FOR IMMEDIATE RELEASE

Egyptian Regional Human Rights Authority
Chester Mental Health
Report of Findings
Case #22-110-9003

The Egyptian Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission voted to pursue an investigation of Chester Mental Health Center after receiving the following complaints of possible rights violations:

Complaints:

1. **Inadequate treatment**

If the allegations are substantiated, they would violate protections under The Mental Health and Disabilities Code (405 Ill. Comp. Stat. Ann. 5/2-102 and 405 ILCS 5/2-107).

Complaint Summary: The complaint alleges the facility staff filed a petition for involuntary medication without justification. Allegedly, the individual was being forced to take medication he did not want despite "high marks" from staff. The complaint alleges the individual was not receiving any treatment while at Chester Mental Health Center.

Investigation:

The HRA proceeded with the investigation after having received proper consent. To pursue the matter, the HRA met with staff and the program representatives were interviewed. Relevant practices, policies and sections of the consumer's record were reviewed.

Interviews:

The individual's social worker was interviewed by the HRA. The social worker stated the individual was not compliant with his medication. The social worker advised that the individual was not physically aggressive while at Chester but had been physically aggressive while in jail. However, the individual was verbally aggressive to Chester staff. The social worker stated that the individual has delusions but denies that he has a mental illness or delusions. The individual believed that there was Covid in his chips and drink and physically attacked a police officer. The social worker advised the HRA the individual did not understand his charges and was unable to cooperate or understand court proceedings. The social worker stated the individual was unwilling to take medication for his delusions. Staff attempted treatment without medication, however, those attempts did not work and the individual was unable to obtain fitness. The social worker stated on 8/5/21 that the individual signed a consent for Risperdal. Staff stated the Risperdal seemed to help the individual. The individual was discharged from Chester in October 2021.

Policy Review:

The HRA reviewed Chester's "Use of Psychotropic Medication" policy which states "Prior to prescribing psychotropic medication in non-emergency situations, the treating physician shall ascertain and document

whether the individual is capable of giving informed consent. This documentation shall be included in the consent form as a statement regarding recipient's capacity to make a reasoned decision about the proposed treatment. The basic standard for decisional capacity shall include knowing that one is being offered treatment by a doctor in a hospital setting with the understanding that this treatment may be helpful and may have side effect. Prior to administration of medication, the nurse must have the completed consent form CMHC-535 consent to Psychotropic Medication in the patient's clinical file and must give the patient medication information sheets about the medication, noting the medication prescribed, and review appropriate information with the patient…Regarding refusal of medication: Emergency medication to prevent an individual from causing serious and imminent physical harm to self or others and no less restrictive alternative is available. The physician and RN initiating the use of emergency medication shall give the patient, guardian, or substitute decision maker, if any, notice of alternate services available and the risks of such alternate services, as well as the possible consequences to the patient of refusal of such services … emergency medication shall not be administered for a period in excess of seventy-two hours, unless a Petition for the Administration of Authorized Involuntary Treatment has been completed. A notice regarding restricting rights of individuals shall be completed for emergency medication administration. All refusals of psychotropic medication shall be documented on the Psychotropic Medication Refusal form CMHC-748 and in the progress notes by the nurse … the nursing supervisor shall give CMHC-748 to the patient's treating psychiatrist for review. The treating psychiatrist shall determine if the patient meets the criteria for court enforced involuntary medication. Issues regarding psychotropic medication refusals shall be discussed with or by the treatment team during the unit morning report…".

The HRA reviewed Chester's "Guidelines for the Treatment of Patients with Severe Maladaptive Behaviors" that states "Treatment prescribed in a patient's treatment plan addressing the goal of managing or extinguishing maladaptive behaviors and promoting adaptive replacement behaviors will be identified in the treatment plan as a Behavior Intervention Plan. It will include the following: Definition of the target behavior; a hypothesis on the function of the behavior; Identifying a goal and objectives for the patient to achieve; including the replacement of the behavior with a more adaptive one, interventions should include the method of implementation, strategy, support, teaching methods, motivation and reward is used, frequency, and circumstances under which the plan will be implemented; a condition of discontinuation; all interventions attempted; data collection in order to monitor response to treatment….The patient will be offered alternative ways to cope with situations that result in the unwanted or maladaptive behavior. These skills may be taught in individual or group therapies, rehabilitation classes or activity therapies….".

A review of the "Patient Rights" policy states "a patient shall be provided with adequate and humane care and services in the least restrictive environment, pursuant to an individual treatment plan…Individuals and the individual's guardian or substitute decision maker shall be given the opportunity to refuse generally accepted mental health or developmental disability services, including but not limited to medication or ECT (Electro-Convulsive Therapy)…Individuals shall not be subject to treatment by unusual, hazardous, or experimental therapies without the individual's consent. Such treatment shall follow applicable federal or State statues or regulations….".

Records Review:

The HRA reviewed the medication administration record for the individual. The record showed the individual was taking Sertraline for depression and Trazodone for insomnia daily.

The HRA reviewed clinical progress notes for the individual. On 4/31/21 the individual attended and actively participated in a fitness test. The individual received a score of 65% on the fitness test. On 4/30/21, 9/3/21, and 10/1/21 the individual completed a fitness worksheet and obtained a score of 100%. On 5/7/21, 5/21/21, and 9/10/21 the individual participated in "fitness education teaching and group discussion". On 5/14/21, 5/28/21, 8/13/21, and 8/20/21 the individual refused to participate in any tests or discussions. On 6/4/21 the individual participated in another fitness test however the note states the individual "answered questions wrong purposely

on the test". The individual received a score of 0% on the test. On 6/25/21, 8/27/21, and 9/16/21 the individual completed additional fitness tests and scored 100% on all three tests.

A review of the individual's "Progress note/UTF Fitness Assessment" on 6/1/21 states "[Individual] remains extremely delusional and not willing to take any antipsychotic medication. He has chosen not to sign any releases of information for any of his family. His insight into his charges and need for medication is severely impaired. He reports regular family contact. He has also been refusing to work on fitness the last three weeks. He has good behavior but continues to remain delusional and has recently been refusing to work on fitness." An assessment on 6/15/21 states "[Individual] remains delusional and not willing to take medication to treat his delusions. However, he is not a behavior problem." Another assessment on 6/29/21 states "[Individual] has been refusing medication except for Trazodone and Sertraline. He does not believe he is delusional or that he needs medication to treat any symptoms of psychosis. Although he knows his charges and the court information, he is not able to assist in his defense due to his untreated delusional thoughts about the courts." The assessment on 7/20/21 states "He has not been aggressive but has not made progress due to his continued delusional ideation. Plan: Talk with the attorney about [Individual's] ability to cooperate with him. Discuss court petition."

On 7/20/21 Chester Mental Health Center submitted a petition for involuntary treatment to the courts. The petition states "The recipient has refused to submit to treatment by psychotropic medication. The individual lacks capacity to give informed consent." The petition requested the individual be given Risperidone, Lithium, Sertraline, Trazodone, Buspirone, and Benztropine. The "Current Mental Status Exam" provided in the petition states "[Individual] is correctly oriented to person, place, time but he is highly delusional about his current legal situation…His mood has been increasingly irritable especially when his beliefs are questioned. [Individual] has verbally degraded this writer as stupid when other forms of treatment are recommended to address his mental health needs. [Individual] felony charge public defender reports that [Individual] leaves him multiple voicemails a day and he is unable to work with [Individual] while he is in his current mental state. [Individual] has passed the fitness test, but in his current grandiose and paranoid delusional mental state he poses a high risk of harm to himself and others outside of the structured inpatient setting. He denies he has a mental illness and rejects the idea of other forms of psychotropic medications will more appropriately treat his symptoms. Overall, [Individual] has very poor insight into his mental illness, utilizes poor judgements, and has had a severe decline in his ability to function due to untreated mental illness over the past several years per available records." According to documentation provided to the HRA, the court date for the petition was scheduled for 8/11/2021. However, on 8/5/2021 the individual consented to the medication.

The HRA reviewed the "Consent to medication" form for the individual. The individual signed consenting to "Risperidone" on 8/5/21. The physician signed stating "The client was examined and has the current capacity to make informed decisions regarding treatment."

A review of the individual's treatment plan dated 7/20/21 states "[Individual] was found unfit to stand in [county] on the charges of theft and criminal trespass to land. A report from the county jail was received verifying additional charges of aggravated battery to corrections officer while in jail. [Individual] is a 38-year-old mail. He was admitted to Chester MHC…While in jail, [Individual] presented with disorganized thinking, paranoia, and delusions. According to the preplacement evaluation, [Individual] had delusions about covid and thought that officers in the jail were putting covid chips in his food and drink. [Individual] told staff he believed covid chips are in his teeth as a way for the government to track him. He also thought that covid was in his shampoo. He was compliant with his medication and did not present with any suicidal thoughts or aggression…According to [physician], [Individual] did not have sufficient present ability to consult with a lawyer with a reasonable degree of rational understanding and did not have a rational nor factual understanding of proceedings against him. [Individual] was delusional, believed the entire court system was corrupt, said 'there is no constitution anymore' and repeatedly drifted off into ramblings about various paranoid delusion. He could be redirected but could not stay on topic long before detailing and switching topics again…the treatment team members met with [Individual] to hold this TPR. The members of the Treatment Team discussed opportunities for his involvement in programming. [Individual] verbalized that he was willing to work with the

treatment team, including groups designed to help him achieve fitness to stand trial…Medication Plan: psychotic medication to treat [Individual's] symptoms. Reviewed risk/benefits, alternative, alternatives of no treatment with patient. In accordance with the Mental Health Code, [Individual] was informed of the circumstances under which the law permits the use of emergency forced medication, restraint or seclusion…In order to be recommended for return to [County] for a fitness hearing, [Individual] should meet the criteria for fitness including the following: a) be able to communicate with counsel and assist in his own defense; b) be able to appreciate his presence in relation to time, place and things; c) be able to understand that he is in a court of justice charged with a criminal offices; d) show an understanding of his charges and their consequences, as well as court circumstances of the alleged criminal offense; and f) and not demonstrate any aggressive behavior…".

The treatment plan review dated 8/17/21 lists goals for the individual. One goal states "Long term goal: [Individual] will have a decrease in his symptoms, including his persecutory and grandiose delusion and will not have any verbal or physical aggression by 12/22/21. Short term objectives: [Individual] will acknowledge that he has a mental illness and will accept medication to treat his grandiose and persecutory delusions. Progress: [Individual] signed consent for medication on 8/5/21 and was started on Risperdal. He agreed to the medication after [staff] filed a court petition for court enforced medication. He still does not believe he has any symptoms of mental illness…[Individual] will have understanding of the court processes, the roles of the individuals in the courtroom, and his legal charges. He will also continue to demonstrate the ability to assist in his own defense so that he may remain fit to stand trial by 12/9/21. [Individual] will patriciate in fitness restoration one time weekly that is designed to assist him in attaining fitness to stand trial. He will demonstrate significant progress in understanding his charges and the seriousness of his charges; demonstrating the ability to assist in his defense; understanding the roles of the individuals in the courtroom. [Individual] last took the fitness test on 6/26/21 and scored 100%. He does not appear to understand his charges but continues to think that his charges will be dismissed. The treatment team believes he remains unfit to stand trial at this time. He does not appear able to cooperate with his attorney due to his entrenched delusion system…[Individual] will understand the negative impact that his lack of compliancy and lack of compliance with an appropriate medication regimen has had on his life by 12/22/21. [Individual] signed consent for medication on 8/5/21 and was started on Risperdal…".

Another treatment plan review was conducted on 9/14/21 which states "…[Individual] took the fitness test on 8/26/21 and scored 100%. He has a good understanding of his charges and appears able to cooperate with his defense. He was recommended as fit to stand trial on 9/10/21 and is awaiting a court date…[Individual] signed consent for medication on 8/5/21 and was started on Risperdal. He states that the medication is helping him and reports that he will continue it upon release. He states that he plans to live with his friends upon release and reports that his friend is agreeable…".

The HRA reviewed the "90-Day Fitness to Stand Trial Progress Report" dated 7/15/21 that states "[Individual's] hygiene is appropriate, and he attends activities. [Individual] took the fitness exam at the end of June and scored 100%. He is able to verbalize his charges although he does not believe they are serious and will be dropped and then expunged from his record at his next court date. He does possess knowledge regarding court proceedings, but his ability to assist in his defense and cooperate with his attorney is questionable due to his severe delusional thought processes. Although [Individual] has improved in his knowledge of court proceedings, he remains very delusional and is not motivated for treatment. He refuses any medication changes to address his psychotic symptoms…Although [Individual] indicates an understanding of his charges and an understanding of basic court proceedings, he is not able to adequately assist his legal counsel in his defense. At this time, it is the opinion of the treatment team that [Individual] is Unfit to Stand Trial; however, he may be able to achieve fitness within the one-year statutory time frame".

Another "90-Day Fitness to Stand Trial Progress Report" dated 9/10/21 was reviewed. The report states "[Individual] is responding well to medication regime. He remains medication compliant. He signed consent for medication and does express desire to continue taking medication after leaving this facility and denies any symptoms or side effects at this time. [Individual] does not report/exhibit symptoms of psychosis. He made

significant progress in regard to his behavior. His behaviors and mood have been stable and void of verbal and physical aggression. He has participated in fitness education. He took the fitness test and received a passing score. He is able to verbalize his charges and the potential penalties if convicted. He demonstrates the ability to cooperate with his attorney and assist in his own defense. [Individual] interacts well with staff and peers on his unit and follows unit rules and staff direction without emotional dysregulation…It is the clinical opinion of his treatment team that he is currently Fit to Stand Trial."

Progress Notes:

On 6/20/21 the notes state: "Met with [Individual] in conference room about his progress since admission and verbal threats he made last week, and he became upset about the fitness test. He was educated on this writer's concerns over his behavior when his thoughts and beliefs are questioned or when someone has a difference of opinion, and about his ability to represent himself in court. It's his strong fixed beliefs about 'things being mined in Texas and put in his food. Its part of the physics act that was put on during the Clinton administration'. He quickly became agitative and intense eye contact with this writer. He called this writer crazy, insulted this writer's intelligence and stated he believes 'you are over medicating everyone here'. [Individual] was encouraged to consider other forms of psychotropic medication to better treat his sx (symptoms) of [increased] agitation, poor sleep, paranoia, and intense delusional beliefs but he voiced he would not consider it. He was asked if he has ever taken other types of medication and he stated no. He then voiced he was going to 'call California on you and write his own petition'. When educated on that although he passed the fitness test, I do not believe he will be able to adequately assist in his defense due to his strong beliefs about covid, food poisoning, 5G, etc. and his intense agitated reactions when these beliefs are not shared by others. [Individual] then claimed that this writer was part of some conspiracy to keep pts here, so they have to eat the poisoned food. He was very agitated at this writer overall and he was repeatedly verbally degrading this writer. [Individual] was encouraged to work with his tx [treatment] team to meet his tx goals."

The note on 7/8/21 states "Met with [Individual] in conference room per his request. He was mainly calm during the 20-minute meeting but would become more irritable when discussing any tx that may help his court report. He then declared that he was smarter than everyone in this room and also reports the judicial system is part of his elaborate chemically populated control microchip conspiracy. He voiced his anger at [former president], at one point he reports I can't wait until he gets a bomb dropped on him. He mainly discussed, in detail, his theories on his overvalued belief system/delusional thoughts. He denies his criminal charges are an issue for him as he believes 'those will be expunged when I get to court, and I will bail out'. [Individual] was educated that we will request a CCM (chronic care management) with [physician] do discuss his fitness status."

The note on 7/15/21 was reviewed and states "CCM was held with [physician]. This writer attempted to contact his defense attorney without success."

A review of the progress note on 7/22/21 states "[Individual] was seen per his request. He stated he was angry about the petition for medication. He stated 'You all try to force meds on me. I'll beat the shit out of y'all.' He stated he has talked to the president and staff at this facility should expect to receive lawsuits."

On 8/5/21 the note states "[Individual] seen in conference room. He reports he does not want to be on court enforced medications and voices he wants to work on getting back to court. He continued to detail conversations to his beliefs on population control, political agendas, and multiple organizational investigations into his complaints/beliefs. He reports he wants this writer to report on his fitness report that the political agenda started when he got a DUI in 2017. [Individual] was educated that the fitness report will focus on his behavior and progress while at CMHC (Chester Mental Health Center). [Individual] was educated on alternative medications to address his sx (symptoms), increased anxiety, poor sleep, paranoid thoughts. [Individual] agreed and consented to Risperdal for mood/psychosis."

Another note on 8/10/21 was reviewed. The notes states "[Individual] seen in conference room for f/u (follow-up). [Individual] has a recent haircut. He has great eye contact and looks like he is calmer. [Individual] reports the Risperdal has 'helped me write better'. He reports he is feeling good as well. He wants to discuss his hx so this writer will believe his claims r/t the courts persecution against him. Due to time constraints that is not possible today…".

The note on 8/11/21 states "Pt refused pm Risperdal. Pt stated he has abdominal pain and problems passing stool when he takes."

Conclusions

Complaint 1. Inadequate treatment

The Mental Health and Developmental Disabilities code (405 ILCS 5/2-102) states "(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 Mental Health and Developmental Disabilities code (405 ILCS 5/2-107) states "(a) An adult recipient of services or the recipient's guardian, if the recipient is under guardianship, and the recipient's substitute decision maker, if any, must be informed of the recipient's right to refuse medication or electroconvulsive therapy. The recipient and the recipient's guardian or substitute decision maker shall be given the opportunity to refuse generally accepted mental health or developmental disability services, including but not limited to medication or electroconvulsive therapy. If such services are refused, they shall not be given unless such services are necessary to prevent the recipient from causing serious and imminent physical harm to the recipient or others and no less restrictive alternative is available. The facility director shall inform a recipient, guardian, or substitute decision maker, if any, who refuses such services of alternate services available and the risks of such alternate services, as well as the possible consequences to the recipient of refusal of such services. (b) Psychotropic medication or electroconvulsive therapy may be administered under this Section for up to 24 hours only if the circumstances leading up to the need for emergency treatment are set forth in writing in the recipient's record."

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-107.1) states "Psychotropic medication and electroconvulsive therapy may be administered to the recipient if and only if it has been determined by clear and convincing evidence that all of the following factors are present. In determining whether a person meets the criteria specified in the following paragraphs (A) through (G), the court may consider evidence of the person's history of serious violence, repeated past pattern of specific behavior, actions related to the person's illness, or past outcomes of various treatment options. (A) That the recipient has a serious mental illness or developmental disability. (B) That because of said mental illness or developmental disability, the recipient currently exhibits any one of the following: (i) deterioration of his or her ability to function, as compared to the recipient's ability to function prior to the current onset of symptoms of the mental illness or disability for which treatment is presently sought, (ii) suffering, or (iii) threatening behavior. (C) That the illness or disability has existed for a period marked by the continuing presence of the symptoms set forth in item (B) of this subdivision (4) or the repeated episodic occurrence of these symptoms. (D) That the benefits of the treatment outweigh the harm. (E) That the recipient lacks the capacity to make a reasoned decision about the treatment. (F) That other less restrictive services have been explored and found inappropriate…".

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102a-5) states "If the services include the administration of electroconvulsive therapy or psychotropic medication, the physician or the physician's designee shall advise the recipient, in writing, of the side effects, risks, and benefits of the treatment, as well as alternatives to the proposed treatment, to the extent such advice is consistent with the recipient's ability to understand the information communicated. The physician shall determine and state in writing whether the recipient has the capacity to make a reasoned decision about the treatment. The physician or the physician's

designee shall provide to the recipient's substitute decision maker, if any, the same written information that is required to be presented to the recipient in writing."

The complaint alleges the facility filed a petition for involuntary medication without justification. Staff attempted to educate the individual on the need for the psychotropic medication on multiple occasions prior to filing the petition but the individual continued to refuse any psychotropic medication. It is documented that the individual had delusions and would benefit from psychotropic medication. On 7/20/21 Chester filed a petition for involuntary medication for the individual. The court date was set for 8/11/21. However, on 8/5/21 the individual consented to taking Risperdal in addition to the Sertraline and Trazodone that he was already taking. Additionally, the complaint alleges the individual was being forced to take medication he did not want. The HRA did not find any evidence that the individual was being forced to take any medication. The individual only received medication for which he consented. Furthermore, the complaint alleges the individual was not receiving any treatment while at Chester Mental Health Center. The HRA reviewed the records including progress notes and treatment plans for the individual. The individual was provided treatment while at the facility including completing fitness worksheets and fitness education and group discussions. However, there were multiple occasions that the individual refused to participate in treatment. Therefore, the complaint of inadequate treatment is **unsubstantiated.**

The HRA is concerned that the individual did not have the capacity to consent on 7/20/21 as stated on the Petition for Involuntary Medication but then had the capacity to consent on 8/5/21 when the individual agreed to take the medication voluntarily. The HRA **strongly suggests** Chester Mental Health ensure that a patient's capacity to consent is determined based on the patient's understanding and ability and not on the patient's willingness to consent or not.