informed consent. The recipient's request for increased dosage noted in the progress notes on 6/7/13 seems to indicate his own understanding of the Risperidone he was prescribed as effective in his treatment.

With regards to the recipient's claim that he was not being treated in the least restrictive environment possible, one must note that his treatment plan laid out goals for transfer, that the

recipient eventually met those goals, and that the recipient was transferred to a less secure facility within three months. During that time, he applied for voluntary admission status at Chester.

The recipient's violent behavior prior to his involuntary admission to Chester, as well as his violent outbursts at the beginning of his stay, would indicate that he was not treated in a more restrictive manner than his circumstances required while at Chester. For this reason and those above, the HRA finds this complaint **unsubstantiated**.

The HRA takes this opportunity to make the following **suggestions**:

1. Although the recipient was never prescribed Haloperidol while at Chester, the discrepancy between his listing of "no allergies" and "sensitive to Haloperidol" on different records marked the same day could have resulted in his being prescribed improper medication. In the future, every effort should be made to ensure that physicians and nurses are aware of patient allergies to medications when new patients are transferred in.
2. The circumstances regarding the recipient's restraint on 5/8/13 may not have required that the staff overlook the patient's preference to receive emergency medication first, and then seclusion, and then restraint as a last resort. In this case, restraint was used as a first resort, directly following a physical hold. Whenever possible, efforts should be made to ensure that emergency treatment occurs with regards to patient preferences.
3. The mandates indicate that when a patient requests discharge in writing, there is a process that must be followed to keep the patient at the facility. Documentation of the recipient's behavior seems to indicate that the recipient desired transfer out of Chester, but there is no record that he requested transfer for several months. Staff may need to ensure that they are allowing patients the right to officially request discharge by providing and assisting in the completion of written requests to that effect.