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Egyptian Regional Human Rights Authority  
Report of Findings  
08-110-9005  
Chester Mental Health Center  
December 05, 2007

The Egyptian Regional Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission has completed its investigation concerning Chester Mental Health Center, the most restrictive state-operated mental health facility in Illinois. The facility, which is located in Chester, serves approximately 300 residents. The specific allegations are as follows:

1. A recipient at Chester Mental Health Center is not receiving services in the least restrictive environment.
2. Chester Mental Health Center has failed to adequately evaluate a recipient to determine if the recipient needs a legal guardian.

If substantiated, the allegations would be violations of the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102).

Statutes

Section 5/2-102 of the Code 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 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."

Investigation Information for Allegation 1

Allegation 1: A recipient at Chester Mental Health Center is not receiving services in the least restrictive environment. To investigate the allegation, the HRA Investigation Team (Team),

consisting of one member and the HRA Coordinator (Coordinator) conducted a site visit at the facility. During the visit, the Team spoke with the recipient whose rights were alleged to have been violated and the Chairman (Chairman) of the facility's Human Rights Committee. The recipient's clinical chart was reviewed with his written authorization.

#### Interviews:

When the Team spoke with the recipient about the allegation, he stated that his behaviors had improved since his hospitalization at the facility. He informed the Team that he has not been in restraints or seclusion and has abided by the facility's rules and regulations. Therefore, he should be transferred to a less restrictive facility.

#### Chairman:

The Chairman stated that during the monthly Treatment Plan Review (TPR) process, the recipient's behaviors, goal progress, and clinical condition are assessed. The criteria for separation from the facility is established by the Treatment Team and listed in the recipient's TPR. The Chairman informed the HRA that when the Treatment Team determines that the established measures have been met a recommendation will be made for the recipient to be transferred to a less restrictive facility.

#### Chart Review

According to an Infirmity Admission Note dated 08/07/04, the recipient was admitted to the facility from another state-operated mental hospital. The record indicated that the recipient was transferred from the less restrictive setting to Chester Mental Health Center because of the level of his aggression toward others.

A TPR dated 08/16/07 documented that the recipient was admitted to the facility for the sixth time on 08/07/04 after physically assaulting a staff member. According to the TPR, the recipient acknowledged that he had attacked the staff member, and he showed no remorse for his actions. Additional documentation indicated that the recipient has a lengthy history of admissions to state-operated mental health facilities dating back to 1977.

The recipient's Diagnoses were listed as follows: AXIS 1: Schizoaffective Disorder, Bipolar Type, Hypomanic, Past history of Alcohol and Substance Abuse, Marijuana Type, (none since 2000); AXIS II: Personality Disorder NOS (Not Otherwise Specified); AXIS III: History of Asthma, History of Water Intoxication; and Axis IV: History of assaultive, aggressive behavior and noncompliance.

Documentation in the 08/16/07 TPR indicated that the recipient takes the following medications: Lithium Citrate for mood swings, Olanzapine for control of psychosis, Clonazepam for anxiety, Oxcarbazepine for mood swings, Haloperidol and Lorazepam PRN (as needed) for "psychosis, impulsivity, and acting out."

In the Extent to Which Benefiting From Treatment Section of the TPR, the following is documented, “[NAME] was moved to Unit D to see how he would respond to a different environment with less structure than C. This did not work out. He started drinking excessive amounts of water. He was belligerent, argumentative, and frequently agitated. He was moved back to C3 on 06/18/07. Since his move back to C, [NAME] has continued with the same behavior. He has been very argumentative with staff and has refused to follow their directions. He threatened his therapist on 07/27/07.”

Additional documentation indicated that on 02/08/05, the recipient assaulted a therapist on his living unit causing serious injuries to the therapist. The record indicated that the recipient did not show any remorse or accept responsibility for his actions.

Documentation in the TPR indicated that in order for the recipient to be transferred to a less-restrictive setting, he must exhibit the ability to inhibit any significant impulses of violence toward himself or others. He must express a genuine desire to transfer to another facility, be cooperative, take medications deemed essential, and make reasonable plans for the future. Additionally, he must also be cooperative with the Treatment Team’s recommendations, such as attending off unit activities.

The TPR indicated that the recipient was being reviewed for consideration of a transfer to a nearby state mental health facility in order that he might be closer to his family members.

### Summary

According to the recipient, he does not need to be hospitalized in the most restrictive facility in the State of Illinois. However, documentation in the recipient’s TPR indicated that when the recipient was transferred to a less structured unit within the facility, the placement was not successful. According to the Chairman, the decision to transfer a recipient to a less restrictive is made by a recipient’s Treatment Team. Criteria for transfer were listed in the recipient’s TPR, and the Treatment Team determined that the recipient had not met those standards. However, documentation indicated that Treatment Team was considering moving the recipient to a nearby state mental health facility in order that he might be closer to supportive family members.

### Conclusion

Based on the information obtained during the investigation, the HRA concludes that the facility has made efforts to determine if the recipient can function in a less restrictive setting and that those efforts were unsuccessful. Therefore, the Authority is unable to substantiate that the recipient is not receiving services in the least restrictive environment. No recommendations are issued.

## Investigation Information for Allegation 2

Allegation 2: Chester Mental Health Center has failed to adequately evaluate a recipient to determine if he needs a legal guardian. To investigate the allegation, the HRA Team, consisting of one member and the Coordinator, conducted a site visit at the facility. During the visit, the Team spoke with the recipient whose rights were alleged to have been violated and with the Chairman. The Team also reviewed the recipient's clinical chart as well as the facility's policy/procedure pertinent to the complaint.

### Interviews:

#### Recipient:

When the Team spoke with the recipient, the recipient stated that he wanted "a freedom guardian" to assist him with making decisions and "getting out" of the facility. The recipient stated that he had spoken to staff members about his desire for a guardian; however, nothing had transpired regarding his request.

#### Chairman:

According to the Chairman, a recipient's Treatment Team reviews information about a recipient and determines if he would benefit from guardianship services. The Chairman stated that the facility has a policy/procedure that outlines assessments of recipients for guardianship and provides information about the procedures that are required before guardianship is established.

### Processing Guardianships Policy/Procedure (Policy)

According to the Policy, "Chester Mental Health Center recognizes that guardianship services are an integral component and therefore makes every effort to insure that such are provided for recipients who desire such. In accordance with Policy and Procedure Directive 01.04./03.08, no employee may become a guardian of a present or former recipient served in the Chester Mental Health Center. Exceptions to this policy may be granted by the Director of the Department of Mental Health and Developmental Disabilities, upon proper application, if sufficient basis exists to support such action. When it is determined by the treatment team that guardianship assistance is required, referral is sent to the Office of the Assistant Facility Director. The Assistant Facility Director shall coordinate the filing of all documents needed for guardianship appointments. Each guardianship appointment is reviewed annually by the treatment team to assess the need for continuation or modification."

In the Procedure for Permanent Appointment Section of the Policy, the steps are outlined for assisting the recipient in obtaining a guardian. According to the Procedure, a petition and a Physician's Report must be obtained. Two copies of the petition and two copies of the

Physician's Report should be taken to the Clerk of the Probate Court in order to obtain a case number, docket number, name of judge assigned to the case, the courtroom number and the day and time of the hearing. The Clerk will stamp the petitions and Physician's Reports and complete the date and time on the summons. The summons is then served to the "alleged disabled person" within a minimum of fourteen days prior to the hearing. The individual serving the summons must sign and return the form notarized. The proposed guardian, an Oath Of Office and any required bond must be contacted. Notice of Hearing must be sent to all relatives. Within two days of service of the Summons and the Notice of Hearing, the original of these forms must be sent to the Probate for filing. Once the guardian has been appointed, the court will mail letters of notice to the facility or directly to the guardian. According to the Procedure, the Office of the Assistant Facility Director should be contacted regarding any guardianship matters.

The Procedure for Emergency or Temporary Appointments is also outlined. According to documentation, complete copies of the petition (duplicate) Physician Affidavit and Order Appointing Temporary Guardian should be completed. After completion, the Office of the County State's Attorney should be contacted to arrange for an emergency hearing. Two copies of the Physician's Affidavit and the Order Appointing Temporary Guardian should be taken to the County State's Attorney on the date of hearing.

### Chart Review

#### Admission Note

According to documentation in a 08/07/04 admission note, the recipient did not have a guardian. Additional documentation indicated that the recipient was given an admission packet and a Notice of Recipient's Rights. The recipient was asked if he had an existing living will and/or health care power of attorney. When he stated that he did not have one, the recipient was given a Statement of Illinois Law of Advanced Directives, Advance Directives-Facility Implementation Policy, and Advanced Directives Resource List. A health history, physical exam, and psychiatric exam were conducted at the time of admission. There was no documentation to indicate that a screening was conducted to determine if the recipient might need a guardian.

#### TPR

According to the recipient's 08/16/07 TPR, the recipient is legally competent. His strengths were listed as follows: (1) He is able to perform Activities of Daily Living; (2) He has average intelligence; (3) He is able to communicate his needs; and (4) He is cooperative with his coordinating therapist.

Additional documentation indicated that in the past the recipient has experienced auditory hallucinations, paranoid ideation, paranoid delusions and mood disturbances. The Treatment Team determined that the recipient needed continued hospitalization because he was reasonably expected to inflict serious physical harm on others if he were not in a structured, secure hospital.

The Authority did not observe a statement in the TPR that the recipient had requested a legal guardian or that the facility had conducted a formal assessment to determine if the recipient needed a guardian.

### Summary

According to the recipient whose rights were alleged to have been violated, he had requested to have a “freedom guardian” in order that he might have an advocate for his discharge from the facility. He informed the Team that facility staff had not made an effort to assist him in obtaining a guardian. According to the Chairman and the facility’s policy, the Treatment Team assesses a recipient’s need for a guardian. The recipient’s 08/07/04 TPR documentation indicated that the Treatment Team had determined the recipient’s strengths and weakness. However, there were no specific statements in the recipient’s TPR that indicated whether the recipient needed a guardian

### Conclusion

Based on the documentation observed, the Authority believes that the facility conducted an assessment of the recipient’s ability to care for self; even though there is not a specific statement included in the recipient’s TPR that denotes that the recipient had been evaluated to determine the need for a guardian. Therefore, the allegation that the facility failed to adequately evaluate a recipient to determine if he needs a guardian is unsubstantiated. No recommendations are issued.

### Suggestions

The Authority issues the following suggestions:

1. A statement should be incorporated in a recipient’s TPR to indicate that assessments have been conducted to determine a recipient’s need for guardianship, and the results of those assessment documented in the statement
2. Staff members should be made aware of the facility’s policy that recognizes that guardianship services are an essential component of the facility’s policies, and follow the policy by making every effort to insure that recipients who desire the services are appropriately assessed to determine if sufficient basis exists to support such action.
3. Decisional capacity, as well as a recipient’s ability to perform activities of Daily Living and his IQ should be a part of the assessment process.