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Egyptian Regional Human Rights Authority
Report of Findings
14-110-9019
Chester Mental Health Center

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

A recipient is being denied access to communication by telephone.

If found substantiated, the allegation represents a violation of the Mental Health and Developmental Disabilities Code (405 ILCS 5/2 et al.) and Chester policies.

Chester Mental Health Center is a state-operated mental health facility serving approximately 240 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 and staff, reviewed the recipient's record, with consent, and examined pertinent policies and mandates.

I. Interviews:

A. Recipient: The Recipient informed the HRA that upon admission, he was allowed to make two telephone calls but since then, he is only allowed to make an outgoing call if he either has a calling card or makes a collect call. If he "wants or emotionally needs to place a phone call" but does not have a calling card and cannot place a collect call to the person he is calling, then he has to be put on a list to speak with his social worker to arrange to place a telephone call from the social worker's office telephone. He stated that the "odds of a phone call happening" is dependent upon whether or not the social worker is there that day and has time to speak with him.

If he does have a calling card then the second problem is having access to the telephone. The recipient stated that there is only one telephone on each module for over 20 recipients and the telephone is turned off except for certain times of the day. According to the recipient, the telephone is accessible from 7:00-8:00 a.m. which is also breakfast time; therefore recipients have to choose between making a phone call and eating breakfast. The phone is next turned on from 10:00-11:00 a.m. He stated it is difficult to use the telephone during this time because there are over 20 patients and several want to place calls. The next scheduled time is 1:00-2:00 p.m. However, 1:00 is also when daily activities are called (gym classes etc…) so once again,

recipients have to choose between physical activity and waiting in line to make a phone call. The telephone is next turned on at 3:15-4:00 p.m. which only allows 45 minutes for more than 20 patients to use the telephone. The recipient also expressed concern over safety because of the aggression that derives from recipients trying to access the telephone and the resulting fights and behavioral data reports being issued. The next time the telephone is turned on is 8:00-9:00 p.m. However, at 8:00 recipients are required to return to their rooms for the distribution of medication and snacks which is usually completed between 8:30-8:45 p.m.

Another concern is that there is no privacy for recipients while they are using the telephone. The telephone is placed in a common area on the module next to the nurse's cage. He stated that patients are also so close that not only can they hear him but also the person he is speaking to and since recipients are required to use their own currency to speak to their attorney on this telephone, even legal conversations are "publically displayed." He stated that often other recipients will make comments about how women's voices sound on the other side of the line, what recipient's legal charges are etc... The recipient claimed that "patients are literally mentally distraught on a daily basis, doors are slammed, physical threats are made and some become extremely depressed wanting to speak with their children, mothers and other family members." He also stated that "this violation is causing a decline in emotional stability." The recipient believes that this violates his legal rights to private communication without monitoring or hindrance by staff at the facility.

Finally, the recipient stated that recipients are not allowed incoming calls. The facility will, however, occasionally arrange for the recipient to return a call at a pre-arranged time but again, he stated this is contingent upon the therapist being available to help facilitate the call. The recipient stated that his attorney was aware of this problem as well and has written a letter to the Department of Human Services (DHS) to try and address the issue. He provided the HRA with a copy of this correspondence which is detailed below.

The letter was written by an attorney and student at a legal aid clinic of a University Law School and was addressed to the General Counsel at the Department of Human Services (DHS). This letter quoted statutes from the Mental Health and Developmental Disabilities Code [cited below] that require recipients to have *"unimpeded, private and uncensored communication…by phone"* and also guarantees that if recipients are *"unable to procure [telephone usage funds],"* that these funds *"shall be provided in reasonable amounts."* It also addressed the issue of the Chester's policy not allowing recipients to receive incoming calls, even from lawyers, absent of emergencies but does state that the facility *"will, for certain purposes, arrange for the recipient to return a call at a pre-arranged time. In our experience, our calls to our clients are returned days later and frequently not returned at the times or on the days scheduled."* The letter concludes by asking the Department to *"direct Chester to change its written policies and its practices to ensure reasonable access to phones. Such access necessarily includes providing reasonable funds for indigent recipients to make phone calls to persons of their choice and that recipients be allowed to receive phone calls in a manner that conforms the statutory requirement that receipt of phone calls be unimpeded"*.

B. Director of Clinical Operations: The HRA spoke with the Director who informed the Authority that Chester was in the process of revising its patient telephone calls policy but it had

not been finalized yet. The Authority was provided with a copy of the draft policy to review the changes that were in the process of being made at the time of its report.

II. Clinical Chart Review:

A. Treatment Plan Reviews (TPRs): TPRs for the months of April through October, 2014 were reviewed. The issue of telephone use was not brought up in the *discussion section* until the August TPR which stated *"Patient was cooperative during the session; however, it was evident that he would use the session as a sounding board for grievances. Patient made it clear that he had issues about not having a copy of his current treatment plan and being asked to go through property to determine what to keep and what to discard. The patient complained about not getting state phone calls to his attorney more quickly. However the patient is the primary purveyor of the telephone on the [unit number] module…patient received a copy of his current treatment plan and arrangements were made for him to go through his property…"* There was no mention in the TPR of whether or not the telephone issue was resolved or if it was addressed during the meeting. The next two TPRs did not mention the telephone usage complaint and focused more on his behaviors noting an increase in maladaptive behavior. The HRA noted that the recipient lived on one module from April through June and then moved to another living module in July where he remained. The June TPR documented that the move to the other living unit was discussed with the recipient *"due to his stability and no aggression"* and the recipient stated that *"he is ok with the move."* While on the first living module, only one incident of aggression was mentioned and the other TPRs focused mostly on his anxiety over property not being received since he transferred to Chester and how he *"sends lengthy requests numerous times throughout the day on the 'things' he wants taken care of, and is upset if his requests are not met immediately."* The July TPR *discussion section* stated that while on the previous unit *"the patient did not pose a behavioral problem and his high elopement risk status was down-graded. Since his arrival on [second unit] he has received 1 BDR [behavioral data report] for failure to follow directions. Patient has been perceived by the security staff as being manipulative, loud and disruptive. This assessment is borne out of his actions on the [unit number] module."* The September TPR noted in the *discussion section* three incidents of physical aggression, one against a staff member. The October TPR noted that the recipient presented with a *"flat affect"* and reported feeling *"mentally exhausted."* The recipient *"had three BDR's this month, one for medication refusal, one for drinking excess water, and one for knocking on the stem door asking if he had something to sign, the behavior was described as bizarre."* He also had to be placed in restraints due to self-harm for punching a door. The recipient was also *"verbally threatening to harm himself and others. He reported that he was feeling some paranoia prior to being placed in restraints."*

B. Progress Notes: A 5/15/14 social work note states *"…pt [patient] was informed that an attorney has been trying to contact him. Pt was given the attorneys # on previous day. When pt was asked if he attempted to contact the attorney he reported he had not. Pt. previously told this writer he didn't need help with a call, now on this date he reports he ran out of minutes [on his calling card]. This writer will provide him with a free call."* Another social work note dated 6/20/14 stated *"…pt. [patient] was assisted with a phone call at this time pt. contacted his girlfriend…"* A psychologist note dated 7/3/14 documented a telephone call to the recipient's girlfriend, once a release of information was confirmed, regarding a message she left inquiring

about a phone card she sent to the recipient. It stated *"[name] identified self as the patient's girlfriend. She requested that [name] call her using his new phone card (provided by [girlfriends name]). This clinician informed [girlfriend's name] that his new therapist was [name] and that [recipient] will be provided with his new phone card."* A therapist note dated 8/14/14 indicated that the therapist assisted the recipient with a phone call to his attorney who did not answer. The recipient left a voice mail. An informational note dated 8/18/14 stated that the recipient *"received a note to call [an advocacy agency's director's name]. When this writer asked him if he wanted to place the call, he stated that he had called her already."* A therapist note dated 9/4/14 stated*"…this reporter offered a phone call for the week, he reported he would like to do so, maybe tomorrow, this reporter explained I will check with him tomorrow."* Another therapist note documented as a late entry for 9/5/14 stated *"this reporter met with [recipient] to assist with phone calls (1) legal to [attorney name], he left vm [voice mail] also called a friend [name] he spoke with [name] conversation appeared appropriate..."* A 9/10/14 therapist note stated that the therapist met with the recipient to offer phone calls and discuss concerns that he may have. The recipient *"called his attorney [name] but couldn't get voice mail, asked to call family member so as to deliver a message to his attorney. [Recipient] also called [an advocacy agency representative] to report that his electronics were taken. After phone calls we discussed his electronics…"* On 10/30/14 a therapist note documented that the therapist assisted the recipient with a phone call to a friend.

C. Memo: The HRA reviewed a memo dated 8/28/14 from the Unit Director to the Clinical Director and Acting Hospital Administrator. The memo detailed the number of times that the recipient was afforded state calls. The memo listed the following dates: 5/1/14 "call to a friend"; 5/2/14 "left message for girlfriend"; 5/15/14 states "attorney tried to contact him, given number on 5/14/14, per [staff name] she gave him a phone call but no number listed;" 6/20/14 staff "assisted with phone call…to girlfriend"; 7/28/14 call to his attorney; 7/30/14 a staff person "gave updated phone card information to [recipient], talked to girlfriend"; 7/29/14 the Unit Director "delivered message to call [attorney] between 1:30-2:30"; 8/14/14 Therapist "assisted with call to attorney…left voice message; [and] 8/14/14 had a message to call an advocacy agency, staff attempted to assist. [recipient] reported he already called."

III...Facility Policies:

A. RI.03.05.02.02 Patient Telephone Calls (reviewed date 9/24/12) states *"It shall be the policy of Chester Mental Health Center to foster communication between patients and others outside the facility via telephone calls."* Section B of this policy details how on-going telephone calls are facilitated. "*1. Location of the Module Patient Phone: The phone for patient use is located on the living area side of each module dayroom adjacent to the nurse's station. 2. Phone Schedule: Phones for patient use are activated according to the facility schedule (see attached) 3. Procedure for Placing a Call: To place a call, the patient picks up the receiver and initiates his call using one (1) of three (3) possible methods…Collect call…toll free calls…calling card calls 4. Duration of calls: a. If there is another patient waiting to make a call, each phone call shall be limited to a 10 minute period. b. If there is no one else waiting to make a call, there is no time limit on patient calls during designated calling periods. c. If an emergency situation arises during the course of a call, the patient may be asked to curtail his call and re-initiate another call once the emergency situation is over. 5. Supervision of Calls: The STA staff*

is to maintain visual contact during telephone use to ensure that communications occur without intrusion from others. 6. Non-Routine Calls: The *facility shall arrange for patients to make phone calls at facility expense in special situations, (i.e. emergencies; patient has no funds to pay for a call; person receiving the call will not accept charges; token economy calls; therapist approved calls.) a. In such situations, the patient's unit director, unit manager, therapist, or a facility administrator shall give approval for such a call to be made. On evenings, weekends, or holidays, such requests shall be directed to the STA IV for approval. b. The staff members giving approval for the call or a designee shall call the switchboard operator authorizing the patient to make the call. c. The switchboard operator will place the call on the module or office phone as indicated by the staff member. d. The call shall be of reasonable duration. e. All special non-routine calls will be documented in a progress note in Section IV of the patient clinical record detailing the circumstances surrounding the necessity for the call. 7. Restrictions: A patient may have his telephone use restricted by the hospital administrator to protect him or others from harm, harassment or intimidation. If a restriction is imposed, the treatment team is to provide notice of such restriction using form MHDD-4, Notice Regarding Rights of Patients, Rev. 3/91, in accordance with the process described in Section 2-201 of the Mental Health and Developmental Disabilities Code."* Section II addresses Incoming Calls and states that any calls received for patients are to be routed to the shift supervisor who, without acknowledging that the patient resides at the facility, will inquire as to whether or not an emergency situation exists. The supervisor will note the name of the person and the phone number and will inform the party that the patient, if here, will be given the opportunity to return the call. The patient is to be notified as soon as possible of the call and given the opportunity to return the call.

B. Draft Revised Policy RI.03.05.02.02 Patient Telephone Calls quotes the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-103 listed below) and also states that *"It is the policy of the Chester Mental Health Center (CMHC) that patient rights will not be restricted without cause (e.g., to prevent harm, harassment, or intimidation), and with due process (i.e. restriction of rights). Patients at CMHC will be provided the opportunity to make telephone calls."* It continues to list the basic phone guidelines which included limiting calls to ten minutes to allow others to use the phone and stating that staff will intervene proactively and immediately to prevent verbal or physical altercations over patient use of the phone and that if issues of non-compliance over the time limits becomes a pattern for an individual, it will be referred to his treatment team to address. The draft policy also states that patients are allowed to place telephone calls using a pre-paid phone card, credit card or by calling collect but the draft policy also provides that *"if the patient does not have these resources, long distance calls will be provided by the state."* The policy continues to state that patients would be provided two facility paid calls weekly which are limited to ten minutes each. However, patients with personal resources (phone cards etc…) may make unlimited long distance calls during regularly scheduled phone hours. The telephone calls will be documented on a weekly telephone log monitoring form which will be in compliance with the Health Insurance Portability and Accountability Act (HIPAA) regulations regarding confidentiality. The draft policy also allows for non-routine telephone calls (outside of regularly scheduled phone hours) providing the patient requests team approval through their social worker or registered nurse/security therapy aide. If a patient has an emergency situation (sick family etc.. causing anxiety for the patient) the unit nurse or another team member can authorize emergency telephone calls 24 hours per day/seven days per week. These calls will be documented in the case notes and weekly telephone log monitoring form.

The restrictions section states that *"if a patient's use of the phone presents evidence of harm, harassment or intimidation, and continued phone communication is clinically contraindicated the treatment team may restrict a patient's access to either/both outgoing, incoming calls, or those to a specific individual with an order by a physician and completion of a Notice Regarding Restricted Rights of Individual…The Restriction of Rights will specify the duration of the restriction, and the rationale…for the restriction. Restrictions may be issued until the next business day when the restriction will be reviewed by the team in morning report. If the restriction is upheld a new restriction of rights form will be issued indicating the duration of the restriction (NOT TO EXCEED 7 DAYS) and the defined behavioral reasons for continuation. A progress note will be entered by the social worker (or nurse when no social worker is present) into the clinical record documenting the review and its outcome."* The draft revised policy did not mention how incoming telephone calls are to be handled.

C. Telephone Schedule: The unit telephone schedules were reviewed in both the current patient telephone calls policy and the draft policy that was being revised. The unit that this recipient resided on had the following times when the telephones were turned on for one hour increments:

On the current policy: 7:00 a.m., 10:00 a.m., 12:00 p.m., 3:00 p.m., 7:00 p.m., 8:00 p.m.
On the new draft policy: 7:00 a.m., 10:00 a.m., 1:00 p.m., 3:00 p.m., 7:00 p.m., 8:00 p.m.

D. Patient Handbook: The patient handbook in the *Phone Calls* section states the following: *"Upon arrival, you are allowed two (2) free phone calls to be placed within 72 hours. Staff will assist you in making the calls. If you are clinically unable to place the calls within 72 hours, you may contact your therapist to make arrangements for placing the calls at a later date. Additional calls must be made collect or with a calling card. Calling cards can be purchased from the commissary. The patient telephone is located by the nurse's station on the module. You are to use the phone with the privacy enclosure. Please be considerate of others by limiting your call if someone is waiting to use the phone. If you have questions regarding the phone policy or need a quiet place to make an emergency phone call, see your therapist or unit staff."*

IV. Facility Tour

The HRA toured the living modules during a visit at the facility to observe the location of the telephones. The telephone is located in the common lounge area on the unit about two feet from the nurse's cage. The couch and chairs are located approximately 10 feet away from the telephone. There is another common area on the living unit away from the telephone where a pool table and other activities could be held. There are hallways to the left and right of the telephone and nurse's cage area where patient rooms are located. The telephone looks similar to a wall "pay phone" with panels on each side of the telephone, the same height as the telephone. It did not appear to provide much privacy where others in the immediate area could not hear what was being said during telephone calls.

Statutes

The Mental Health and Developmental Disabilities 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 5/2-103) provides that "*except as provided in this Section, a recipient who resides in a mental health or developmental disabilities facility 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 the 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 reasonably 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…"*

Summary

The main concerns raised in this complaint were not having access to the telephone when a patient does not have resources such as a calling card or credit card other than coordinating through his therapist which sometimes takes days to accomplish; the telephones only being turned on during certain hours of the day which often times conflicted with other unit activities; peer to peer verbal and physical aggression due to the lack of access to the telephones; and patients not having privacy during their telephone conversations due to the telephone being placed in the common area of the unit and right next to the nurse's cage. The issue was also addressed with an attorney who sent a letter recommending that Chester's policy be revised to comply with the statutory requirements.

Conclusion

The draft revised telephone policy makes provisions for patients who may not have resources available, such as a telephone card or credit card, to make calls and provides that the facility will allow for two ten minute calls each week for those patients. It also addresses the issue of peer to peer physical or verbal altercations over use of the telephone by directing patients to make requests to staff if they would like to use the telephone when it is already in use and also directing staff to intervene proactively and immediately to prevent altercations. Although the draft revised policy still states that the phones are only on during certain times of the day, it explains that this is to encourage treatment participation and also provides that non-routine calls (outside of regular hours) can be arranged if necessary; the statute only requires that *"telephones are reasonably accessible."* The final issue to address is patients not having privacy during their telephone conversations. During the HRA's tour of the living modules, the telephone was observed being in close proximity to the nurse's station where staff could overhear conversations and also in close proximity to the common living area where other patients may be present or waiting in line to use the telephone. The therapist case notes indicated that the recipient's "conversation appeared appropriate" and after one call to an advocacy agency to report that his electronics were taken the case notes stated "we discussed his electronics."

Although the draft policy addresses some of the issues raised in this complaint, at the time of the complaint the policy that was in effect did not address all of the issues raised. One of the complaints was that telephone calls had to be arranged through the therapist who is sometimes hard to access. The issue of peer to peer aggression over telephone usage was not addressed and the policy stated that calls would be supervised by staff to *"ensure that communications occur without intrusion from others."* Therefore, the allegation is **substantiated** and the following **recommendations** are issued.

1. **The HRA acknowledges that Chester administration is working on a revision to the current patient telephone call policy which will address some of the issues mentioned above. Chester should provide the HRA with a copy of the finalized version of the policy and also take the opportunity to address some outstanding issues raised in this complaint that may not be addressed in the draft policy and incorporate it into the final version.**

2. **The issue of private telephone calls still has not been addressed. The location of the telephones on the units prevents recipients from having private conversations. Chester should explore how adjustments or alternative arrangements could be made to ensure private telephone conversations and report back to the HRA how it will resolve this issue.**

The HRA makes the following **suggestions**:

1. To facilitate private telephone calls, Chester staff could possibly utilize the patient phone call log that is already being kept (in compliance with HIPAA regulations) by making a list of those who would like to use the telephones. This way, there would not be a line while someone is using the telephone, which might also reduce peer to peer aggression over telephone use, and that list could then be used to log once calls

are made. Another possibility is when special arrangements are made for state provided calls, provide a room with staff just outside the door so that legal or sensitive family or guardian phone conversations could not be overheard.

2. The HRA was concerned that the October TPR noted that a behavior data report (BDR) was issued for medication refusal. It was unclear if the BDR was utilized just to document that he refused medication or if it was written and a level change resulted. The HRA suggests that chart information, including the BDR report, be reviewed to ensure that the recipient's right to refuse medication was upheld and he was not inappropriately restricted because of it.