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**Egyptian Regional Human Rights Authority
Report of Findings
Chester Mental Health Center
Case #13-110-9005**

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:

A service recipient who was administratively admitted in 1994 was never taken to court and remained at the facility until July 6, 2012. He was discharged to another state-operated facility with no notice to the guardian and no discharge staffing.

If found substantiated, the allegation represents a violation of the Mental Health and Developmental Disabilities Code. 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 allegation, the HRA reviewed the record of the recipient, with guardian consent, corresponded with and interviewed facility staff, and examined pertinent policies and mandates.

FINDINGS

Interviews

The HRA interviewed the guardian of the recipient who reported that the recipient has resided in state-operated facilities most of his life. According to the guardian, the recipient has a dual diagnosis of mental illness and a developmental disability and is 50 years of age. His mental health diagnosis is schizophrenia and his cognitive functioning is considered to be moderate as per the guardian. The guardian reported that he was administratively admitted to Chester on 09-29-94 and he has never been taken to court. The guardian also stated that he was discharged from Chester on July 6, 2012 with no discharge notice or discharge meeting.

The HRA interviewed facility staff by telephone and via e-mail communication, regarding the recipient and the process for continuing an administrative admission. A physician indicated that the recipient's cognitive status was reviewed monthly by a staff person qualified in the area of developmental disabilities and at monthly treatment meetings. According to the physician, the recipient's administrative admission status did not change. A social worker reported that the recipient was at the facility because of his extreme behavioral needs and difficulty finding

suitable placement elsewhere. With regard to transfers, staff reported that typically a transfer recommendation is sent to another hospital which is reviewed/approved by that hospital and when a bed is available, the transfer occurs. Staff stated no discharge or transfer plan is developed for transfers to other state-operated facilities but notices of transfer are sent. The guardian should be notified of the transfer as per staff. In this situation, the therapist noted that there was not an official transfer recommendation but he was "...reasonably confident that he [his guardian] was notified and aware of the transfer." Guardian information is highlighted on each recipient chart as per staff. It was also reported to the HRA that all staff receive some degree of training related to serving individuals with developmental disabilities.

Record Review

With guardian consent, the HRA examined the record of the recipient in this case. The HRA had to retrieve the record from the recipient's current residence at another state-operated facility. Upon receiving copies of his Chester records from the state-operated facility where the recipient currently resides, the HRA noted gaps in the documentation and recontacted the individual who provided the copies to confirm that the HRA received all pertinent records regarding the recipient's continued status of Administrative Admission and any discharge/transfer documents. The contact reported that she sent everything that she located in the record and she did not see the missing items that represented gaps.

The guardianship Letters of Office indicated that the guardian was appointed plenary guardian of the person for the recipient on February 13, 1991. An Illinois Department of Human Services summary of state-operated facility admissions documented that the recipient has been in facilities at least since 1979. His first stay at Chester began on 07-27-1989 and ended on 06-18-1991 when he was transferred to a less restrictive state-operated facility. He returned to Chester on 09-29-1994 where he stayed until 07-06-2012 when he was admitted to a less restrictive state-operated facility. The summary sheet lists his most recent diagnoses as follows: Schizophrenia, undifferentiated; Moderate Mental Retardation; and the medical diagnoses of Enuresis, Extrapramidal Symptoms, Deep Venous Thrombosis and Hypothyroidism.

Discharge/Transfer information from the prior state-operated developmental disability facility to Chester and dated 09-29-94 indicated that, at the time, the recipient had 13 admissions to state-operated facilities since 1979 when he was 17 due to aggressive behaviors toward family members. The admission to Chester was considered a transfer due to frequent episodes of physical aggression towards peers and staff at the prior state-operated facility. Documentation indicated that the recipient was aggressive, threatening and non-compliant, that he attempted to elope and that he would become aggressive and angry in a matter of minutes. The transfer summary sheet documented on the line for guardian signature that the "guardian not available, signed waiver to object on 09-28-94." The HRA examined two applications for administrative admission; both applications were for administrative admissions to a state-operated developmental disability facility. One application was dated 06-29-93 and the other was dated 05-25-94; both were signed by the guardian and the facility director.

The HRA also examined the following forms related to the recipient's continued status at Chester:

October 12, 1995: Notice of Certification form, signed by the facility director, indicated that the recipient remains appropriately placed at Chester with a copy of the notice along with the right to request a review being sent to the recipient. **There was no indication that the guardian received the notice and information regarding the right to request a review and hearing.**

October 9, 1996: Notice of Certification form, signed by the facility director, indicated that the recipient was determined to be appropriately placed at Chester. The notice was addressed to the guardian and included the right to request a review and a hearing.

October 15, 1997: A Notice of Certification form, signed by the facility director and addressed to the guardian, indicated appropriate placement at Chester. The notice included the right to request a review and a hearing.

October 7, 1998: A Notice of Certification form, signed by the facility director and addressed to the guardian, indicated appropriate placement at Chester. The notice included the right to request a review and a hearing.

There was no evidence of any forms being completed in 1999 or 2000.

March 30, 2001: A Notice of Certification form, signed by the facility director and addressed to the guardian, indicated appropriate placement at Chester and provided information on the right to request a review and a hearing.

March 15, 2002: A Renewal of Administrative Status form (versus A Notice of Certification Form) was signed by a psychologist, the recipient and the guardian and stated that the recipient was admitted by administrative application on 06-03-92. "The law says that the person who signed the application must be asked if he or she wants the person receiving services to stay in the facility within one year after the application was signed. The person who signed the administrative admission application must be asked every year after that for as long as the facility director believes the individual needs residential services. " The form further documented specifics regarding the recipient stating that the recipient "...is in need of continuous treatment at Chester Mental Health Center. He has remained a high risk patient as a result of his long history of aggressive behavior resulting in severe injury to self and others. The patient behavior requires a highly structured setting to insure that activities of daily living, medication compliance and overall safety of self and others is maintained. Previous placement in other less restrictive environments has proved unsuccessful and detrimental to the patient's overall mental health and physical well being. Also, the patient expresses a desire to remain in this facility."

March 15, 2003: A Renewal of Administrative status form was signed by the coordinating therapist and the recipient. **There was no guardian signature and no indication that the guardian received a copy. There was no documentation on the form regarding the recipient's continued need for hospitalization at Chester.**

March 15, 2004: A Renewal of Administrative Status form was signed by the recipient but not staff. **There was no guardian signature or any indication that the guardian was notified.**

The HRA received no other documentation of any Notices of Certification or Renewal of Administrative Status and no evidence that he was taken to court even though the recipient continued to remain at the facility until 2012.

The HRA reviewed a copy of a Notice of Transfer From **addressed to the recipient only** and signed by a social worker. The Notice of Transfer Form stated that the recipient "...will be transferred from Chester Mental Health Center to [another state-operated facility] on July 5, 2012." The reasons for this transfer were as follows: Patient is no longer in need of maximum security." The notice included information about the right to object and the process for objecting. **The notice stated that the social worker personally handed the transfer notice to the recipient on 07-03-12, two days before the stated discharge date of 07-05-12.**

The HRA received no documentation from the recipient's record regarding a discharge/transfer staffing.

Policy Review

The HRA examined policies and procedures pertinent to the complaint. Chester's "Transfer Recommendation of Behavior Management Patients" procedure states that "All transfers of behavior management recipients from the Chester Mental Health Center are affected in accordance with the Mental Health and Developmental Disabilities Code which mandates that treatment occur in the least restrictive alternative appropriate to that recipient. The recipient's treatment team must evaluate on an ongoing basis the recipient's continuing need for a maximum security environment." A transfer begins with a psychiatrist's transfer recommendation which is sent to an administrative assistant who coordinates the transfer. The treatment team is to review and the coordinating therapist is to "...focus on transfer issues, continuity of care concerns and help recipient prepare for transfer during individual/group therapy....A recipient who has been in the Chester Mental Health Center for more than seven days must be given written notice at least 14 days prior to any transfer....The recipient's attorney, guardian, if any, and responsible relative must also be notified." The recipient and/or guardian can object to a transfer after which a hearing must be held.

Chester's Utilization Review Hearings Procedure also provides some guidance with regard to transfers. According to the policy, "whenever a recipient who has been in the facility for more than seven days is to be transferred to another facility, the Facility Director shall give written notice of such proposed transfer...at least 14 days prior to the scheduled transfer. Except in an emergency, no transfer can proceed pending hearing on an objection." For recipients with cognitive impairments, notice is to be given to the recipient if he is at least 18, his attorney, his guardian and 2 designated individuals. "If the recipient is 18 years of age but lacks sufficient capacity to understand and consent to the designation of persons to receive notice, notice shall also be sent to his nearest adult relative." The notice is to include the reason for discharge, the right to object and contact information of external advocacy resources. The standards for transferring a recipient from a mental health facility are described and for transfers occurring more than seven days after admission "The facility Director may transfer a recipient if the transfer is clinically advisable and consistent with the treatment needs of the recipient."

Chester staff indicated that they were not aware of any facility policies related to administrative admissions and the continuation of such admissions.

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. 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....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. "

With regard to administrative admissions, the Code (405 ILCS 5/4-302) states: "A person with a developmental disability may be administratively admitted to a facility upon application if the facility director of the facility determines that he is suitable for admission. A person 18 years of age or older, if he has the capacity, or his guardian, if he is authorized by the guardianship order of the Circuit Court, may execute an application for administrative admission. "

Section 5/4-700 states that "The person who executed the application for administrative or temporary admission may request discharge of the client so admitted at any time. The client shall be discharged within 3 days of receipt of a written request by the facility director of the developmental disabilities facility."

With regard to a recipient's continued stay under an administrative admission, the Code (405 ILCS 4-310) states: "At least once annually the client shall be evaluated to determine his need for continued residential services. If need for continued residence is indicated, the facility director of the facility shall consult with the person who made application for the admission and shall request authorization for continued residence of the client. The request and authorization shall be noted in the client's record." (emphasis added)

A transfer to another state-operated facility is addressed in Section 5/4-707 and states the following: "The facility director of any Department facility may transfer a client to another Department facility if he determines that the transfer is appropriate and consistent with the habilitation needs of the client. An appropriate facility which is close to the client's place of residence shall be preferred unless the client requests otherwise or unless compelling reasons exist for preferring another facility." Transfer notices and a transfer appeal mechanism are described in Section 5/4-709 and state **that "Whenever a client who has been in a Department facility for more than 7 days is to be transferred to another facility under Section 4-707, the facility director of the facility shall give written notice at least 14 days before transfer to the client's attorney and to the persons specified in Section 4-206 [which includes the guardian] of the reasons for the transfer and of the right to object. [emphasis added]** In an emergency, when the health of the client or the physical safety of the client or others is imminently imperiled

and appropriate care and services are not available where the client is located, a client may be immediately transferred to another facility provided that notice is given as soon as possible but not more than 48 hours after the transfer. The reason for the emergency shall be noted in the client's record and specified in the notice....A client may object to his transfer or his attorney or any person receiving notice under Section 4-206 may object on his behalf. Prior to transfer or within 14 days after an emergency transfer, a written objection shall be submitted to the facility director of the facility where the client is located. Upon receipt of an objection, the facility director shall promptly schedule a hearing to be held within 7 days pursuant to the procedures in Section 4-209. The hearing shall be held at the transferring facility except that when an emergency transfer has taken place, the hearing may be held at the receiving facility. Except in an emergency, no transfer shall proceed pending hearing on an objection."

The HRA also examined the conditions of the Nathan versus Levitt Consent Decree from 1975 which pertains to the admission of persons with cognitive impairments to state-operated facilities as well as timely and adequate evaluations and treatment. The conditions of the Decree include the following: adequate evaluations and treatment planning for persons with a dual diagnosis of mental illness and cognitive impairment; the transfer and placement of individuals with severe and profound cognitive impairments as well as mental illness in a developmental disability center within 30 days of the date of identification; the transfer and placement of individuals with mild to moderate cognitive impairments as well as a mental illness in the least restrict placement possible, including community settings; treatment planning by a team comprised by professionals from both developmental disability and mental health services; and, training of mental health staff on treatment issues related to cognitive impairments.

The Illinois Administrative Code also has provisions regarding the admission of persons with developmental disabilities and is consistent with the Nathan versus Levitt Consent Decree (59 Ill. Admin Code 112). According to Section 112.20, "Any person admitted to a Department of mental health facility who may be mildly or moderately mentally retarded in the clinical judgment of facility, including those who are also mentally ill, shall be evaluated by a multi-disciplinary team which includes a qualified mental retardation professional....A mentally retarded person shall not reside in a Department mental health facility unless the person is evaluated and is determined to be mentally ill and the facility director determines that appropriate treatment and habilitation are available and will be provided to such person at the facility. In all such cases the mental health facility director shall certify in writing within 30 days of the completion of the evaluation and every 30 days thereafter, that the person has been appropriately evaluated, that services specified in the treatment and habilitation plans are being provided and that, the setting in which services are being provided is appropriate to the person's needs....If the facility director determines that appropriate treatment and habilitation services are not available or that the setting which services are provided are not appropriate to the recipient's needs, the facility director shall seek a placement for the recipient that is appropriate to his or her needs. Transfers and discharges shall be carried out in accordance with Section 112.20." A recipient, guardian or other representative can object to the certification and request a utilization review regarding the certification, treatment plan or placement.

The Administrative Code also states (59 Ill. Admin. Code 112.10) that "Whenever a recipient who has been in a Department facility for more than seven days is to be transferred to another

facility, the facility director shall give written notice of the proposed transfer on the 'Notice of Transfer' form, to the persons identified in Section 4-206 and 4-709 of the Code at least 14 days prior to the scheduled transfer." A recipient and/or guardian can object to a transfer by submitting written statement prior to discharge or within 14 days after an emergency transfer resulting in a utilization review. The review standard used for evaluating a transfer from a mental health facility is that "The facility director may transfer a recipient if the transfer is clinically advisable and consistent with the recipient's treatment needs as defined by the recipient's individual treatment plan."

CONCLUSIONS

A recipient with a dual diagnosis of mental health needs and a cognitive impairment had been administratively admitted to a state-operated facility by his guardian in 1993 and again in 1994. He had been at Chester Mental Health Center most recently from 09-29-94 until 07-06-12. With regard to his continued admission status, the record indicated Notices of Certifications were completed and signed by the Chester facility administrator in 1995, 1996, 1997, 1998, and 2001. There were no Notices of Certification for 1999 or 2000. The 10-12-95 Notice of Certification did not document that the guardian received a copy of the notice or information about the right to a hearing even though the guardianship had been in place since 1991. Starting in 2002, the Notices of Certification changed to Administrative Admission Renewal Forms which were signed by a staff person and the guardian and included some documentation regarding the recipient's continued need for placement at Chester. There were Administrative Admission Renewal Forms for 2002, 2003 and 2004. Neither the 2003 nor the 2004 form included a guardian signature or documentation that the guardian was notified of the renewal or appeal rights; the 2004 form did not include a staff signature. Several of the forms did not explain why the recipient's continued stay was warranted. Staff reported that the recipient "MR" status was reviewed monthly which is different than a placement review. The Mental Health Code (405 ILCS 4-310) with regard to Administrative Admissions and instead of court hearings requires that: "At least once annually the client shall be evaluated to determine his need for continued residential services. If need for continued residence is indicated, the facility director of the facility shall consult with the person who made application for the admission and shall request authorization for continued residence of the client. The request and authorization shall be noted in the client's record." **Due to the lack of evidence that annual placement reviews and consultations with the guardian occurred for this resident from 2005 to 2012 and the lack of guardian involvement/notification in the completed forms in 1995, 2003 and 2004, the HRA substantiates a violation of the Mental Health Code with regard to the process for continued placement for an administrative admission and recommends the following:**

- 1. Follow the Mental Health Code and evaluate individuals administratively admitted regarding the continued need for placement at Chester. Consult with the individual who made the application and request continued authorization for residence if indicated. Document the review.**
- 2. Review the process for continuing administrative admissions with staff.**

The complaint also stated there was no discharge plan/meeting or guardian notification when the

recipient was transferred to another state-operated facility. Staff reported that transfer had not been officially recommended. A notice of transfer form was signed by a social worker who provided a copy to the recipient on 07-03-12 for a transfer scheduled to occur on 07-05-12 although it did not appear that the transferred occurred until 07-06-12. In the documentation provided to the HRA, there was no indication that the guardian was notified and the guardian was not listed on the Notice of Transfer Form.

Facility policy, the Illinois Administrative Code and the Mental Health Code all state that recipients and their guardians are to receive 14 days notice of a non-emergency transfer and the notice should include the right to object. The transfer notice in this case was not provided 14 days prior to transfer and, there was no documentation that the guardian received the notice or the right to object. As the surrogate decision-maker for the recipient, the guardian was not able to review the transfer and consider an objection, and thus was unable to exercise Mental Health Code rights on behalf of the recipient. On the topic of discharge plans, staff reported that discharge plans and meetings are not done for transfers, however, the HRA contends that Chester policy and the Mental Health Code supports this practice with regard to transfers. Chester policy states that the coordinating therapist is to work on transfer and continuity of care issues upon a transfer recommendation with the involvement of the treatment team. The Mental Health Code guarantees the right to adequate care and treatment pursuant to a treatment plan with input from the recipient and his guardian. **Based on the evidence the HRA finds a violation of the transfer notice requirements and treatment planning with regard to the recipient in this case and recommends the following:**

- 1. Follow Chester policy, Administrative Code requirements and Mental Health Code mandates and issue transfer notices 14 days prior to non-emergency transfers.**
- 2. Follow Chester policy, Administrative Code requirements and Mental Health Code mandates and issue transfer notices as well as the right to object to guardians.**
- 3. To ensure adequate care and treatment pursuant to a treatment plan with input from the recipient/guardian as required by the Mental Health Code and consistent with Chester policy regarding treatment team reviews of transfer recommendations and issues, use the treatment planning process to develop discharge plans for recipients who are transferring out of the facility even if to another state-operated facility. Include the recipient, guardian and any other person designated by the recipient. Include this provision in the transfer policy.**
- 4. Review transfer requirements with staff.**

Comment: The HRA noted that the facility utilization review hearing policy indicates that notice of a transfer/discharge is to be given to the nearest adult relative for recipients who lack the capacity to understand. The HRA contends that such notice cannot be provided without recipient or guardian consent and strongly suggests that this statement be modified accordingly.