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Egyptian Human Rights Authority
Report of Findings
Chester Mental Health Center
HRA #15-110-9018

Introduction

The Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving a complaint of possible rights violations in the care provided to a recipient at Chester Mental Health facility in Chester, IL. The allegation reported is that Chester Mental Health Center denied a recipient access to mobility aids such as a wheelchair or a walker. If substantiated, these allegations would violate protections under the Mental Health and Developmental Disabilities Code (405 ILCS 5) as well as regulations that govern the Americans with Disabilities Act (28 CFR 35.130).

Chester Mental Health Center is a maximum security forensic mental health facility with approximately 240 beds devoted to males. The allegations were discussed with staff involved in the recipient's care. Relevant policies were reviewed as were sections of the recipient's record with authorization.

Complaint Summary

The complaint stated that a recipient was denied access to mobility aids such as a wheelchair or walker. He allegedly suffers from Parkinson's disease, a serious seizure disorder, heart disease, brain cancer, and other serious medical conditions. The recipient also reports having severe mobility problems and dizziness. A year before the admission at Chester Mental Health the recipient received a prescription for a walker and a wheelchair, but once he arrived at Chester Mental Health the facility took the walker and wheelchair away. The complaint indicates that the recipient has fallen on multiple occasions due to having to walk on his own.

Findings

Interviews

The HRA spoke with the human rights committee chairman on March 30th, 2015, April 30th, 2015, as well as the director of Nursing on July 6th, 2015.

The human rights committee chairman stated on March 30th that the use of either a walker or a wheelchair at Chester can be authorized by a physician after the recipient is assessed. If the physician deems that a mobility aid is necessary for a recipient within the facility, the attending physician will address placement within the facility which is generally in the infirmary.

On April 30th the human rights committee chairman provided that the initial fall assessment was completed on the recipient on 12/23/2014. In accordance with his score and the protocol he would be reassessed each month at Chester. The recipient was admitted on 12/23/2014 and discharged 1/21/2015 prior to the one month review date for the fall assessment.

On July 6th the director of nursing stated that the recipients do get the same services in the infirmary, but they are away from the general population. Once a recipient is moved to the infirmary, they are not subject to stay there until discharge. They will remain in the infirmary until they show signs of improvement, and no longer need assistive aids.

Record Review

The HRA team found that the recipient's treatment plan states that he has the following diagnoses pertaining to the Diagnostic and Statistical Manual of Mental Disorders: **Axis I**- History of Cocaine and Alcohol abuse; Factitious Disorder imposed on self, recurrent episodes; Somatic Symptom Disorder: persistent and severe; **Axis II**- Antisocial Personality Disorder; and **Axis III**- Hypertension; HEP C; Inguinal Hernia. The recipient's admission date was on December 23, 2014. The recipient's treatment plan states that the recipient is alleged to have committed burglary, aggravated driving with a revoked license, disorderly conduct, and unlawful violation of stalking. The recipient was then placed in jail for the charges, and it was then that the recipient was given a full fitness evaluation on 8/15/2014. The doctor who did the evaluation of the recipient determined he had an IQ of 52, and that the recipient did not have a good understanding of the process of trial or the role(s) of trial participants. It was then that the recipient was moved to a different mental health facility on 10/21/2014, and ruled unfit to stand trial on 10/28/2014. The recipient was sent as an emergency transfer to Chester on 12/23/2014. The recipient reported that he was transferred for having sex with a peer, but states, "I was never caught doing this." It is also stated in the psychiatric evaluation that the recipient denies having sex with vulnerable peers at the previous mental health facility where he resided.

In the notes taken from the HRA "Chester File Review" the initial infirmary note included a fall risk assessment. It also states that steps were taken to prevent the recipient from falling in the shower by giving the recipient shoes to wear in the shower, and to have 1:1 observation for the recipient's safety. The HRA did not find any orders in the recipient's chart for a wheelchair/walker/cane, nor did he have one when he was transferred from another mental health facility to Chester.

In the initial nursing assessment that the recipient was given on December 23, 2014 it states under the "risk for falls" section that the recipient has an "unsteady gate/weakness/dizziness". Chester staff proceeded to do a fall risk assessment on the recipient, and he scored in the moderate risk for falls category. This calls for the fall risk to be addressed

in the treatment plan and included in interventions. The moderate risk category requires that the facility must ensure that the shower room is safe (offer a shower chair), and make sure the direct care staff are aware of the potential fall risk.

On December 27, 2014 an injury report was filed because of a fall the recipient suffered in the shower. The injury report shows that the recipient did not suffer an apparent injury from the fall, but the recipient states that he is still suffering severe back and hip pain.

On January 1, 2015 the recipient stated, "I got dizzy when I was getting out of the shower then I slipped and fell out of the shower door." The description of the injury per the nurse is that there were no obvious injuries suffered by the recipient, but the recipient had tenderness to his right knee, right hip, and lower back.

The recipient was admitted into the infirmary at Chester on January 3, 2015. He was admitted because the recipient informed staff that he feels extremely unsafe without a walker, and he will move to the infirmary until the walker issue is resolved. His tentative diagnosis was that he had an unsteady gait, with a final diagnosis of an unsteady gait being resolved.

The progress note dated 12-31-2014 indicated that the writer did not notice any tremors in the recipient's hands or his body.

On 1-1-2015 the progress notes state that the recipient slipped getting out of the shower, and fell out of the shower door. A staff member helped the recipient to his feet, but the recipient was suffering from pain to his right knee, right hip, and lower back. The recipient had stated that the reason for the fall was due to his dizziness, but it was noted that he was not wearing his shower shoes. No obvious injuries were reported.

On 1-3-2015 the progress notes state that the recipient was very upset in the morning claiming that he felt very unsafe without a walker. With the fall in the shower still at the forefront of his mind, he was scared that he would fall again as per the notes. It is documented that the recipient would be moved to the infirmary until the issue concerning the walker was resolved due to the walker not being allowed on his unit. The recipient was asked about his dizziness and he responded, "It comes and goes, I'm not too bad right now." At 0930 on 1-3-2015 a nurse asked the recipient what would help make him feel better, and he responded "I need my walker; I feel dizzy sometimes and need my walker." He then stated that he has a court order for his walker, and "if he doesn't get his walker he will sue everyone."

On 1-4-2015 at 0945 the progress note says that the recipient was calm, and using his walker 100% of the time. The recipient had a steady gait with the walker, but his impression was that he had an unsteady gait.

On 1-5-2015 at 0745 the progress note states that the staff observed the recipient coming out of his room in the infirmary with his walker and the recipient was holding the walker above the floor while walking, and did not slide the walker nor did he bear any weight with it. The recipient was then able to sit down in a chair to watch television before he got up independently

to walk to the water fountain without any difficulty. There was no gait disturbances witnessed by the staff.

On 1-8-2015 the progress note states that the recipient's gait appeared steady, and no tremors were noticed at this time. The recipient remained on 1:1 observation in the shower due to his recent history with slips and falls in the shower.

On 1-16-2015 the progress note mentions that the recipient had a steady gait, and there were no tremors present.

On 1-19-2015 at 1300 the progress note states that the recipient remained on 1:1 observation in the showers to prevent falls.

On 1-20-2015 at 1000 the progress note states that the recipient had a steady gait, and no shuffling of gait. The recipient was on 1:1 observation for history of self-reported (and unwitnessed) falls in the shower.

Policy Review

In the policy "Adaptive, Mobility and Protective Devices, and Medical Immobilization Care of Patients" the procedure states,

Mobility devices at Chester are authorized by our internal physicians through written orders for individual patient needs. Devices shall only be used when:

- A. Professional assessment has indicated the need for such a device. (This may be internal or external physician's orders).
- B. The treatment/habilitation team determines that the device is warranted and specifies the purpose, benefit and use schedule of the device in the recipient's individual treatment or habilitation plan
- C. For orthotic devices, prosthetic devices and mechanical supports, a physician has written an order to obtain the device. Protective devices worn by a recipient (i.e., a helmet) and toilet trays also require a physician's prescription, which must be renewed every 30 days. Bed rails require only an initial prescription. The prescription for orthotic devices must be renewed every 30 days.
- D. For protective devices, a protocol or procedure for use must be established that indicates the conditions, frequency and duration of the device's use. The facility's Human Rights and Behavior Management/Clinical Review Committees must approve the use of a protective device, except for bed rails.
- E. The treatment/habilitation team evaluates and reaffirms the need for the continued use of the device as specified in the recipient's plan at least annually. When professional

assessment indicates that a patient requires nutritional adaptive device, the devices will be stored and sanitized in the dietary department.

Also in CMHC policy RI .03.07.00.02:

RI .01.01.02.01 PATIENT RIGHTS PATIENT PERSONAL PROPERTY

I. Authorized Property

A. A patient's right to personal property as described in the Mental Health Code and the possibility of restriction of such property shall be included in the Patient's Handbook, provided to patients upon admission. Possession and use of certain property may be prohibited or restricted to protect the patient or others from harm....

III. Unauthorized Property

A. Any item deemed by the Hospital Administrator to be a danger to the patient or others may be prohibited or restricted through the restriction of rights process documented on form IL462-2004 M (formerly MHDD-4)....

D. All patients have the right to their personal property. If the patient's clinical condition warrants removal of personal property or limiting access to specific personal property then it will be considered a restriction....

E. Some property items have been identified as "contraband" for patients due to the item being potentially harmful or subject to potential abuse and to protect the patient and others from harm as determined by the Hospital Administrator. Completion of Restriction of Rights is not required in this instance.

The following items are confiscated by security staff, turned over to the proper authorities or destroyed and not returned:

1. weapons
2. illegal or unauthorized drugs
3. alcoholic beverages
4. unauthorized chemicals
5. firearms and explosives

The following items are prohibited for use and are considered contraband items and will be placed in personal storage or the patient may send to his family/friend at the patient's expense. Completion of Restriction of Rights is not required in this instance.

The policy goes on to identify various contraband items, including: rubber bands, matches, razor blades, jewelry, tobacco products, etc. The list also includes canes and crutches, but makes no specific mention of walkers and wheelchairs.

Conclusion

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

“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 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. The facility shall advise the recipient of his or her right to designate a family member or other individual to participate in the formulation and review of the treatment plan. 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 under subsection (d) of Section 2-200 shall be noted in the recipient's treatment plan.”

Pursuant to the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-104):

Every recipient who resides in a mental health or developmental disabilities facility shall be permitted to receive, possess and use personal property and shall be provided with a reasonable amount of storage space therefor, except in the circumstances and under the conditions provided in this Section.

(a) Possession and use of certain classes of property may be restricted by the facility director when necessary to protect the recipient or others from harm, provided that notice of such restriction shall be given to all recipients upon admission.

(b) The professional responsible for overseeing the implementation of a recipient's services plan may, with the approval of the facility director, restrict the right to property when necessary to protect such recipient or others from harm.

(c) When a recipient is discharged from the mental health or developmental disabilities facility, all of his lawful personal property which is in the custody of the facility shall be returned to him.

Pursuant to the Americans with Disabilities Act (28 CFR 35.130).

(a) No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

- (b) (1) A public entity, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability
- (i) Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service;
 - (ii) Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
 - (iii) Provide a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;
 - (iv) Provide different or separate aids, benefits, or services to individuals with disabilities or to any class of individuals with disabilities than is provided to others unless such action is necessary to provide qualified individuals with disabilities with aids, benefits, or services that are as effective as those provided to others;
 - (v) Aid or perpetuate discrimination against a qualified individual with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to beneficiaries of the public entity's program;
 - (vi) Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards;
 - (vii) Otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

Based on the available information obtained in the interviews, records and policy reviews, the HRA concludes that the practices in this case are in compliance with the basic requirements of the Mental Health Code, the Americans with Disabilities Act as well as the policy at Chester. According to the policy titled "Patient's rights/Patient's Personal Property" it states that the assistive devices of canes or crutches are not allowed on the unit due to safety for all the recipients at the facility although walkers and wheelchairs are not specifically mentioned. The recipient was able to have full access to his mobility aids in the infirmary at Chester. In addition, Chester did provide aids to the recipient to help prevent falls in the shower, such as a shower chair and shower shoes. Therefore, the allegation that the recipient was denied access to his mobility aids while at Chester Mental Health Center is **unsubstantiated**.

Suggestions:

1. When a recipient is sent to the infirmary as a mobility accommodation, ensure that treatment services are comparable to the services he would receive if on a regular unit.
2. Consider if placement in the facility infirmary solely based on the use of a mobility device is consistent with the principle of least restriction and with ADA requirements.