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Egyptian Regional Human Rights Authority
Report of Findings
14-110-9006
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 allegation concerning Chester Mental Health Center:

A recipient isn't being served in the least restrictive environment.

If found substantiated, the allegations represent violations of the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102), the Illinois Administrative Code (59 Ill. Admin. Code 112.20) 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 facility 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 has been at Chester Mental Health (Chester) for 30 years. The staff continually tells him that he is supposed to leave soon but they are waiting on bed availability at another state operated facility. He said he has stayed on yellow or green level for 10 years. [Chester uses a level system for behavior and privileging; green being the highest, red the lowest]. The recipient said that when he gets close to leaving, he is transferred to a new unit and social worker and then has to "start over". He said he has no court charges pending, everything has been dropped and his current status is NGRI (not guilty by reason of insanity).

B. Therapist 1: This therapist was the recipient's current therapist at the time of the HRA interview, but she had just been his therapist for approximately 2 months. The therapist stated that the recipient's "theim date" from court had passed but that he was not motivated to move. Each time discussion of transferring comes up, the recipient states he wants to be transferred but then he "self-sabotage's" himself by making inappropriate sexual statements that he knows will keep him at Chester. He does still make inappropriate comments such as he is "going to have

women waiting on him when he gets out" but the therapist stated that he is able to be redirected. She informed the HRA that another Utilization Review was held recently and he had not been motivated to leave. She said that his past history will make it hard to find a state operated facility willing to accept him. He continues to make inappropriate statements but she stated that he does not act on them. He has had no maladaptive behaviors since June when she took over his case. She also stated that at his next treatment team meeting they may recommend him for transfer. The therapist stated that he has had recent contact from a sister which might help motivate him more to be transferred closer to her. One of the concerns the treatment team has about his being transferred is that Chester is the only state operated hospital that does not have women and has single rooms; once transferred he will have a roommate. The therapist was not sure from February, 2014, when the Utilization Review noted a transfer recommendation would be made, until the time of our interview what prevented him from being transferred other than his lack of motivation. She gave us a name of another therapist he had prior to her that might have more information.

C. Therapist 2: The second therapist interviewed had treated the recipient around the timeframe when the complaint initiated. He had the same opinion as Therapist 1 that the recipient would "self-sabotage" when talk of transfer would begin. One specific incident he recalled was that the recipient hit another peer immediately after a treatment planning meeting where he was told that he would be recommended for transfer. This therapist was of the opinion that the recipient was not ready for a community placement but could probably be managed in a less secure state operated facility. An ongoing issue this therapist saw with the recipient is that when he is told that making sexual statements to female staff and peers was inappropriate he would laugh and agree but then would do it anyway. The therapist believes that the recipient is not afraid that he will hurt someone, but that he has a fear of having to put forth effort and also that there would be higher expectations with a transfer to a less secure facility. The therapist did mention that a sister had recently become involved and was advocating for him to be transferred closer to her. However, the therapist was not sure if her involvement is motivation for the recipient to want to transfer or if it is a source of more anxiety over the increased expectations moving closer to her would bring. The therapist is of the opinion that the recipient would always require close monitoring to be successful. The therapist stated that he had talked to another state operated facility in the past about what their expectations would be and was working with them on treatment approaches so that the recipient would have a better chance of success. The HRA questioned if the recipient's "self-sabotaging" of transfers is being addressed in his treatment planning. He stated that he had been working with the recipient to help him recognize the quality of life improvements he would get if he transfers but he could not speak for what was currently being done to address any anxiety issues the recipient might have over transferring to another facility.

II. Clinical Chart Review:

A. Treatment Plan Reviews (TPRs): According to the recipient's 12/24/13 TPR, he has been at Chester since July, 1992 (approximately 22 years). His reason for admission is listed as being admitted NGRI from another state operated mental health facility on criminal sexual assault charges. He had previously been admitted to Chester from 1987-1990 and then was returned to the state operated mental health facility for two years but was returned to Chester after allegedly

attempting to commit a sexual assault on a female staff member there. The *discussion* section of his TPR stated that he attended his meeting and that he continues to be free of physically aggressive behavior. The TPR noted that "Overall he has continued to maintain significant improvement. However he did direct a suggestive remark to a female nurse on one occasion during the review period." It was also noted that the recipient admitted that he said something to the nurse that he should not have. The note indicated that the remark "while not sexually graphic, was inappropriate." In the *extent to which benefitting from treatment* section it stated that while the recipient "did present a relatively inappropriate statement during the review period, the treatment team remains of the opinion that planning for a transfer to the less secure setting should begin with contacting the receiving facility to discuss [recipient's] issue of history of sexually aggressive behaviors and the need to provide monitoring regarding this issue." The therapist was to continue working with the recipient on developing insight into how his behaviors have a negative impact on others. The *criteria for separation* section stated that the recipient "must exhibit an ability to inhibit any significant impulses of violence toward himself or others. He must express a genuine desire for transfer, to be cooperative in his adjustment as exhibited by his statements, taking of any medications deemed as essential, and the making of reasonable plans. He must also demonstrate adaptive social function which is free of inappropriate sexual behavior. His insight into how his maladaptive and dangerous behaviors have a negative impact on others must improve as well." The recipient's diagnosis is listed as Axis I: Paranoid Schizophrenia, Paraphilia; Axis II Antisocial Personality Disorder; Axis III Diabetes Mellitus, Hx (history of) GI Bleed secondary to polyps, Dyslipidemia, Hypertension; Axis IV: Longstanding Mental Illness, History of Psychiatric Hospitalizations and Axis V: Current GAF (global assessment of functioning) 25. The recipient marked the box stating he was in agreement with his treatment plan and signed the TPR.

The recipient's 8/6/13 TPR noted in the *discussion section* that for the sixth consecutive review period [once per month] there had been no reports of the recipient having been observed engaging in inappropriate sexual behaviors. The treatment team discussed criteria for a recommendation to transfer the recipient to the less secure facility and the recipient stated he would "work hard" to meet the criteria. It was noted that during the previous treatment plan review meeting, the team indicated to the recipient that a recommendation for him to return to the less secure setting "would be strongly considered." The *extent to which benefiting from treatment* section stated verbatim what was in the discussion section and the *criteria for separation* section was also verbatim to the 12/24/13 TPR. It was also noted on this TPR that the recipient's behavior was "stable overall" and that he had "no FLR [full leather restraints]/Seclusions." The recipient signed the TPR and marked the box indicating agreement with his treatment plan.

The TPR dated 7/10/14 noted in the discussion section that the recipient was inappropriate with the therapist and argumentative and that he "was not easily redirectable." It was also documented that he had not had any signs of aggressive behavior that period and that he attended off unit activities and was compliant with medications. However, he continued to make sexually inappropriate comments to staff. The criteria for separation section stated verbatim what the other TPRs stated.

The 8/5/14 TPR noted in the discussion section that the recipient attended his meeting and was appropriate and polite. He had requested to be transferred to a VA (Veteran's Administration) hospital. The team discussed his "inappropriate comments that he had made over the past several weeks." The recipient acknowledged that at times he is sexually inappropriate. It was also noted that he had not been aggressive and continued to attend off unit activities. The criteria for separation section stated verbatim what the previous TPRs had stated.

Finally, the 9/3/14 TPR stated in the discussion section that the recipient attended his meeting and was polite and appropriate. He again asked for a transfer to a different hospital. The treatment team indicated that they discussed his criteria for transfer. "It was explained to him that he cannot make any inappropriate sexual comments." The recipient stated that he understood and agreed to stop. He had not been aggressive that review period and continued to attend off unit activities. The criteria for separation section was again, verbatim to the previous TPRs.

B. Utilization Reviews (UR): The UR dated 10/14/10 was reviewed. A PhD, Psychologist III, the treating therapist and another Psychologist III and a licensed clinical social worker (LCSW) were present. It was noted that the most recent restraint episodes were 9/15/10; 5/20/10 and February, 2010 where he made physically threatening statements against staff and sexually aggressive statements to a female staff. It was noted at that time that the recipient was not yet stable and was a danger to others. The UR team documented that the recipient "possesses minimal insight into those clinical issues which need to be addressed in meeting criteria for transfer recommendation. These factors include: demonstrating increased regard for welfare of others; increase in understanding the importance of managing his psychiatric condition and better control over impulses to engage in inappropriate sexual behaviors." The team agreed to "modify therapeutic interventions to address limited regard for others."

Another UR dated 11/14/13 was also reviewed. It was documented in this review that the recipient's "progress warrants a recommendation for him to return to the less secure setting-however careful transfer/discharge planning is required in this case." The progress made section noted that the recipient had shown improvement in that aggression was well controlled and incidents of inappropriate sexual behavior were significantly less frequent and less serious, but his "ability to voice an understanding of the negative impact his inappropriate sexual behaviors may have on others remains limited…even so, he can most likely be managed in a less secure setting with careful discharge planning." The treatment team documented that they planned to submit a transfer recommendation if careful discharge planning is implemented.

The UR dated 2/13/14 was reviewed which reiterated that the recipient's progress warranted a recommendation for him to return to the less secure setting. The progress made section stated verbatim what the 11/14/13 had. Under changes to recommendations it was documented that the team would "continue to work on motivation for transfer to less secure setting."

A UR dated 5/8/14 stated that the treatment team has agreed that his progress warrants a recommendation for him to return to the less secure setting, however careful transfer/discharge planning would be required. In the progress made section "…he can most likely be managed in a less secure setting with careful discharge planning. However he has reported that he is not ready

to be transferred at this time." The following changes to recommendations were also noted "Pt [patient] is verbalizing ideas of getting discharge-is an improvement continue to work on motivation for transfer to less secure setting."

An 8/21/14 UR stated again that he had made progress in that his aggression was controlled, has had no behavioral problems, but continues to make sexually inappropriate comments to staff and that "careful transfer/discharge planning is ongoing." In the progress made section it stated that he has not had any acts of aggression within the past year and his incidents of sexual inappropriateness were less frequent and less severe and that he can be redirected from his occasional sexually inappropriate comments to staff. It also noted he can "most likely be managed in a less secure setting with careful discharge planning. He has expressed a desire for transfer." In the changes to recommendations section it was noted that the team would "work with patient on methods to demonstrate preparation for transfer."

C...Progress Notes: Progress notes were reviewed by the HRA. On 9/25/13 it was documented that the recipient made inappropriate comments to a registered nurse stating "I'm gonna take you far far away from here one day." Approximately 15 minutes later he stated "[name] when I get out of here I'm going to marry you." Another 15 minutes later he stated "I like her and that's why I bother her all the time" and then he began "singing about love" and sat in a chair across from the nurse's station. The recipient was counseled on making inappropriate remarks. On 12/24/13 it was noted that the recipient approached the nurse's station and stated "Damn girl, I wish I had you under my Christmas tree." The recipient was counseled on inappropriate statements in which he replied "can't we get any mistletoe around here." The nurse's note stated "Rec [recipient] is oblivious to redirection." A 2/13/14 psychologist note indicated that the recipient's chart was reviewed for the utilization review meeting. It was noted that the recipient "has shown sustained improvement in that episodes of aggressive behavior have not taken place for several months. [Recipient] has also shown improvement in that occurrence of inappropriate sexual statements/gestures have diminished considerably. Most recent episode of inappropriate sexual statements took place in December, 2013. He directed suggestive statements to a female nurse. The treatment team is pursuing placement in the less secure setting including contact with the less secure hospital in order to address remaining risk factors and other clinical issues." A 5/5/14 social work note stated that the recipient "is a voluntary patient…He is cooperative with medication and follows most module rules. He has not made any sexually inappropriate remarks for the last 2 months. He has not engaged in any acts of physical aggression. He reports that he is not currently ready to transfer." An 8/1/14 therapist note states the recipient is "not a behavior problem. Therapist redirects when sexually inappropriate comments are made." Another therapist note on 8/29/14 states "he continues to make sexually inappropriate comments and has to be redirected."

D. Medication Administration Records (MAR): The HRA reviewed MAR reports for September, 2013, October, 2013 and January, 2014. There were no documented medication refusals during these months.

III...Facility Policies:

According to the "*Transfer Recommendation of NGRI and Involuntary Criminal Patients*" Procedure, all transfers are to be in accordance with the Mental Health Code requirement of treatment in the least restrictive setting. Transfers begin with a determination by the treatment team and then a transfer recommendation is made by the psychiatrist. The therapist then addresses any transfer issues.

The facility "*Treatment Plan Procedure*" states that the section of the treatment plan that addresses Criteria for Separation is to "Describe the criteria that must be met before the patient can be transferred to another facility or be returned to court."

The "*Patient Rights Procedure"* states that the recipient is to "…be provided with adequate and humane care and services in the least restrictive environment pursuant to an individual treatment plan."

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…*

With regard to transfers between state-operated facilities, the Code (405 ILCS 5/2-707) states:

> *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.*

Summary

The recipient voiced a desire to be transferred to a less secure facility to the HRA team and said that at the treatment team meetings, he is just told that they are waiting for an available bed for him to be transferred. It was documented in the treatment plans that he has maintained substantial improvement in his maladaptive behaviors and that transfer should begin with discussion with the receiving facility on the risks, but it did not state that the team would begin working toward this goal only that it would be "strongly considered."

The criterion for separation section describes the requirements to be met as *"the recipient must exhibit an ability to inhibit any significant impulses of violence toward himself or others."* It was documented that the recipient had been aggression free since 2010. *"He must express a genuine desire for transfer, to be cooperative in his adjustment as exhibited by his statements."* The recipient stated he would "work hard" to meet criteria for transfer in his TPR meeting and expressed a desire to transfer the HRA as well. *"Taking of any medications deemed as essential."* The MAR showed no medication refusals though the HRA saw two instances of medication refusal for heart medication and another to treat constipation in August, 2013 case notes. *"The making of reasonable plans. He must also demonstrate adaptive social function*

which is free of inappropriate sexual behavior." The TPR for July, 2014 referenced "inappropriate sexual statements" but the HRA did not find documentation in the TPR or case notes showing what those statements were. Prior to that, the last documented inappropriate statement was in December, 2013. *"His insight into how his maladaptive and dangerous behaviors have a negative impact on others must improve as well."* It was documented that the recipient acknowledged that he said something to the nurse he shouldn't have.

Conclusion

The Utilization Reviews from November, 2013 through August, 2014 all indicated that the recipient had no aggressive behaviors, was still making "inappropriate sexual statements" but that the frequency and severity of said statements had decreased, the recipient was compliant with medications, with the exception of a few instances where certain medications were refused, and that the recipient could be managed in a less secure setting. However, the HRA found no documentation showing that steps had been taken to start that process. The treatment team also noted that they would "continue to work on motivation for transfer to less secure setting." No specific reason was listed as to why the team felt he needed motivation for transfer and the recipient requested in treatment plan meetings to be transferred to a less secure setting and also told the HRA that he would like to be transferred. In the interviews with the therapists, the HRA was informed that the recipient would "self-sabotage" himself whenever discussion of transfer would begin by making sexually inappropriate remarks or acting out in ways that he realized would keep him at Chester. Even though it seemed this was an identified barrier to the recipient being transferred to a less secure setting, the HRA could not find documentation in the treatment plans showing that the issue of self-sabotage and/or anxiety was being addressed and thus, it appeared that a continuous cycle of the recipient being ready for transfer but then "self-sabotaging" the transfer each time was occurring. Therefore, the HRA **substantiates** the allegation. The HRA makes the following **recommendations**:

1. **The treatment team and administrative staff should review the recipient's treatment plan to ensure that any and all barriers to transfer are being addressed in treatment.**

2. **Administration should review this case to determine if an independent examination is warranted to address why this recipient has remained at Chester for over 22 years and if barriers exist, what treatment revisions should be made to facilitate treatment in the least restrictive environment as guaranteed by the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102).**

3. **The HRA was concerned that the vagueness of the criteria for separation such as "His insight into how his maladaptive and dangerous behaviors have a negative impact on others must improve" and "must demonstrate adaptive social function which is free of inappropriate sexual behavior" might prove difficult to assess when the recipient would be appropriate for transfer. The treatment team and administration should review these goals and provide more measurable criteria that has to be met before a transfer. (i.e. Does the recipient have to totally eliminate inappropriate sexual behavior or just decrease the occurrence of said**

maladaptive behavior to once every 6 months; what "adaptive social function" must be demonstrated; How is it determined that he has developed insight and is that possible with the recipient's diagnoses?)