FOR IMMEDIATE RELEASE

Egyptian Regional Human Rights Authority
Report of Findings
16-110-9005
Chester Mental Health Center

The Egyptian Regional Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission has completed its investigation concerning Chester Mental Health Center, a state-operated mental health facility located in Chester. The facility provides services for approximately 240 recipients serving both forensics and civil commitments. The specific allegation is as follows:

1. A petition for Court enforced medications was filed inappropriately.

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

To investigate the allegation, the HRA Investigation Team, consisting of two members and the HRA 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. With the recipient's written authorization, copies of information from the recipient's clinical chart were reviewed by the Authority. Facility policies relevant to the complaint were also reviewed.

I. Interviews:

A. Recipient: The recipient informed the team that he had been admitted to the facility approximately 3 months prior to the HRA's interview date. One of his concerns was that staff on his treatment team had informed him that a Petition for court enforced medication was going to be filed. However, he had not yet been served with a Petition when we spoke. He was concerned because he stated that he is allergic to several medications including Zyprexa, Prozac, Risperidone, Olanzapine, and Prolixin. He stated that Prolixin caused his tongue to swell and the medications they are trying to give him state not to use if you have high blood pressure, which he does due to a heart condition he's had since birth called Wolff Parkinson White Syndrome (WPW). According to WebMD, WPW "*is a rare congenital heart disorder involving irregularities in the electrical system of the heart. In individuals with WPW syndrome, an abnormal alternate electrical pathway (accessory pathway), exists between the atrium and the ventricle, resulting in abnormal heartbeat rhythms (arrhythmias) and faster than normal heartbeats (tachycardia).*" The staff allegedly told him that he had to prove that he has medication allergies by having a reaction in front of them that they were not going to simply go off of his former physician's words. He also stated that

the psychiatrist at Chester told the physician there not to give him Benadryl because it is for anxiety not allergies. Therefore, he could not receive Benadryl for his allergies on the unit. He stated that he also has had withdrawals from Valium and Ativan which caused him to have lack of sleep.

II. Clinical Chart Review:

A. Treatment Plan Reviews (TPRs): The 7/20/15 TPR listed the following allergies: Life threatening – NSAID, Opiates, Penicillin, Quinolones (certain antibiotics), Sulfonamides (sulfur), Codeine, Morphine and Promethazine (alters chemicals in brain and also acts as antihistamine). Critical: Serotonin Reuptake Inhibitors (SRI), Oxcarbazepine (anticonvulsant), Phenothiazines (used to treat psychiatric illnesses), Quetiapine (antipsychotic) and Risperidone. Other allergies listed are Adrenocortical Steroids, Anticholinergics, Aripiprazole, Aspirin, Barbiturates, bupropion, (antiparkinsonian agents) Haldol Deaconate and Cephalosporins (chemically related to penicillins). Food allergies to grapefruit, cauliflower, Brussel sprouts, asparagus cabbage and broccoli are also listed. He was admitted to Chester as Unfit to Stand Trial (UST). It was noted that he refused to attend this TPR so the treatment team went to his room to speak with him. He refused to get out of bed and indicated he did not want to talk. The discussion section continued by stating that the treatment team *"told him that he needs to start cooperating with treatment…[recipient] continues to refuse to meet with his doctors, therapist and will not attend any therapeutic groups. He spends the majority of his time in bed, and writing countless complaints about the facility. He continues to refuse to work towards fitness goals, stating that he will be released through the federal courts. He has indicated that he will not work towards fitness because he wants to be released through the federal courts, and does not want to return to…county court."* His diagnosis is listed as Axis I Major Depression, Anxiety Disorder with panic attacks, history of delusional disorder, history of polysubstance abuse; Axis II no diagnosis; Axis III History of allergies to multiple medications, acid reflux, hypertension, fibromyalgia, Wolf-Parkinson White Syndrome, postural orthostatic tachycardia syndrome, GERD and asthma; and, Axis IV Chronic mental illness and legal problems and GAF 50 (global assessment of functioning). Current medication is listed as Diphenhydramine (antihistamine/Benadryl) and Diazepam (benzodiazepine for anxiety).

B. Medication Reconciliation: The form dated 9/23/15 lists regular medications as Vitamins, Docusate (stool softener), Magnesium/Aluminum Hydroxide (antacid) and Clonidine (to lower blood pressure). Psychiatric medications are listed as Diazepam, Diphenhydramine and Lorazepam PRN (as needed). The next form reviewed dated 9/25/15 lists medications as Mg/AL Hydroxide, Clonidine, Albuterol and Milk of Magnesia and lists no psychiatric medications.

Medication Administration Records (MAR) for July through September were also reviewed. July's MAR showed the following medications being given: Diazepam was given daily, Lorazepam PRN (as needed) was given several times, and Diphenhydramine was given daily. Acetaminophen PRN was given a few times. August's MAR documented Diphenhydramine being given twice, Metoprolol Tartrate BID (beta blocker often given for high blood pressure) being given starting on 8/17/15 and continuing daily through the remainder of the month. September's MAR documented Hydroxide PRN (antacid) being given a few times, Clonidine (treats high blood pressure) being given three times daily, Metoprolol Tartrate being given twice

daily, Milk of Magnesia being given once and Pantoprazole (acid reducer) being given twice daily. There were no documented refusals on any of the MAR forms and none were listed as court enforced.

C...Progress Notes: On 7/1/15 a nursing note stated that the recipient requested a PRN (as needed medication) stating he was very anxious and said he "can't stop." He was offered and accepted 2 mg Ativan orally. An hour later it was noted that he was calm and the PRN was effective. Eight hours later he again requested Ativan and it was given for anxiety. On 7/2/15 he was given Tylenol for a headache and 2 mg Ativan for increased anxiety. The next day he again complained of anxiety and received 2 mg Ativan. A nursing reassessment for 5/7/15-5/14/15 stated that he had received PRN of Benadryl daily from 5/8/15-5/13/15 due to complaints of itching. An 8/3/15 therapist note documented that the recipient had placed 3 letters under the therapist's door. The letters were described as *"derogatory, insulting and threatening. He stated he would pay convicted rapists to come to my house. During 1:1 Interactions [recipient] is cooperative with this therapist, then will leave inappropriate letters under my office door. This has happened on several occasions."* A nursing note this same date stated that the recipient was moved to another module due to threats made to therapist on previous module. An 8/5/15 therapist note late entry stated that the treatment team met with the recipient on 8/4/15. It documented that he was *"uncooperative and demands a new doctor and therapist. He continues to write threatening letters to this therapist. The treatment team told him that we would take him to court for court enforced medication [recipient] replied 'you're an idiot!' The meeting was ended and he returned to his module."* Another 8/5/15 therapist note documented that the recipient had made several complaints about the therapist and documented that she meets with him weekly and provides him with two phone calls. It was also noted that the recipient complains that the therapist does not provide him with releases of information to obtain records for his past medical care. However, the therapist notes that on 6/19/15 she met with him and he completed releases for 3 medical providers and that his records have been requested but not yet received. A therapist note dated 8/7/15 documented meeting the recipient for his weekly 1:1 session and noted that nursing staff provided him with medication education sheets on the medication that the treatment team is pursuing for court enforced medication. A Psychiatrist note dated 8/12/15 stated that he met with the recipient as he had multiple complaints. The recipient was talking about not getting his desired treatment and stated that he was trying to sue different people. It was noted that he had been at Chester since May as UST for making threats to a public official. The recipient was asking for copies of papers for enforcement of antipsychotic medications, but it was not documented whether or not those were provided. The Psychiatrist noted that the plan was to *"go to court for psychotropics [medication] next week"*, but did not state the reason. It was also noted that the recipient seems to have a good knowledge of legal issues. On 8/12/15 a therapist note documented a treatment team meeting with the recipient to address his complaints. The recipient *"reported that he feels like the treatment team is threatening him by changing his medication. He continues to insist he is allergic to a long list of medications."* A Psychiatrist note on 8/26/15 stated that the recipient *"never cooperated in past for his psych assessment. Yesterday I was able to observe him in Federal Court for his complaints about not getting enough valium, which was gradually reduced for him being addicted to benzo diazepam. I was able to make better evaluation and assessment of his mental status. Based upon my evaluation at this time I will drop enforcement of meds petition as most of issues are related to his personality."* The plan was listed as *"#1 drop his petition for*

enforcement of meds #2 he will be sent back to court as fit to stand trial #3 his valium 5 mgm bid will be continued for the time being in future his valium will be discontinued as he is on clonidine for his blood pressure and it also helps anxiety."

D. Court Orders & Correspondence: The HRA found no Petition in the chart for court enforced medications, however, an Order dated 8/20/15 stated that *"the oral Motion of the State for a continuance in the above matter for the hearing scheduled on August 26, 2015. Wherefore, with no objection from Respondent's counsel, this matter is hereby continued to September 2, 2015…the Respondent shall continue to take all prescribed medications until the new hearing date."* This led the HRA to believe that a petition for enforced medication had possibly been filed, so the HRA reached out to the Human Rights Chairperson at Chester for further inquiry. The HRA was informed that per the Unit Director, a Petition was filed, but it was withdrawn due to the team finding the recipient fit to stand trial. A second chart review revealed a Court Order that had been filed on 9/29/15 following a fit to stand trial hearing. The Order stated that the DHS (Department of Human Services) report from the Medical Director at Chester dated 9/2/15 had been considered and the Defendant was found "restored to fitness." The recipient was ordered to be transferred from Chester Mental Health to his original County's Sheriff's Department.

III...Facility Policies:

A. TX.02.04.00.02 Use of Psychotropic Medications: This policy states the following 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… Emergency medication shall not be administered for a period in excess of seventy-two (72) hours, unless a Petition for the Administration of Authorized Involuntary Treatment (IL 462-2025) has been completed. (A Notice Regarding Restricted Rights of Individuals (IL 462-2004M) 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.* If the psychiatrist determines that the patient meets the criteria for court enforced involuntary medication, the psychiatrist shall mark "Yes" in response to the question "Petition for Court-Ordered Medication is in the process of being filed." The Psychiatrist will then initiate the petition *to the court as follows:*

a. *Psychiatrist will fill out the petition form -IL-462-2025 R-/3/11 and give to the unit office associate.*

b. *For each medication listed in the petition (including alternative medications) medication advisement sheets shall be provided to the patient. The unit nursing supervisor, or designee, obtains the medication information sheets from Micromedex and Alternatives to Medication form (CMHC-196). The nurse signs and dates the medication information sheets, Alternatives to Medication form*

(CMHC-196) and makes two copies. The psychiatrist and nurse give a copy of each sheet to the patient. The nurse writes a progress note documenting that the patient was provided, in writing, of the benefits and risks of the medications. A copy of each sheet is given to the unit office associate who attaches the copies to the petition, and delivers the petition with the attached copies to the administrative assistant's office.

c. In petitions to the court, the psychiatrist shall also specify the route of administration and include, among those requested medications in the petition, a medication which is available in an Intramuscular form. If the psychiatrist determines that the patient does not meet the criteria for court enforced involuntary medication, the psychiatrist shall insert a reason code in the spaces provided for each corresponding medication refusal on each day and sign where indicated."

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… 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…If the recipient lacks the capacity to make a reasoned decision about the treatment, the treatment may be administered only pursuant to the provisions of Section 2-107 or 2-107.1…"

The Code (405 ILCS 5/2-107) requires that "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 needs for emergency treatment are set forth in writing in the recipient's record. (c) Administration of medication or electroconvulsive therapy may not be continued unless the need for such treatment is redetermined at least every 24 hours based upon a personal examination of the recipient by a physician or a nurse under the supervision of a physician and the circumstances demonstrating

that need are set forth in writing in the recipient's record. (d) Neither psychotropic medication nor electroconvulsive therapy may be administered under this Section for a period in excess of 72 hours, excluding Saturdays, Sundays, and holidays, unless a petition is filed under Section 2-107.1 and the treatment continues to be necessary under subsection (a) of this Section.

The Code (405 ILCS 5/2-107.1) further states “Notwithstanding the provisions of Section 2-107 of this Code, psychotropic medication and electroconvulsive therapy may be administered to an adult recipient of services on an inpatient or outpatient basis without the informed consent of the recipient under the following standards:

(1) Any person 18 years of age or older, including any guardian, may petition the circuit court for an order authorizing the administration of psychotropic medication and electroconvulsive therapy to a recipient of services. The petition shall state that the petitioner has made a good faith attempt to determine whether the recipient has executed a power of attorney for health care under the Powers of Attorney for Health Care Law or a declaration for mental health treatment under the Mental Health Treatment Preference Declaration Act and to obtain copies of these instruments if they exist. If either of the above-named instruments is available to the petitioner, the instrument or a copy of the instrument shall be attached to the petition as an exhibit. The petitioner shall deliver a copy of the petition, and notice of the time and place of the hearing, to the respondent, his or her attorney, any known agent or attorney-in-fact, if any, and the guardian, if any, no later than 3 days prior to the date of the hearing. Service of the petition and notice of the time and place of the hearing may be made by transmitting them via facsimile machine to the respondent or other party. Upon receipt of the petition and notice, the party served, or the person delivering the petition and notice to the party served, shall acknowledge service. If the party sending the petition and notice does not receive acknowledgement of service within 24 hours, service must be made by personal service…

(2) The court shall hold a hearing within 7 days of the filing of the petition. The People, the petitioner, or the respondent shall be entitled to a continuance of up to 7 days as of right. An additional continuance of not more than 7 days may be granted to any party (i) upon a showing that the continuance is needed in order to adequately prepare for or present evidence in a hearing under this Section or (ii) under exceptional circumstances. The court may grant an additional continuance not to exceed 21 days when, in its discretion, the court determines that such a continuance is necessary in order to provide the recipient with an examination pursuant to Section 3-803 or 3-804 of this Act, to provide the recipient with a trial by jury as provided in Section 3-802 of this Act, or to arrange for the substitution of counsel as provided for by the Illinois Supreme Court Rules. The hearing shall be separate from a judicial proceeding held to determine whether a person is subject to involuntary admission but may be heard immediately preceding or following such a judicial proceeding and may be heard by the same trier of fact or law as in that judicial proceeding.

(3) Unless otherwise provided herein, the procedures set forth in Article VIII of Chapter III of this Act including the provisions regarding appointment of counsel, shall govern hearings held under this subsection (a-5).

(4) 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.

(G) If the petition seeks authorization for testing and other procedures, that such testing and procedures are essential for the safe and effective administration of the treatment….The Department shall conduct annual trainings for physicians and registered nurses working in State-operated mental health facilities on the appropriate use of psychotropic medication and electroconvulsive therapy, standards for their use, and the preparation of court petitions under this Section."

The Code (405 ILCS 5/2-701.1) provides that "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). (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. (G) If the petition seeks authorization for testing and other procedures, that such testing and procedures are essential for the safe and effective administration of the treatment."

Conclusion

The allegation is that a Petition for Court Enforced Medication was filed inappropriately. Although the HRA could not find a Petition for Court Enforced Medication in the chart, it was documented by the therapist that a Petition would be filed and then later by the Psychiatrist that he was withdrawing the Petition for Court Enforced Medication. Since no Petition was in the chart, the HRA could not review the reasons as to why a Petition was filed, the timeline of the process or the medication(s) in the Petition; thus the HRA could not determine if the medications

in the petition were ones to which the recipient was allergic. There were no documented medication refusals, there were no psychotropic medications ordered except PRN Lorazepam which was given frequently to the recipient, mostly upon his request. There were no documented incidents of restraint or seclusion episodes and the only incident that could have been perceived as one where emergency enforced medication was required due to maladaptive behavior was on 8/24/15 when the recipient was yelling at peers and staff and PRN Lorazepam was given. However, it was not documented that the recipient objected in any way to receiving this medication and since it was the same medication that he had requested frequently for anxiety, the HRA concluded that he consented to receiving this medication. It was later documented that the medication was effective and he had calmed. The only other maladaptive behavior that was documented was the recipient leaving threatening letters under the therapist's door. However, it was also documented that he was cooperative when meeting with the therapist for 1:1 sessions. Without copies of the filed Petition in the chart which would have documented the Petition's rationale, the medication being pursued and the time frames and no copies of the Petition and hearing notice to the patient, the complaint is **substantiated.**

1. **Staff should be retrained on Chester Policy *TX.02.04.00.02 Use of Psychotropic Medications* to ensure that Petitions for Court Enforced Medication are only filed when a recipient is a risk for "*serious and imminent physical harm to the recipient or others and no less restrictive alternative is available*" and all other criteria is met as required in the Mental Health Code (405 ILCS 5/2-107.1 and 405 ILCS 5/2-201.1).**

2. **The recipient inquired about his court date 2 weeks after being told that a Petition was being filed which led the HRA to believe that he was not served with a notice to appear once a Petition had been filed as required by the Mental Health Code (405 ILCS 5/2-107.1). Staff should be retrained on these requirements in the Mental Health Code.**

3. **It was documented in case notes that the recipient was given copies of the medication information sheets for the medication listed in the petition. However, the HRA did not find copies of the Petition or the medication information sheets in the recipient's chart. The Psychiatrist should be retrained on Chester Policy *TX.02.04.00.02 Use of Psychotropic Medications* to ensure that in the future, proper documentation is in the chart.**

The HRA also offers the following suggestion:

1. Since a Petition could not be found in the chart and it was not documented in the case notes when it was filed, the HRA could not determine when the Petition was actually filed and if time requirements in the Mental Health Code were followed. The HRA suggests that administration address the lack of documentation in the chart showing when the Petition was filed and also the basis of the Petition. Administration should also ensure that in the future it is clearly documented in the chart why a Petition for Court Enforced Medication is being filed and also what date it was filed to determine if the

proper timelines as required in the Mental Health Code (405 ILCS 5/2-107.1) are being followed.

2. The HRA found no statements in either case notes or TPRs regarding the recipient's decisional capacity to consent to treatment by psychotropic medication. The HRA suggests that in the future, psychiatrists should ensure that decisional capacity statements are adequately documented as per the Mental Health Code requirements (405 ILCS 5/2-102) which states that *"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…"*