



FOR IMMEDIATE RELEASE

**Egyptian Regional Human Rights Authority
Report of Findings
Case #12-110-9025
Chester Mental Health Center**

The Egyptian Regional Human Rights Authority, a division of the Illinois Guardianship and Advocacy Commission, accepted for investigation the following allegations concerning Chester Mental Health Center:

1. Staff to patient interactions are inappropriate with staff throwing snacks at recipients, accusing recipients of taking things and staff propping feet on tables.
2. A recipient was given medication without consent and without a physician's order.
3. A recipient is required to perform work for the facility, including emptying out garbage cans and doing laundry.

Chester Mental Health Center is a secure, inpatient mental health facility operated by the Illinois Department of Human Services. The facility has 240 beds.

To investigate the allegations, an HRA team interviewed a service recipient and facility staff, examined a recipient's record, with consent, and reviewed pertinent facility policies and related mandates.

COMPLAINT STATEMENT

According to the complaint, unit staff behave inappropriately and unprofessionally when they put their feet on the tables that recipients use, eat on the unit in front of recipients, yell, throw snacks at recipients which the recipient must then pick up off the floor, and make accusations against recipients. The complaint also stated that a recipient was given medication without consent and without a physician's order. And, the recipient had to perform work for the facility and without pay; work included emptying garbage containers and doing laundry. Reports were made to the Illinois Department of Human Services' Office of Inspector General and the internal human rights committee chair.

FINDINGS

Recipient Interview

A recipient repeated concerns presented in the complaint statement and identified staff who engaged in unprofessional behaviors. He stated that he was given two injections without a physician's order. He also stated that he was forced to do work at the facility.

Staff Interview

The HRA team reported the concerns to facility's internal human rights committee chair as well as to the facility director. The director indicated that concerns regarding staff behaviors have been shared with unit leadership and the clinical director has requested that staff behaviors be part of standing items discussed at staff meetings.

The HRA also had follow-up contact with the human rights committee chair regarding the practice of a physician ordering "crush and observe" related to medication administration. The chair reported that patients are requested to go on "crush and observe" status when it is believed that they are "ditching or cheeking" medication as a safety precaution to the recipient and others. The fear is that the medications will be hoarded, taken as an overdose or used for trading items with other recipients. If a recipient refuses the "crush and observe" status then they can be observed for a period by a security therapy aide; if they refuse both the protocol or the observation, they may be taken off the medication and this would be noted in nursing notes. If a patient agrees but then later refuses crush and observe protocol, this is noted in the record and they resume normal administration or the medication is discontinued. The chair stated that if a medication is discontinued, it is likely that the patient will decompensate which may lead to court ordered medication.

With regard to recipients performing labor, the human rights chair reported that recipients cannot earn money and there is no labor performed. Vocational courses in the facility's education department are offered and include classes on commercial housekeeping and occupation homemaker. Class participants practice tasks as part of a laboratory activity, including emptying trash cans, cleaning furniture, cooking or doing laundry. Anyone who attends and participates in the classes receive points which can be redeemed for snacks, hygiene items or clothing at a store. Recipients are expected to keep their individual rooms clean. The education department has attempted to set up job shadowing opportunities on the units but staff have resisted which would make it unlikely that staff would allow recipients to do these tasks on the unit as per the human rights committee chair.

Record Review

With the recipient's consent, the HRA team reviewed the recipient's record. The recipient's treatment plan, dated 06-13-12, documents diagnoses of Mood Disorder, Not Otherwise Specified (NOS) and Psychotic Disorder NOS with a history of medication non-compliance and physical aggression. The recipient also has a mild cognitive impairment. Current medications include Olanzapine 15 mg. twice per day for psychosis and mood stabilization, Gabapentin 800 mg. three times per day for mood stabilization, Fluphenazine 5mg intramuscularly and Lorazepam 2mg intramuscularly "...if oral medications are refused." The treatment plan lists his emergency treatment preferences as follows: 1) emergency medication, 2) restraint. The plan states that "Seclusion is not an option due to mental retardation." The treatment plan includes goals and objectives for medication compliance, a reduction of aggression, a reduction of symptoms related to mood disorder and a reduction of symptoms related to psychosis. The plan also documents rehabilitation, medical and dietary goals and objectives. The 06-13-12 treatment plan indicates that the recipient has been medication compliant with no aggressive behaviors, "contingency PRNs [as needed medication]," no restraint applications, no psychotic symptoms

and improved mood stability during the reporting period. The recipient signed the treatment plan and indicated with a checkmarked statement that he approved the plan.

Physician orders dating back to February 2012 were examined. Physician medication orders are consistent with medications documented on the recipient's treatment plan. On 02-17-12, the physician ordered "crush and observe." Lorazepam 2mg by mouth and Fluphenazine 5 mg by mouth were ordered on 02-27-12 at 9:55 a.m., on 03-04-12 at 7:15 a.m. "for agitation," and on 03-30-12 at 9:30 a.m. On 04-03-12 at 7:35 a.m., Lorazepam by mouth was ordered for agitation and then at 10 a.m. Fluphenazine 5mg was ordered intramuscularly for agitation. On 04-29-12, Lorazepam was ordered for agitation at 8:05 a.m. and then again on 04-30-12 at 10:10 a.m. also for agitation. A physician's note on 04-30-12 stated to "allow pt to relax in quiet room to allow PRN to take affect - His module was moved to E3 while peers were at gym." On 05-06-12 at 5:50 p.m. an injection of Lorazepam was ordered along with 1:1 staff observation which was discontinued at 7:05 p.m. An injection of Lorazepam was given on 05-07-12 at 8:45 a.m. for "severe agitation." A crush and observe order was documented on 05-09-12 and again on 05-22-12. The HRA examined a consent form signed by the recipient and physician on 05-03-12 providing consent for the recipient's psychotropic medications. A nurse also signed the form indicating that medication information had been provided. When the HRA inquired about a decisional capacity statement, it was informed that the content of the treatment plan indicates whether or not a recipient has decisional capacity; however, the HRA could not find a clear statement regarding the recipient's decisional capacity to consent to treatment, only references to the recipient's affect, mood and thought. Regardless, the facility also provided court documents that the recipient is court-ordered to take psychotropic medications consistent with the medications that the physician has ordered. On further inquiry about the decisional capacity statement, the HRA was informed that "the patient is assumed to be competent unless the physician petitions the court and they find otherwise."

The HRA reviewed samples of progress notes dating back to January 2012. Of the progress notes reviewed, staff documented when the recipient refused routine medications, when PRN medication was ordered and given, when medication was refused and the manner in which medication was administered (e.g. by mouth, intramuscularly). There was no evidence that any medications were ordered without a physician's order. It appeared that sometimes PRN medication was ordered as an emergency for aggression but then the recipient accepted it willingly either by injection or by mouth. Other times it appeared that the PRN was offered for agitation and the recipient took it by mouth. The progress notes indicated several incidents of restraint application to protect self or others from harm, periods of yelling and other forms of agitation. The HRA later requested copies of rights restrictions dating back to January 2012 and received one rights notice for emergency medication given on 02-07-12 for behaviors that posed a danger to self and others.

There was no documentation in the record about concerns related to staff behaviors or that the recipient had to perform work for the facility. There is a note in the recipient's 06-13-12 treatment plan about the recipient participating in various rehabilitation classes, including a class entitled, "Occupation of Homemaking Class."

Policy Review

The facility maintains a Code of Conduct to guide staff behaviors and interactions with recipients. According to the Code, the facility "has zero tolerance for intimidating and disruptive behavior. These behaviors include but are not limited to: Harassment...Improper Language...Threats...Insubordination...[and] Physical aggression." The Center maintains a consumer advisory council at which issues of concern can be discussed. In addition, complaints can be filed through the internal facility human rights committee.

The facility has policies and procedures related to housekeeping that include emptying the trash. And, the facility maintains a large laundry department.

Tour of Rehabilitation Department

The HRA team toured the Rehabilitation Department that offered many options for recipients to work on vocational related activities including horticulture, culinary arts and industrial cleaning. And, there are opportunities to work on functional skills such as laundry and cooking as well as opportunities to pursue leisure interests such as art. Staff in the rehabilitation department reported that all cleaning and laundry activities are performed in a lab setting within the rehabilitation department and there is no expectation that the activities be carried out on the units. Recipients may be expected to keep their own rooms tidy but they are not to perform work for the facility. The HRA team observed one of the labs that had a kitchen and laundry facilities. Staff indicated that some recipients may prefer to do their own laundry and will use the lab setting versus having their laundry sent to the facility laundry department; however, doing one's own laundry is a recipient choice and not an expectation. While touring the lab area, the HRA interacted with several recipients who shared many positive comments about the rehabilitation department and its offerings. In addition each recipient interviewed verified that there was no expectation that they perform work of any kind on the units.

MANDATES

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102) guarantees the right to "...adequate and humane care and services in the least restrictive environment, pursuant to an individual services plan." This section also addresses psychotropic medication and states the following:

(a-5) 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.

Pursuant to Section 5/2-107:

(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....

(e) The Department shall issue rules designed to insure that in State-operated mental health facilities psychotropic medication and electroconvulsive therapy are administered in accordance with this Section and only when appropriately authorized and monitored by a physician or a nurse under the supervision of a physician in accordance with accepted medical practice. The facility director of each mental health facility not operated by the State shall issue rules designed to insure that in that facility psychotropic medication and electroconvulsive therapy are administered in accordance with this Section and only when appropriately authorized and monitored by a physician or a nurse under the supervision of a physician in accordance with accepted medical practice. Such rules shall be available for public inspection and copying during normal business hours....

(i) The Department shall conduct annual trainings for all physicians and registered nurses working in State-operated mental health facilities on the appropriate use of emergency administration of psychotropic medication and electroconvulsive therapy, standards for their use, and the methods of authorization under this Section.

The Mental Health Code also addresses, in Section 5/-106, labor and wages within a facility as follows: "A recipient of services may perform labor to which he consents for a service provider, if the professional responsible for overseeing the implementation of the services plan for such recipient determines that such labor would be consistent with such plan. A recipient who performs labor which is of any consequential economic benefit to a service provider shall receive wages which are commensurate with the value of the work performed, in accordance with applicable federal and state laws and regulations. A recipient may be required to perform tasks of a personal housekeeping nature without compensation.

Wages earned by a recipient of services shall be considered money which he is entitled to receive pursuant to Section 2-105, and such wages shall be paid by the service provider not less than once a month."

The Illinois Administrative Code (59 Ill. Admin. Code 112.90) addresses the administration of psychotropic medications in state-operated facilities and requires an examination by a physician before a psychotropic medication can be prescribed unless there is an emergency. "The

prescribing physician shall record, sign, and date (with time) the prescription." This section also requires a physician's statement regarding a recipient's capacity to consent to medication as well as the recipient's written consent to be administered routine medication. Requirements for emergency medication over a recipient's refusal are also addressed, including justification based on the imminent threat of physical harm.

CONCLUSIONS

Complaint #1: Staff to patient interactions are inappropriate with staff throwing snacks at recipients, accusing recipients of taking things and staff propping feet on tables.

The complaint contends that staff to patient interactions are inappropriate and unprofessional. The HRA found no documentation in the recipient's file in reference to or complaining about staff behaviors. The facility maintains a Code of Conduct to guide staff behaviors. In addition, an advisory council is available as a potential forum for voicing concerns along with the complaint process available through the facility's internal human rights committee. The Mental Health Code guarantees the right to "adequate and humane" treatment.

Based on the available evidence, the HRA cannot substantiate this allegation. However, the HRA takes this opportunity to offer the following suggestion:

Continue to remind staff about the Code of Conduct and appropriate staff to recipient behaviors. Discuss expected staff behaviors on the unit and address putting feet on furniture, the manner in which snacks are distributed and staff to recipient verbal interactions.

Complaint #2: A recipient was given medication without consent and without a physician's order.

The recipient's record in this case provided documentation of orders for all medication administered, including prn (as needed) medication. On several occasions, the recipient was offered prn psychotropic medication for agitation or behaviors and it appears that he took it willingly except on one occasion when emergency medication was given over the recipient's objection; a restriction notice was properly issued.

The recipient's treatment plan addresses his medication. The recipient signed the treatment plan. In addition, the recipient signed a consent form for the physician ordered medication. However, there was no clear decisional capacity statement written by the physician. The facility did obtain an order for court enforced medication.

Both the Mental Health Code and the Administrative Code outline specific requirements related to physicians' orders for medication and consent for medication which include a written statement as to the recipient's decisional capacity to consent to treatment.

Based on the available evidence, it appears that there were physician's orders for all medications administered and the recipient provided written consent for his medication. Evidence also indicated that the recipient was administered "as needed" medication which he willingly took on

most occasions as per progress notes. The complaint that the recipient was given medication without consent or without a physician's order is not substantiated. **However, the HRA does find a rights violation related to the lack of a clear decisional capacity statement written by the physician. The HRA recommends the following:**

- 1. Follow the Mental Health and Developmental Disabilities Code and the Illinois Administrative Code requiring that "the physician shall determine and state in writing whether the recipient has the capacity to make a reasoned decision about the treatment."**
- 2. Educate physicians regarding the requirement for a written decisional capacity statement.**
- 3. Review the need for a policy or procedural change to address this requirement.**

The HRA suggests that the decisional capacity statement could be incorporated into either the treatment plan or into the consent forms.

Complaint #3: A recipient is required to perform work for the facility, including emptying out garbage cans and doing laundry.

The HRA found no evidence that a recipient was required to work for the facility. There was documentation in the treatment plan regarding a housekeeping class through the facility's rehabilitation department. In a tour of the rehabilitation department, the HRA obtained information about the housekeeping class and industrial cleaning program and observed the labs in which related activities occur. In addition, both rehabilitation department staff and recipients participating in the rehabilitation program indicated that there is no expectation that recipients perform work for the facility except for keeping their own rooms tidy.

The Mental Health Code has provisions for paying recipients to perform labor as referenced in treatment plans although recipients are expected to perform routine personal room care.

Based on the available evidence the HRA does not substantiate the complaint.

The HRA acknowledges the full cooperation of the facility and its staff.