



FOR IMMEDIATE RELEASE

**Egyptian Regional Human Rights Authority
Report of Findings
17-110-9018
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 allegations concerning Chester Mental Health Center:

- 1. A recipient is being denied unimpeded, private phone calls.**
- 2. The facility has not been communicating with a patient's guardian.**

If found substantiated, the allegations represent violations of the Mental Health and Developmental Disabilities Code (405 ILCS 5/2 102 - 103), the Probate Act of 1975 (755 ILCS 5/11a – 23), 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 he had been at Chester since February, 2017. He states that his therapist would not allow him to have private phone calls. The therapist would only let him use the phone twice a week in which she would sit and listen to him talk. Some weeks, the recipient would not see his therapist at all, and therefore, he would not be allowed any phone calls. The recipient does not have a phone card to make any calls without the therapist. The recipient feels like he is wasting time at the facility because he just stares at walls all day. There are no Unfit to Stand Trial (UST) groups, and his therapist does not engage in conversation with him. Instead, the therapist constantly judges him saying, “You put yourself in this predicament.”
- B. Guardian:** The guardian was interviewed in May and again in June. She informed the HRA that the facility has not been communicating with her regarding treatment plan meetings, or notifying her of restraints or other issues. She has not been given appropriate documents to sign acknowledging that she was notified of restraint episodes or restrictions or indicating her agreement to treatment plans.

The guardian has reached out to the therapist/social worker multiple times, but the therapist/social worker never returned the calls. The guardian had a meeting with the therapist when she came to visit the facility in April. The therapist made it clear to the guardian that she could call her with anything, but then refuses to return the calls when the guardian leaves messages. April 5th was the last time the guardian was in contact with the therapist, other than the one time visit.

The main concern expressed by the guardian was the lack of communication regarding treatment meetings which prevented the guardian from participating either in person or by telephone.

C. Hospital Administrator: During the phone conversation with the Hospital Administrator, the HRA discussed several releases of information that were found in the chart with the recipient signature and no indication of guardian approval. The Hospital Administrator agreed to follow up with the recipient's new therapist regarding the release forms. An hour later, he called back informing the HRA that the therapist explained that the parents were aware of the transfer to the community treatment facility upon his return to court for fitness hearing and that his parents were in agreement with the placement. The therapist said it was noted in the chart, however, the HRA did not see any documentation.

II. Clinical Chart Review:

A. Treatment Plan Reviews (TPRs): The 02/27/17 TPR documented a Court Hearing on 12/22/16 when the recipient was found unfit to stand trial. He was transferred to Chester Mental Health Center on 02/27/2017. It was noted in the TPR that he is offered two stamps per week to maintain communication. He may receive phone calls as needed with administrative approval. There is a phone on the module that he may call collect from or use a calling card to dial out. In this Treatment Plan no Guardian participation was noted and there was no signature on the record. The recipient's signature was present on the form.

The 04/17/17 TPR states that the recipient attended and signed that he was in agreement with his treatment plan. However, the guardian was not contacted to sign the new treatment plan and there was no indication that she participated in the meeting. The recipient received one restriction of rights for pencil supervision. This was due to him refusing to turn his pencil in when asked and reporting that he had lost it. In addition, the recipient received one restrictive procedure since the last review of emergency enforced medication on 3/15/17. No guardian signature was present on the form and there was no indication that she was involved in the treatment meeting. The recipient's signature was present.

The 07/18/17 TPR states that the treatment team met with the recipient to hold his treatment meeting. There was no indication that the guardian participated in the treatment meeting and there was no guardian signature on the form. The recipient's signature was present. The treatment team tested and evaluated the recipient for fitness. He scored 100% on the fitness test. Therefore, in the treatment team's opinion, the recipient was fit to stand trial.

B. Progress Notes:

- On 3/6/17, progress notes made by Unit Director- Social Worker state, “Recipient remains on 1:1 observation status for suicide ideations. He was offered a phone call to his mother at [phone number] or [phone number]. Recipient said he was perfectly capable of calling his mother and E4E [Equip for Equality] on his own. His 1:1 security therapy aide [STA] observer went with him to the patient phone to attempt to place these calls. The caller to the Facility- mother [name], stated she and his father were his legal guardians. However, as of this writing no proof of guardianship papers have been received at this facility.”
- On 3/30/17, progress notes made by a Social Worker: the recipient “was brought to the conference room on C to make a phone call. He called [phone number] and contact was made.”
- On 4/20/17, the social worker progress notes state that the recipient “was brought into the conference room on C to make a phone call. He called [phone number] and made no contact. He also called his mother at [phone number] and contact was made.
- On 4/21/17, progress notes made by the social worker state that the recipient’s last behavior data report was on 4/16 for masturbating while he was on the phone.
- On 6/26/17, the progress notes state: “he found a group home that would accept him at [address]. He will have to buy a bus ticket from Springfield, IL, to [address]. The discharge summary was completed.” As mentioned before, the discharge summary was only signed by the patient, not the guardian.
- On 6/28/17, progress notes state: I spoke to [name] at [address]. They will send someone to court to pick him up and transport him to [receiving community facility] on 7/13/17.”
- On 6/30/17, progress notes state: “[Patient’s name] signed a release of information for [name].” The release form was not signed by the guardian.
- On 7/21/17, progress notes state that the therapist verified release of information was valid and current for the guardians. Court date was mailed and rescheduled. The HRA noted that a release of information is not necessary for guardians as they have a court order allowing them to be involved in the recipient’s treatment.
- On 7/27/17, progress notes state: “[guardian] planned to send a letter stating she was notified of discharge. Therapist provided the [guardian] fax number.”

C. Restriction of Rights: As the Treatment Plan (04/17/17) stated, a Restriction of Rights was issued due to the recipient’s refusal to turn a pencil in when asked. He reports that he had lost it. As a result, implementation of supervised pencil use was necessary. This restriction form dated 3/22/17 indicated that the guardians were notified and the form was signed by a staff person and the Public Service Administrator.

The 3/6/17 Restriction of Rights form documented that the recipient was threatening harm to staff, lunged at staff in a threatening manner and was placed in a physical hold. The recipient continued to struggle and was placed in 5 point restraints “*due to thrashing on bed.*” The box was checked that stated “*individual wished no one be notified of this notice (exception: Guardian must always be notified)*” The guardian did not sign the form and on the line allotted for guardian signature it stated “*N/A*” The form was signed by a nurse at the facility.

On the Order for Physical Hold, Mechanical Restraint or Seclusion form, it was documented that the patient was highly agitated, yelling and cursing at staff. The staff offered a PRN (as needed medication) and the patient refused it three times. Shortly after, the patient “*squared up into a fighting stance and lunged at staff.*” Staff placed the patient in a physical hold followed by 4 point restraints to ensure the safety of all. Before the physical hold, the staff tried redirection to new task, empathic listening, distraction, reassurance, and medication (in which he refused) as behavioral interventions. On the Notice Regarding Restricted Rights form it was documented that the facility notified the guardian. No restrictions of rights regarding phone calls were found in the chart.

D. Releases of Information: A release of information dated 6/26/17 was found allowing Chester Mental Health Center to share information with a community placement prior to the recipient’s release. This release was signed by the recipient and the social worker/therapist. No guardian signature was on the form and there was no note to document that the guardian gave verbal consent to share information with this placement facility in the community. Another release dated 6/26/17 was found which allowed Chester Mental Health Center to share information with the recipient’s guardians. The HRA reviewed the “Letters of Co-Guardianship of Adult Ward” in the recipient’s chart which appointed the recipient’s mother and father as co-guardians. The Letters of Co-Guardianship was signed by the Judge on December 1, 2014. Therefore the release of information for the parents was not necessary as the facility is required to communicate with guardians. This release was signed by the social worker/therapist. Additionally, a blank release dated 2/27/17 was signed by the recipient. This release was for Chester but there was no named facility to release the information to. There was no guardian signature on the form.

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...* 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. 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.”*

C. IM.03.01.04.34 FACILITATING PATIENT OR GUARDIAN ACCESS TO THEIR CLINICAL RECORDS (reviewed date 01/08/18) states “Chester Mental Health Center will ensure that any patient or guardian will have access to their clinical records.” This section of the policy details the procedure that must take place. “I. Any patient who wishes to read their record will be allowed to do so. II. A patient may make a request orally or in writing to read his clinical record. The request is to be directed to the

coordinating therapist or other professional staff person. III. The professional staff shall make the record available to the patient and shall arrange an area where the patient may read the record. IV. A professional staff person shall be available to clarify, interpret and answer any questions the patient may have.”

D. RI.01.01.02.01 PATIENT RIGHTS AND ORGANIZATION ETHICS (reviewed date 12/21/17) states “ 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... Non - Emergency Restriction of Rights: 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... 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... The Unit Director will ensure that the original of the IL462-2004M will be given to the patient and copies will be distributed to the following people: a. The Facility Director or designee. b. The parent or **guardian** if the patient is a minor or under guardianship. If parent/guardian, as designated by the patient pursuant to Section 2-200(b) of the Mental Health Code, requests that the facility not send him or her notices of restriction of rights of the ward, the request cannot be honored. In such circumstances, the guardian shall be notified in writing that Section 2-201 (a) of the Mental Health Code requires the facility to notify the guardian, if so designated, of a patient whose rights have been restricted, and that the facility is unable to honor the guardian’s request in light of this statutory duty... 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: Date of the review; Decisions/results of the review; Rationale for all decisions/results”

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 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 Mental Health and Developmental Disabilities 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..."*

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102) declares that *"(a) 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 Mental Health and Developmental Disabilities Code (405 ILCS 5/2-201) declares that *"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.**"*

The Probate Act (755 ILCS 5/11 a-23) provides that *“Every health care provider and other person (reliant) has the right to rely on any decision or direction made by the guardian, standby guardian, or short-term guardian that is not clearly contrary to the law, to the same extent and with the same effect as though the decision or direction had been made or given by the ward. Any person dealing with the guardian, standby guardian, or short-term guardian may presume in the absence of actual knowledge to the contrary that the acts of the guardian, standby guardian, or short-term guardian conform to the provisions of the law.”*

Conclusion

The HRA found in the patient’s Treatment Plan that the patient is offered 2 stamps per week to maintain communication. He may receive phone calls as needed with administrative approval. There is a phone on the module with which he may call collect or use a calling card to dial out. However, he is being denied private phone calls due to a masturbation incident that occurred during a phone call. The Treatment plan noted the incident, but failed to document any restrictions that were imposed on the patient regarding phone calls. Therefore, the allegation is **substantiated** and the following **recommendations** are issued.

- 1. Therapists and treatment team members should be retrained on Chester policy RI 03.05.02.02, specifically, the section relating to patient restrictions of rights regarding phone calls and also on the Mental Health Code requirements for the documentation of restriction of rights. (405 ILCS 5/2-201).**
- 2. Coordinating Therapists and staff should be retrained on proper documentation of individual Restrictions of Rights. Staff should be reminded that all restrictions should be documented on a restriction of rights form in addition to the treatment plan and case notes. Administration should ensure that rights restrictions are being reviewed weekly and revised as necessary.**

The second allegation is that the facility has not been communicating with a patient’s guardian. The guardian informed the HRA that the facility has not been communicating with her regarding treatment plan meetings, to notify of restraints or other issues, or to sign appropriate documents when needed. The guardian stated she has made multiple efforts to reach the therapist, but the therapist did not return her calls. The HRA found treatment plans that were not signed by the guardian, only the recipient. In addition, the discharge form from the facility was signed by the recipient only. The guardian did not sign the discharge form, although the Hospital Administrator stated that the guardian was aware of the move and approved; the HRA found no documentation in the chart indicating approval. Also, the guardian was not notified of some restriction of rights that were imposed on the patient. Therefore, the allegation is **substantiated** and the following **recommendations** are issued.

- 1. The therapists and treatment team staff should be retrained on the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102) and The Probate Act (755 ILCS 5/11 a-23) regarding guardian communication/involvement and ensure that guardians are receiving and**

signing consent forms and treatment plans, are included in the treatment meetings and are notified of incidents and restrictions.

- 2. Therapists and treatment team staff should be retrained on Chester policies IM.03.01.04.34, RI.01.01.02.01, TX.02.04.00.02 regarding communication with guardians.**

The HRA offers the following suggestions:

1. The facility should not allow patients to pre-sign blank release forms as per Mental Health and Developmental Disabilities Confidentiality Act requirements.
2. The documents of the treatment plan were only signed by the recipient, and not by the guardian. The TPRs should have been signed by the guardian, not just the recipient.
The treatment team should be made aware of this and ensure that in the future guardian signatures are on the TPR forms as well.
3. No documentation was found showing that the guardian was aware of a pending transfer or that she was involved in the placement discussions or decisions. The recipient signed the discharge form but the guardian signature was missing so there was no way to know if she was aware of the transfer or was in agreement with the placement. Administration should ensure that the treatment team involves guardians in placement discussions in the future.
4. Administration should review the location of the patient telephones to ensure the most private location is being used.