FOR IMMEDIATE RELEASE

Egyptian Regional Human Rights Authority
Report of Findings
17-110-9009
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's phone usage has been excessively restricted.

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, the HRA interviewed the recipient, reviewed the recipient's record with consent, and examined pertinent policies and mandates.

I. Interviews:

Recipient: The HRA met with the recipient in September, 2016 regarding the allegation. He said his telephone usage has been restricted since April due to him making a telephone call to a staff person at another state operated facility (SOF) where he previously resided. That staff person had made an allegation against him that sent him to Chester. The recipient stated that calling the telephone number was an accident, he had the number written on a piece of paper and his son's initials were written next to the number so he thought it was his number. At that time, staff dialed the phone for him when he needed to make a call and security therapy aides (STAs) would stand right next to him while he is talking on the telephone. He did not know the STA names. His treatment team continues the telephone restriction monthly and gives him a new restriction of rights form (ROR) each month that is good for 30 days. He has asked how long the restriction will last and staff tells him it could last forever if they want it to. He stated that he has not called the number since but the restriction continues. He has requested a policy on restrictions but staff refuse to give it to him.

In December, the HRA met with the recipient again to touch base on the restriction. He said that at that time he was only allowed 1-2 calls per day and he had to go through his Unit Director and Social Worker to make calls from his therapist's telephone; he was no longer allowed to use the

unit phone. When he uses his therapist's telephone, a STA and his therapist stay in the room and listen to his conversations. He said this makes him uncomfortable because sometimes he may have things he needs to discuss with his lawyer or family that he does not want staff to hear. He said that the increased restriction was due to him "mouthing" staff because his son had died and Chester staff sent a letter to the court to keep him from attending his son's funeral. He said he has never been affiliated with a gang but Chester's letter to the court said that he had told them he was going to call his gang on staff. The Judge signed the letter prohibiting him from attending his son's funeral, and that day he stayed in bed and "mouthed" to staff because they refused to let him use the telephone to talk to his family. Staff then made comments that he should not be upset about it so he "mouthed off". He said that he did not get violent with staff, just "mouthed" them but they said he made threats towards them so his telephone usage was restricted further. When the HRA met with him he said he had been on green level since early December but the increased phone restriction still continued. His Unit Director told him that they have to keep the phone restriction because the other state operated facility wanted him to remain on the restriction.

The HRA again met with the recipient in March, 11 months after the initial restriction was put in place. He said he had been able to use the module phone but then in February they made him go back to using his therapist's phone; he did not know the reason behind that. He said he had met with his previous therapist and she had asked if he felt remorse and wanted to apologize for what he said to staff. He replied that he did not because they did not feel remorse for denying him the opportunity to attend his son's funeral. After that he was moved to another unit and therefore, had a new therapist. At that time, he was able to use the unit phone and dial the number himself.

II. Clinical Chart Review

The HRA reviewed a memo dated September 19, 2016 from the Forensic Coordinator at the other State Operated Facility (SOF) to Chester's Interim Hospital Administrator which stated *"We are requesting that a resident within your facility [name] be restricted from calling the following private telephone numbers of a staff person at our facility. The telephone numbers are [two numbers listed.]"*

A. Progress Notes: The HRA reviewed a Psychiatrist Progress Note dated 4/22/16 which stated that the recipient was transferred from another SOF for *"attacking a female staff member in a shower room at [SOF] on 2/16/16. He restrained the female staff member and prevented her from leaving the shower room. He was reportedly experiencing delusional beliefs towards the female staff member; he licked her face and put his hands down her shirt...He blames all legal and psychological problems on the psychiatric medications that he has been over the years including murdering a man who he claims was in the wrong place at the wrong time. He blames the female staff at [SOF] for his current predicaments. He is currently delusional with a great deal of referential thinking and projection of blame to others for his actions. He denies being mentally ill and continues to refuse all psychotropic medications. He has absolutely no insight and remains at great risk of harming others."* A social work progress note dated 5/2/16 documented that the *"coordinating therapist and acting unit director met with recipient in the Unit conference room. Recipient has been restricted from the use of the patient phone only to call OIG, Equip for Equality or other agencies; other phone calls will be assisted by this unit*

director and coordinating therapist. Recipient did attempt to complete calls to his son and son's mother, but no one answered. Recipient was not in agreement with phone restriction but was able to be redirected. Reference can be made to restriction of rights for reasons the restriction was implemented." On 5/3/16 another social work progress note documented that the unit director and therapist met with the recipient and assisted him with family phone calls from the conference room and that he was given a restriction of rights for phone privileges. The recipient *"stated his displeasure with the restriction since 'I only did it one time.'"* On 12/1/16 social work note stated that his *"restriction was reviewed and continued. It will be reviewed weekly."* Another social worker note at 10:30 a.m. that day showed that the recipient requested a phone call and made the call and then *"exited this writer's office."* Another social worker note at 10:45 a.m. stated that he requested a call to the HRA and was brought to the conference room. It was documented that *"this writer dialed the phone and then stepped out of the room and security stood outside the door."* A 12/6/16 Unit Director note documented that the recipient was *"brought to conference room to meet with treatment team regarding supervised telephone restriction. [Recipient] stated 'put my phone calls back on the unit' [recipient] notified that supervised telephone calls will continue to be in unit conference room with the coordinating therapist or Unit Director. [Recipient] requested to speak with coordinating therapist or Unit Director regarding supervised telephone as multiple STAs on unit report [recipient] asks the STAs to charge his calls. [Recipient] as reported by other patients, is asking [patients]to be 'look-outs' so that [recipient] can place calls on the module telephone. [Recipient] was asked to comply with his telephone restriction. [Recipient] again stated 'the numbers don't work anymore anyway.' [Recipient] was informed that notification of this information was sent to [prior SOF] as well as a request to validate the numbers to see if the request per [prior SOF] needs review. Awaiting response from [prior SOF]. [Recipient] reminded that the treatment team is working in a positive direction in communicating and facilitating his request."* A 12/6/15 social worker note at 9:55 a.m. documented that the recipient requested to make a phone call. The STA II *"stated that he did not have enough staff at this time. This writer explained this to [recipient]. He was informed that when the security staff return he will be able to make a phone call."* At 10:45 a.m. it was documented that he was given a phone call as requested. Another note at 11:35 a.m. documented that he was given a second phone call that day. A 12/8/16 Unit Director note documented that the recipient was called to the conference room with a STA I to give him an update received from the prior SOF regarding continuing the request for supervised telephone restriction. That SOF requested in writing that the recipient's phone restriction be continued. He became angry and stated *"Well I want my calls back on module."* He was reminded that his supervised restriction was for in the conference room with either the Coordinating Therapist or Unit Director. He stated *"I only called those numbers once."* He was reminded again of the written request for supervised telephone restriction and it was documented that he was given a Restriction of Rights form. A 12/19/16 Unit Director Note documented that the treatment team members (social worker, STA II, Nursing Manager) met to discuss changing his supervised phone calls from conference room back to the module with the supervision of an STA I or STA II. The recipient was asked to come to the conference room to discuss supervised telephone restriction, but he refused stating *"I don't want to deal with them."* On 1/3/17 the Unit Director documented a restriction review for his supervised telephone restriction. The recipient was brought to the conference room to explain to him the plan to move supervised telephone calls from the conference room back to the module with a restriction of two specified telephone numbers as requested in writing by the other SOF. A new ROR form was given to the

patient and the treatment team was in agreement. A 1/12/17 note documented that the restriction was reviewed and would continue and will be monitored/reviewed weekly. On 2/2/17 a Unit Director note at 2:55 p.m. documented an incident where the recipient made verbal threats to his social worker saying that she was stupid and would "pay for that [expletive.]" He refused a PRN medication and refused the quiet room and at first the recipient refused to meet with staff to discuss the verbal aggression, eventually agreeing to meet with the Unit Director. During their meeting he also called the Unit Director names and stated that she wasn't qualified for her job and that staff laughs at her. Redirection was attempted and the recipient began cursing the STA and the Unit Director. He was informed because of the threats to staff and verbal aggression stating *"this is a small town, I've got people for your ass"* he would be placed in the security room, on property restriction, supervised pencil use and supervised telephone use and that all calls were to be made in the conference room with the therapist or Unit Director. It was documented that a ROR form was completed and given to the recipient but he refused a copy. Another case note dated 2/2/17 at 1:40 p.m. documented that he was placed on property restriction and supervised pencil use, a nursing note at 4:05 p.m. documented that the recipient was told to stay in his room by the charge aide and after that the recipient requested to go to the seclusion room which followed his emergency preferences. He remained in seclusion until 11:40 p.m. The Unit Director documented the next day 3 attempts to meet with the recipient to discuss his verbal aggression and seclusion request. The recipient refused the first two times and finally agreed to meet with the Unit Director at 3:00 p.m. During that time, the treatment team's decision was shared with him informing him that his *"phone privileges"* would be returned to the module with a restriction of the two telephone numbers that he was prohibited from calling and that the loss of off unit privileges would be continued and would be re-evaluated in 3 days (after the weekend). The following Tuesday (2/7/17) the therapist met with the recipient to discuss his maladaptive behavior from the prior week. He stated he was angry due to not being allowed to go to his son's funeral. His phone restriction was explained to him in that he would make phone calls with only the therapist now, that it would be on a schedule and he would be able to make calls on either Thursday or Friday. During the treatment team meeting an hour later, case notes documented that the recipient reported no major issues or concerns and reported that he is in agreement with making phone calls with the therapist on Thursday or Friday. At 3:00 p.m. the therapist documented that she assisted him with a phone call to a person he reported as being his new attorney for his NGRI plea. The therapist documented that "*while on the phone [recipient] reported to the other party that he got his phone privileges taken away and he didn't do anything wrong for this to happen."* The note continued by stating that *"when done with the phone call this clinician explained that I will help him make a phone call on Thursday or Friday. This clinician will continue to offer supervised phone calls due to written restriction."* A 5/6/17 therapist note documented that restricted phone usage was reviewed and renewed *"per a written request that he refrain from contacting his alleged victim…continues to follow module rules and routine without difficulty. Behavior is void of verbal and physical aggression."* Another chart review was completed in August and it was noted that the recipient was still on phone restriction for the two numbers he could not call, but he was allowed to make calls from the unit and was not required to go to the therapist's office on only Thursday or Friday to make calls. A therapist note dated 8/24/17 documented that the facility had received a phone call from another state operated facility stating that a former patient he is calling is upset as a result of the phone calls. The recipient "*reported he would no longer call that particular patient. He also reported he has contact with two other former patients and was 'just checking to see if*

they have beds.' This clinician explained that if there is an opportunity to transfer this clinician will share that information with him."

B. Restriction of Rights (ROR): On 4/30/16 at 10:20 a.m. until reviewed by the treatment team, the recipient was placed on supervised telephone restriction for "inappropriate use of telephone (Restriction issued per Facility Director)." On 5/2/16 at 9:30 a.m. - 6/2/16 the recipient's supervised phone usage was agreed on by the treatment team and the ROR form was completed because *"patient was calling an STA from [prior SOF] on her personal cell number. Patient is only allowed to call OIG, Human Rights or other agencies from patient phone on module. All personal calls will be given by unit director/coordinating therapist."* This form was signed by the Human Rights Chairperson, the Hospital Administrator and Unit Director. The restriction was renewed on 5/25/16 and every month thereafter. A new ROR form was completed on 2/2/17 at 9:00 a.m. to 3/2/17 9:00 a.m. for supervised telephone usage but it was worded differently and stated *"called a staff number at [prior SOF] whom he attacked physically and sexually. As a result of the telephone call, [prior SOF] requested [recipient] not be allowed to call the following numbers [numbers were listed.] Calls may be made on module by patient."* This form was signed by the Hospital Administrator and a RN/PSA. On 2/2/17 at 1:30 p.m. to 3/2/17 1:30 p.m. another ROR form was completed for supervised pencil use for *"verbal aggression, threatening staff."* This form was signed by the RN/PSA only. Additionally, another ROR was completed for supervised telephone usage and listed the same narrative as before specifically listing the two numbers he could not call and added this sentence: *"all calls will be made by Therapist/Unit Director in the conference room."* This form was signed by the RN/PSA only. Finally, a ROR for 2/3/17 at 3:00 p.m. – 3/3/17 at 5:00 p.m. was completed for supervised telephone usage. This restriction listed the same narrative for the reason for restriction listing the two specific numbers and added the sentence: *"Calls may be made by the Patient on the module."* This form was signed by the RN/PSA and the Assistant Facility Director. The 5/26/17 to 6/26/17 ROR form stated that *"per written request [recipient] called the staff member that he allegedly sexually and physically attacked at [SOF] has sent a written request that he not be allowed to call [two numbers.]"* The 7/26/17 to 8/26/17 ROR form stated *"phone supervision. May not call [two numbers.]"*

The HRA also reviewed "progress note" forms signed by the coordinating therapist only starting 5/24/17 that consisted of one sentence that was repeated on each weekly note with only the dates changing. It stated *"Per written request [recipient] is not to call [two numbers]. This continues to be renewed on a weekly basis and is due to be renewed on [date]."* The HRA found discrepancies in the dates on the forms, however, that raised a question as to whether or not the restriction was actually being reviewed. The restriction forms dated 6/7/17 and 6/14/17stated that the restriction was *"due to be renewed on 5/26/17."* The restrictions dated 6/28/17, 7/4/17, 7/12/17, 7/19/17 and 7/25/17 all stated that the restriction was *"due to be renewed on 7/26/17."* The restriction dated 8/2/17 stated it was *"due to be renewed on 8/26/17."*

C. Treatment Plan Reviews (TPRs): The initial 72 hour TPR dated 2/19/16 stated that the recipient is admitted as NGRI on First Degree Murder charges with a theim date of 12/13/2062. It was noted that the recipient is appealing his case. He was transferred to Chester due to attacking a female staff member at a prior SOF in the shower room. He was reportedly experiencing delusional beliefs towards the female staff member. He has a history of mental

illness, physical aggression and violence along with a history of criminal behavior and incarceration. His primary diagnosis is listed as schizophrenia, paranoid type and his secondary diagnosis is Antisocial Personality Disorder. His emergency preferences are listed as seclusion, restraint, and then emergency medication. The criteria for separation (to be recommended for return to a less secure facility) was listed as *"patient must exhibit an ability to inhibit any significant impulses of violence towards himself or others. He must express a genuine desire for transfer, be cooperative in his treatment as evidenced by his statements, the taking of any medication deemed as essential in his treatment and the ability to cooperate with the receiving facility and not present an elopement risk"*. The recipient signed his TPR indicating he was in agreement with the treatment plan.

The 4/22/16 TPR stated that no restriction of rights had been given at that time and stated that he had not had any reports of aggression that reporting period. The criteria for separation had not changed and barriers to transfer were listed as being a danger to others, non-compliance with medication, psychosis and inappropriate sexual behavior (on-going). He refused to consent to medication and it was noted that he does go to off unit activities with no aggressive behaviors being reported. He listed his treatment goal as being transferred back to a less restrictive environment.

The 5/19/16 TPR stated that no restriction of rights had been given at that time and that he had not had any reports of aggression. However, in the problem section addressing his aggression, it was noted that he was not progressing towards his goal of being transferred to a less restrictive environment and had been placed on supervised phone restriction due to a phone call placed by him to the staff employed at the SOF who was involved in the incident which mandated his transfer to Chester. Then it also noted that on 5/18/16 he had an incident with an educator in horticulture class where he *"walked very close behind her and brushed his hand across her buttocks. According to the educator this had happened before. However she thought it might have been accidental and did not report the incident…During the TPR meeting with the treating psychiatrist and with his daughter listening he did acknowledge that something may have happened unintentionally."* The same section noted that the recipient had previously had psychological testing in 2015 which indicated that he is well within the range for psychopathy and exceeds that of most peers in the variety of factors and facets. It was also noted that Chester staff were educated on treating a person with this level of psychopathy. It also was noted in this section that the recipient *"has become upset due to being caught making a telephone call to his son and son's mother. He currently is restricted from making phone calls unless therapist available."* The extent to which benefitting from treatment section documented that his son refused to participate in the TPR but his daughter agreed and that the patient reported the alleged incident in the horticulture class as "accidentally bumping" into the staff person and denied anything is wrong with him. It was noted that he was on red level at that time and could not be sent to the rehab department until further review.

The 11/29/16 TPR documented in the restriction of rights section that he had received restrictions and stated that on *"4/30/16 the facility received an email from [STA at prior SOF]. She reported that [recipient] called the staff member that he sexually assaulted. She requested that [recipient] not be allowed to call this individual again. Therefore, [recipient] was placed on a phone restriction beginning 5/2/16. He is to be supervised by staff when given access to*

making phone calls. He is prohibited from calling [numbers listed]. Restriction is reviewed weekly. In the progress section it was noted that he continued to violate rules and his phone restrictions. It continued by saying that he has mood changes which gives the potential for aggressive behavior and shows signs of paranoia; but, he is not currently taking any psychotropic medications, and he stated that he did not need them. He remained on telephone restriction and could only make calls with supervision. It also noted that he had been placed on frequent observation for safety and safety of others from 11/2/16 to 11/14/16. He began taking medication on 11/17/16. He had received 17 behavior reports that period for not following directions, trading personal items, manipulative/bullying behavior; verbal threats and cursing; being loud and disruptive and one for bizarre behavior. The extent to which benefitting from treatment section documented that the recipient stated he was doing well, but when staff reported that he had not attended any groups and continued to violate rules and push the limit with his phone restrictions, he became agitated and upset. He was also informed during that session that his request to attend his son's funeral was denied by the court. He asked why but did not show any emotion. Then he asked about transfer to a less restrictive setting and staff told him that he would need to follow rules before a transfer could be recommended and he became extremely irate and upset; the session had to be terminated due to him not being able to be redirected by staff.

<u>The 2/7/17 TPR</u> still noted the continued ROR for telephone usage noting he is to be supervised by staff when given access to making phone calls and listed the two numbers he was still prohibited from calling. At that time, he was still not enrolled in rehabilitation programming but was participating in activity therapy. It was also noted that he had recently changed therapists. It noted that he had contact with his mother and brother on a weekly basis "via staff assisted telephone calls" and stated that he could receive phone calls as needed with administrative approval. The extent to which benefitting from treatment section noted that he was in attendance and the recent seclusion episode was discussed. He was placed in seclusion after he called staff names and threatened to put a bullet in staff's back, and he told the nurse manager that he knows where she lives. It was noted that he would be placed on a behavior plan to address his negative behavior. The recipient signed indicating agreement with the treatment plan.

The <u>7/25/17 TPR</u> noted that the recipient does have a restriction of rights from 4/30/16 when Chester received a request from another state facility that he not be allowed to call two specific numbers that are personal numbers of a staff member that he allegedly sexually assaulted. The restriction note in the TPR states that the recipient *"was placed on a phone restriction beginning 5/2/16. He is to be supervised by staff when given access to making phone calls. He is prohibited from calling [two numbers]."*

<u>III...Facility Policies:</u>

<u>RI .01.01.02.01 Patient Rights: The Patient Rights</u> policy states *"It is the policy of Chester Mental Health Center (CMHC) to respect the rights of patients and not to abridge said rights without cause and without due process. Restrictions, as such, should have a clinical rationale and serve to facilitate a therapeutic treatment setting. Each patient admitted to Chester Mental Health Center shall be treated with respect and shall be ensured of all rights under Sections 2-100 to 2-111 of the Mental Health and Developmental Disabilities Code. Restrictions of rights*

and corresponding rationale shall be properly documented in the patient's clinical records." This policy states that a patient has the right to *"be provided with adequate and humane care and services in the least restrictive environment pursuant to an individual treatment plan…*

E. A list of patients' rights as delineated in the Program Directive 02.01.06.010, Prevention of Abuse and/or Neglect of Individuals, is as follows…

2. Individuals shall have the right to unimpeded, private, and uncensored communication with persons of his or her choice by mail, telephone calls, and regular visitors…

A. Non - Emergency Restriction of Rights

1. A restriction of a patient's rights should be based on clinical assessment of the patient and/or the situation. A Notice Regarding Restricted Rights of Individuals (IL462-2004M) will be issued to restrict the patient's rights.

2. If any of the patient's rights as described in Section I. of this procedure are restricted then a Restriction of Rights of Individuals (IL462-2004M) will be initiated. This includes when a patient is restrained, secluded and/or subject to a physical hold.

3. The Unit Director or designee will ensure that the initiation of the restriction is reported, discussed, and approved at the Facility Morning meeting.

4. When a Restriction of Rights is implemented and reviewed by the treatment team – emergency or non-emergency they will ensure the restriction form is approved and signed by the Facility Director or designee. When the Restriction of Rights involves mail, access to the patient's room, or telephone, the form IL 462-2004M must be signed by the Facility Director or designee prior to initiation of the restriction…

Restrictions of rights review.

A. A formal review of the restriction must be conducted weekly by the treatment team and documented as completed on REVIEW OF PATIENT RIGHTS RESTRICTIONS CMHC-774. A progress note shall be included in the patient's chart and shall include the following:

1. Date of the review.

2. Decisions/results of the review.

3. Rationale for all decisions/results.

B. If the restriction is continued beyond one month, a new form IL462-2004M NOTICE REGARDING RESTRICTED RIGHTS OF AN INDIVIDUAL shall be completed and the steps followed in Section II regarding notification shall be completed. This shall be repeated, if necessary, every 4 weeks thereafter, for the duration of the restriction.

C. The Unit Director is responsible for ensuring the extended restriction is reviewed and discussed on a monthly basis in the Facility Morning meeting.

D. Restrictions continued beyond one month, must be reviewed and approved by the Facility Director or designee.

E. If the treatment team determines that it is appropriate to schedule reviews on an alternative schedule, this must be approved by the Unit Director and documented in a progress note with the rationale for the alternative schedule of review.

F. In the event that a restriction is modified in any way, notification as described in (II.C.) shall occur.

G. A note shall be entered into the progress note section of the clinical record whenever a restriction is removed. The note shall detail the date, the reason for removal. The removal of the restriction shall also be recorded in the unit log book.

H. The Unit Director will ensure all the steps of the Restriction of Rights process and required documentation are completed. This includes initial, weekly, and monthly progress note documentation until the restriction is discontinued"

RI .03.05.02.02 Patient Telephone Calls policy states *"a recipient who resides in a mental health or developmental disabilities facility shall be permitted unimpeded, private, and uncensored communication with persons of their choice by mail, telephone and visitation. Thus, telephone communication is a right not a privilege to individuals receiving services. 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…*

*Patients have the right to make and receive phone calls according to the processes described in sections A, B, C, and F. If the 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 outgoing calls, incoming calls, or those to a specific individual after issuing a Notice Regarding Restricted Rights of Individual (IL462-2004M - AMHC Version). This will require prior approval from the Hospital Administrator as well as a written request from the requestor if the restriction is being requested from an outside party. The Restriction of Rights will specify the duration of the restriction, and the rationale (i.e., evidence of harm, harassment, or intimidation which makes continued telephone communication clinically contraindicated for safety) 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 continued a new restriction of rights form will be issued indicating the duration of the restriction and the defined behavioral reasons for continuation. *Restrictions should not exceed 7 days, unless the circumstances are such that an extended period of restriction is warranted (not to exceed 30 days).*
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."

Statutes

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-100) guarantees that "*no recipient of services shall be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Illinois, or the Constitution of the United States solely on account of the receipt of such services."*

The 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 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."

The Code (405 ILCS 5/2-103) provides that *"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..."

The Code (405 ILCS 5/2-201) requires that *"(a) Whenever any rights of a recipient of services that are specified in this 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 Acts therein named", approved September 20, 1985,1 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 restraint or seclusion and the reason therefore in the recipient's record."

Conclusion

The complaint alleged that a recipient's telephone usage was excessively restricted after a phone call was made to a staff person at a previous SOF in April, 2016 that he had been aggressive towards and was the reason for his transfer to Chester. As of August, 2017 the recipient's phone usage was still restricted to a certain degree.

The HRA found that initially in May, 2016 the recipient was restricted from using the module phone and all of his calls were to be facilitated by his unit director and coordinating therapist. A therapist note in December, 2016 documented that the restriction from using the module phone continued by stating that he had made a call and then *"exited this writer's office."*

In January, 2017 the restriction of rights form indicated that the recipient could make calls from the module phone again but was still prohibited from calling two specific numbers due to a written request from the previous SOF as the numbers were personal numbers of a staff person there. In February the recipient made verbal threats to staff and as a result he was placed in the security room, on property restriction, supervised pencil use and his phone call restriction returned to only being able to make calls in the conference room with the therapist or Unit Director. On 2/2/17 at 9:00 a.m. the restriction signed by the Facility Director stated that the recipient could make calls on the module with the exception of the two prohibited numbers. Another restriction was completed at 1:30 p.m. that same day and stated that calls could only be made in the conference room by the therapist or Unit Director this form was signed by the RN/PSA only. The next afternoon on 2/3/17 at 3:00 p.m. a ROR was completed for supervised telephone usage which again stated that calls could be made by the Patient on the module. This form was signed by the RN/PSA and the Assistant Facility Director. The following Tuesday 2/7/17, the therapist met with the recipient to discuss his maladaptive behavior of threatening staff from the prior week which resulted in him being in seclusion for approximately 5 hours. He stated he was angry due to not being allowed to go to his son's funeral. His therapist explained that his phone restriction had been reviewed and it was decided that he would be allowed to make phone calls with only the therapist on scheduled days of either Thursday or Friday which further restricted phone usage and it was noted in case notes that he disagreed with this new restriction. However, the treatment team met with him later that same day and the TPR documented that he *"reported he would make phone calls with this clinician on Thursday and/or Friday."* The last restriction of rights reviewed by the HRA was in August, 2017 which stated that the recipient was still prohibited from calling the two specific numbers but his phone privileges had been returned to the telephone on the module. Although the facility did have a written request prohibiting the recipient from calling two specific numbers, nothing in that request required the calls to be made only in the conference room by the Unit Director and/or Therapist who typically work daytime hours Monday through Friday. The facility policy on patient rights states that when a restriction of rights involves access to the telephone, the form must be signed by the Facility Director or designee **prior to** initiation of the restriction. This policy also requires that restrictions which are continued beyond one month, to be reviewed and approved by the Facility Director or designee. There seemed to be confusion surrounding the continued restriction in February, 2017 as there were multiple forms in a two day period signed by different people with different levels of telephone restriction. The initial restriction was signed by the Facility Director which allowed calls to be made on the module phone as did the third restriction signed by the Assistant Facility Director; however, a second restriction was signed by the RN only allowing calls to be made in the conference room by the Therapist or Unit Director. The next week yet another restriction was implemented which further restricted the recipient by only allowing calls to be made on Thursday or Friday in the Therapist's office. The patient telephone policy states that restrictions should not exceed 7 days, unless the circumstances are such that an extended period of restriction is warranted (not to exceed 30 days). Although the HRA understands that two telephone numbers were restricted for this recipient due to a written request, for 10 months his phone use was only allowed in the conference room with either the therapist or unit director which further limited the days and times he could make phone calls. The HRA contends that staff dialed or supervised phone usage on the module phone would have adequately allowed staff to ensure the prohibited numbers were not dialed and would have also allowed the recipient to have telephone usage at times that were

more conducive to friends and family's schedules. Therefore, this allegation is **substantiated.**

The following **recommendations** are made:

1. When telephone restrictions are necessary, staff should ensure that those restrictions are compliant with the Mental Health Code requirements of reasonable access to telephones at reasonable times and places (405 ILCS 5/2-103) and that all restriction of rights relating to communication are approved by the Facility Director prior to implementation as required in the facility policy on patient rights.

2. It was noted that in some cases during therapist assisted phone usage, the recipient had private and uncensored communication as required by the Code (405 ILCS 5/2-103) as the therapist had documented that she stepped out of the room and security stood outside the door. However, at other times, case notes documented that telephone conversations were monitored as the therapist documented specific things the recipient said while he was on the telephone. Staff should be reminded of the requirements in the Mental Health Code which allow patients to have private and uncensored conversations.

3. The HRA was also concerned that the restriction was not being reviewed on a weekly basis as required by facility's telephone policy as the therapist's notes stated that weekly reviews were being conducted but the dates in the case notes documenting when the reviews were conducted and were next due did not line up with weekly timeframes. The Facility Director should ensure that restrictions are reviewed as required by facility policy.

4. There was some concern that the level of telephone restriction seemed punitive in nature and in response to a maladaptive behavior of the recipient which resulted from him not being able to attend his son's funeral. This violates the facility's patient rights policy which requires restrictions to *"have a clinical rationale and serve to facilitate a therapeutic treatment setting."*

5. Finally, the HRA was concerned with the language in the Unit Director's 2/3/17 note documenting a meeting where the treatment team explained to the recipient that his *"phone privileges [are] returned to module"*. The HRA would like to take this opportunity to point out that telephone usage is a right of recipients guaranteed under the Mental Health Code (405 ILCS 5/2-103) and not a privilege. Administration should ensure that all staff members understand that telephone usage is a right of recipients and not a privilege.