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Egyptian Regional Human Rights Authority
Report of Findings
16-110-9014
Chester Mental Health Center
July 20, 2017

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 allegations are as follows:

1. **Emergency medication was given when a recipient did not meet criteria.**
2. **Inadequate care due to meal plans not being followed.**

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

To investigate the allegations, 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, and facility staff. With the Recipient's written authorization, information from the recipient's clinical chart was reviewed by the Authority. Facility policies relevant to the complaints were also reviewed.

I. Interviews:

A. Recipient: The Recipient informed the HRA that he was given emergency enforced medication on May 19th even though he did not meet criteria. A peer threatened the recipient and the recipient admitted that he "stood up but never threw a punch." When staff asked him to go to his room to calm down he complied with their request. The recipient stated that he spoke with a nurse and told her he was fine but another nurse called the physician and received an order for emergency medication even though she did not personally examine him. The recipient stated that even though he did not feel he needed the medication he told staff that if they insisted on giving it to him, then to do it in the hallway so that the cameras would show that he was not threatening or violent, but they refused and insisted on giving him the shot in his room where there is no camera to prove that he was not acting in a threatening or dangerous manner. Prior to threatening this recipient, the peer had argued with another peer and was asked then if he needed PRN medication (as needed) to help him calm down, but the peer refused and then began to argue with staff who again encouraged him to take his PRN medication. This time, the peer complied but while he was waiting on his medication he punched the nurse's station. He was

given the PRN medication and following that, the peer approached this recipient and started arguing with him. The recipient stated that even though it was the peer who was out of control, he received emergency medication even though he was being compliant with staff. The recipient stated that he did not receive a restriction of rights for the emergency medication until he asked for it but he stated that the form did not list what medication he was given and he did not understand why a physician did not personally examine him before ordering medication. The restriction of rights form stated that the recipient was threatening and screaming at peers and took a "fighting stance" which the recipient denies. The recipient stated that his emergency preferences are seclusion, medication and then restraints. The recipient also stated that about a week later, two other peers were in a similar situation and were arguing and did not calm down when staff requested but no medication was given to them. Another incident the recipient described occurred on July 24th when he refused his medication which is not court ordered. Then, when it was time to receive his evening snack, a nurse stated that he could not have his snack because he refused medication. He called his family who in turn contacted the facility and a security therapy aide (STA) called the unit and directed the nurse to give him his snack and stated that it could not be withheld from a patient for refusing medication. The nurse complied but was "hateful" towards him and stated "come take your [expletive] snack." An Office of Inspector General (OIG) complaint was filed regarding this incident and the recipient stated that an investigator did speak with him regarding that issue. He also expressed concern as to what would have occurred had this incident happened at a time when the unit phones were turned off.

B. Nurse 1: The HRA spoke with the nurse who ordered the emergency medication on May 19th. She stated that the recipient and the peer were arguing and the recipient lunged at the peer which escalated him more. She agreed that the recipient did comply with going to his room when asked, however he continued to argue and yell out from his room. She stated that the recipient made statements such as *"you don't know who I am and who my people are."* Once the emergency enforced medication was given the recipient yelled out *"I'm going to sue you."* The nurse explained that usually a restriction of rights form is given along with a printout of the medication when emergency medication is given. She stated that this recipient was given a restriction of rights form but she did not recall if it was immediately following the injection or if the recipient had requested it later. She did say that sometimes the patients are too upset to receive the restriction forms right away and will often tear them up or refuse to take them but then request them later. She could not recall the exact details of how this recipient received his restriction of rights form. The nurse agreed that he did request to have his injection administered in the hallway but she explained that they are not allowed to do that due to privacy issues.

C. Nurse 2: The HRA spoke with the other nurse who allegedly refused the recipient his evening snack on July 24th. She stated that patients do not have repercussions for refusing medication if they are not court ordered and denied that any patient has had their commissary restricted for refusing medications. The HRA questioned what would happen if someone needed to use the telephone to make a complaint call when the unit phones are turned off. The nurse stated that she would notify a STAII on duty who should take care of making arrangements for a call.

II. Clinical Chart Review:

A. Case Notes: A nursing note dated 5/19/16 at 4:30 p.m. stated that the recipient was sitting in the unit table area when a peer approached him and began threatening him. The recipient began stating *"come on swing…swing if you want. Don't talk just swing."* It was documented that the recipient repeated this statement and then lunged slightly forward toward peer as staff were intervening with peer and the recipient started making taunting statements again. The nurse directed the recipient to stop making those statements and the recipient stated *"are you talking to me, [expletive] you [expletive towards staff] no [expletive towards peer] gonna come up on me and me just sit there."* It was documented that the recipient continued to yell and make threats of peer fighting and then once in his room, he stated *"you need to check that nurse [expletive]…telling me to stop when he came up on me."* The physician was notified and an order for emergency enforced medication (EEM) of Haloperidol 5 mg and Lorazepam 2 mg IM (intramuscular) was given for agitation and aggression. Another nursing note at 4:40 p.m. documented that EEM was given and noted it was *"tolerated well but threats to sue staff for injection. ROR [restriction of rights] given"* A nursing note at 4:42 p.m. noted that while in his room the recipient started yelling "*you ain't seen nothing you brought the bug out of me now you'll see"* A final nursing note at 5:40 p.m. stated that the recipient was more calm and cooperative and that the medication was effective. A 5/23/16 therapist note documented that a phone call was received from the recipient's mother inquiring about the emergency medication. The mother stated that she had been informed that medication had been "illegally given" to her son *"without the authorization of the Psychiatrist."* The therapist reviewed his chart and informed the recipient's mother that a telephone order was received by the physician for *"severe agitation and verbal insults."* The therapist informed the mother that he was given 5 mg of Haloperidol and 2 mg of Lorazepam. The mother had stated that according to the recipient, the need for the medication was not necessary because he was not out of control and had complained of suffering from *"lingering side effects"* from the medication and complained that he had not seen a psychiatrist. The therapist informed the recipient's mother that every morning the treatment team meets with the most problematic patients and patients who request to see the physician and also informed her that the recipient would be seen that afternoon by a psychiatrist and the results would be forwarded to the mother. A subsequent note was not found documenting if/when the mother was contacted or if the recipient saw a psychiatrist. A nursing note dated 6/2/16 documented that the recipient was *"loud, screaming"* coming from his living module stating he was agitated over commissary money amount due to his belief that he was shorted 98 cents. He was redirected to his room but continued *"yelling and threatening"* so the physician was contacted due to the recipient refusing seclusion. The physician ordered emergency enforced Diphenhydramine. It was further documented that the recipient *"layed [sic] on floor demanding that shot was to be administered in hall. It was explained that the policy would not allow it due to privacy…Pt [patient] was educated about Diphenhydramine and stated understanding. Nursing sup [supervisor] aware ROR [restriction of rights] provided x 2"*

On 7/19/16 a therapist's note documented that she had spoken to the dietary director about an incident that happened the previous day. The recipient received carrots on his lunch tray which he is allergic to and brought it to the STA's attention. *"The STA I brought it to dietary's attention and they scraped the carrots off the tray and returned the tray to the patient. No substitution was done…"* On 7/23/16 at 8:30 p.m. a nursing note documented that the recipient refused medications stating he did not need those and when asked why he decided to refuse the recipient responded that he was just not going to take them and that he would talk to his

treatment team. The physician was notified of medication refusal and it was noted that the recipient *"then immediately requested HS [hour of sleep] snack. Denies any other complaints."* On 7/24/16 a nursing note at 8:35 p.m. stated that the recipient *"refused HS medication upon refusing he did not receive his snack promptly and called out during med pass using the dayroom phone. The pt then began threatening staff stating 'I will shoot you in broad daylight.' Pt continued to be agitated yelling at staff verbally threatening until snack was received."* Another case note dated 7/25/16 documented that the recipient was complaining of GI upset from milk but stated that he can tolerate ice cream. The note continued by saying *"complained of not receiving cold cereal. Explained to patient that a substitution is made for cold cereal/milk due to diet order for no drinkable milk. Patient received juice in place of milk at this time. Patient went on to complain about portion sizes (small amount of oatmeal at breakfast and a small egg served at breakfast). This writer [agreed] to look into house snack complaint. At this time, no diet changes will be made. Continue to monitor nutritional parameters and follow up routinely and PRN."*

B. Medication Orders: There was a medication order dated 5/19/16 at 4:35 p.m. for emergency enforced medication of Haloperidol and Lorazepam *"Now for severe agitation/aggression (taunting peer to fight while staff intervened.)"* It was signed by a physician 5/20/16 at 11:00 a.m. On 6/2/16 at 11:00 a.m. the physician ordered *"emergency enforced medication Diphenhydramine 50 mg IM [intramuscular] x 1 – agitation."* This order was signed by the physician that same day at 12:00 p.m.

C. Restriction of Rights: On 5/19/16 a restriction of rights form was done at 4:40 p.m. noting that the recipient was administered emergency medication. The reason identified for the restriction is listed as *"Verbal altercation with peer, multiple attempts at redirection by staff. Starting to take fighting stance with peer. Pt [patient] poses imminent risk of harm to self and others without EEM [emergency enforced medication]."* The box was checked stating that the individual preference was not utilized for the following reason *"S.M.R. [recipient's preference order seclusion, medication, restraint] Emergency Enforced Med."* No other reason was given. The form was signed by the Registered Nurse. On 6/2/16 another restriction of rights form was completed at 11:09-11:10 a.m. the restriction was "placed in physical hold." The reason for the physical hold was listed as the recipient *"was offered seclusion due to threatening a STA verbally, screaming loudly at peers, threatening harm, upon moving to second preference recip laid on floor and refused to get up. Recip placed in physical hold and escorted to room for second preference."* The recipient's preferences were listed as 1 seclusion 2 medication and 3 restraints. This form noted that seclusion was offered but refused by the recipient. An Order for physical hold, mechanical restraint or seclusion was also completed for this 6/2/16 incident and signed by the physician who stated that the recipient was placed in a physical hold for "severe agitation" and noted that he was screaming and yelling and displayed "psychomotor agitation." This Order also documented that other behavioral interventions were used before the physical hold: "conflict resolution, voluntary time in room, verbal support." The HRA also reviewed a post episode debriefing which documented that the recipient was "angry about PRN" 1 hour post episode. According to this form, the recipient denied any injuries.

D. Office of Inspector General (OIG) Report: The HRA reviewed the OIG report regarding the recipient allegedly being refused his evening snack due to medication refusal. The report

corroborated the recipient's statement that he had called his mother who in turn called the facility and spoke with a STA. That STA then made a call to the unit advising that snacks could not be withheld as punishment. After that the recipient received his snack. Staff on the unit who were also interviewed by the HRA made similar statements to the OIG investigator stating that the recipient's snack was not withheld, but rather was delayed until med pass had been completed which upset the recipient because he did not receive his snack immediately. The nurse did state that she told the recipient he could not use the phone during medication pass. It was noted that the recipient made threatening statements to staff stating he would shoot staff in broad daylight. The facility video recording confirmed that the recipient displayed maladaptive behavior of verbal aggression after being refused his snack. However, the OIG unsubstantiated the allegation of mental abuse.

E. Menu: The HRA toured the living units on two separate occasions to view the menus posted and then toured the cafeteria unannounced to see what food was being served that day. On August 31, 2016 the menu on the unit was Mexican Chicken, Refried Beans, Corn Salad, Fruit Cup, bread/margarine and Milk. When we toured the cafeteria they were serving everything on the menu except they served juice instead of milk. On October 27, 2016 the lunch menu was Italian Chicken, Buttered Pasta, Italian baked tomatoes, Warm Fruit Compote and Beverage. When we toured the cafeteria they were serving everything that was on the menu.

III...Facility Policies:

A. TX 02.04.00.02 Use of Psychotropic Medication: This policy includes a section regarding administration of emergency medication and states that it is to be given *"to prevent an individual from causing serious and imminent physical harm to self or others and no less restrictive alternative is available."* The policy requires that *"The physician, RN, and or Treatment team members must document in the progress note that due consideration was given to the patient's treatment preference regarding emergency medication and must include justification for deviation from the patient's preference. (A Notice Regarding Restricted Rights of Individuals (IL 462-2004M) shall be completed for emergency medication administration). When Emergency medication is determined to be administered, the nurse shall provide medication education including the name, dosage, and expected effect as well as document the patient's response in the progress notes… 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)."*

B. PE 02.03.00.07 Psychiatric Mental Health Crisis and Psychiatric Emergency Guidelines: This policy defines psychiatric emergency as *"Circumstances that require the assistance of a psychiatrist in assessing, providing treatment and interventions to alleviate a threat of harm by a patient to himself or others in emergencies including medication reactions and extreme behavioral concerns."* The procedure for psychiatric emergency includes direct care staff who notice a patient experiencing a psychiatric emergency to notify STAs, Nurses, Unit Director or Therapist. The unit staff will evaluate the patient to determine what assistance or interventions are necessary. In the event the psychiatrist is needed to resolve the situation he/she will be contacted. If necessary, the on call psychiatrist will be contacted.

C. TX.03.00.00.01 Ordering and serving modified diets: This policy states that *"At Chester Mental Health Center, the Dietary Manager and Registered Dietician shall monitor the planning and serving of all modified diet menus to assure that diets are planned for and served to all patients according to their medical and psychological needs… The Regular diet is designed for persons who do not require any modification, either medically or in consistency. This diet provides approximately 2300-2700 calories, 4 to 5 grams of sodium, 98 grams of protein with decaffeinated coffee served at breakfast. This diet should be served when a General or House diet is ordered by the physician. The Regular Diet provides whole wheat bread on a daily basis, whole grain cereals and occasional fresh fruits and vegetables to assist in increasing fiber in the diet of all persons…Dietary modifications will adhere to the latest facility diet manual, with deviations noted in writing."*

D. TX 03.00.00.06 Operation of Patient Dining Room: This policy states that *"Patients are encouraged to eat all meals, especially breakfast since medication may cause gastric upset with the absence of food.* ***Food is not withheld from patients as punishment;*** *nor are patients forced to eat a meal not to their liking."*

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. 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…. 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…"*

(405 ILCS 5/2-107) states *"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 need for emergency treatment is 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"

(405 ILCS 5/2-200d) requires that *"Upon commencement of services, or as soon thereafter as the condition of the recipient permits, the facility shall advise the recipient as to the circumstances under which the law permits the use of emergency forced medication or electroconvulsive therapy under subsection (a) of Section 2-107, restraint under Section 2-108, or seclusion under Section 2-109. At the same time, the facility shall inquire of the recipient which form of intervention the recipient would prefer if any of these circumstances should arise. The recipient's preference shall be noted in the recipient's record and communicated by the facility to the recipient's guardian or substitute decision maker, if any, and any other individual designated by the recipient. If any such circumstances subsequently do arise, the facility shall give due consideration to the preferences of the recipient regarding which form of intervention to use as communicated to the facility by the recipient or as stated in the recipient's advance directive."*

Conclusion

The first allegation was that the recipient was given emergency enforced medication without meeting criteria. According to 405 ILCS 5/2-107, emergency medication 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 recipient stated that he complied with staff's request to go to his room and did not feel that he met criteria and also did not agree with the physician ordering the medication without examining him first. The recipient's emergency preferences are documented as seclusion, medication and then restraints. The Mental Health Code provides that emergency medication can be administered up to 24 hours providing that the need for the same is documented in the record. Administration of medication 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. In this case, on May 19th, the recipient did comply with going to his room and although he continued to yell out from his room, yelling does not rise to the requirement of the Code for emergency medication administration to *"prevent serious and imminent physical harm."* The HRA found no evidence that the recipient's emergency preferences were attempted before administering his second preference of emergency medication. Another incident occurred on June 2nd when the recipient was agitated about the commissary change he received. In that situation, the recipient was offered seclusion, which is his first preference, but he refused it, therefore the staff moved

on to his second choice of medication administration. However, the HRA found that the only documentation for administering medication was *"agitation"* and *"screaming loudly…threatening harm"* without more behaviorally descriptive language, these reasons alone do not meet the Code's requirement for administering emergency medication of preventing serious and imminent physical harm. It was also indicated in documentation that the recipient complied with redirection and went to his room, which was a least restrictive alternative. Therefore, this allegation is **substantiated.** The HRA offers the following **recommendations**:

1. The HRA found restriction of rights forms for both instances where emergency medication was given. However, the HRA noted that on the May 19th restriction form, it stated that the recipient's preference order was seclusion, medication then restraints, but the only reason for not honoring those preferences was documented as *"Emergency Enforced Med"* no other reason was given. The June 2nd incident had no documentation that the recipient's first preference was considered. The facility policy on use of psychotropic medication requires staff to *"note that due consideration was given to the patient's treatment preference regarding emergency medication and must include justification for deviation from the patient's preference."* Staff involved in completing restriction of rights forms should be retrained on this policy and the requirements of the Mental Health Code (405 ILCS 5/2-200) to *"give due consideration"* to the emergency preferences of the recipient and (405 ILCS 5/2-102) to *consider the views of the recipient, if any, concerning the treatment being provided. The recipient's preferences regarding emergency interventions under subsection (d) of Section 2-200 shall be noted in the recipient's treatment plan.*" Staff should ensure that in the future a patient's emergency preferences are considered and utilized when possible; ensure that it is well documented why a patient's emergency preferences were not honored and ensure that the restriction notice documents the *specific* behaviors indicating a serious and imminent risk for physical harm.

2. Administration should ensure that the Mental Health Code's requirement of preventing *"serious and imminent physical harm to the recipient or others and no less restrictive alternative is available"* is met before staff administers emergency medication.

The HRA also offers the following **suggestion:**

1. The recipient's mother had contacted the facility regarding the emergency medication being administered on May 19th and voiced her concern that the recipient may not have met criteria. The therapist documented that conversation and also noted that the mother stated the recipient was complaining of lingering side effects from the medication. The therapist informed the mother that the recipient would see the psychiatrist that afternoon and the results would be forwarded to her. However, the HRA could not find subsequent documentation if/when the mother was contacted or if the recipient saw a psychiatrist. The HRA suggests that when case notes document an issue that is to be followed up on, that documentation should be included in the case notes showing when the issue is resolved.

The second allegation was that the facility is not providing adequate care by not following meal plans and not providing substitutions with the same caloric value if/when something is changed or removed from the menu. On two separate occasions, the HRA toured the units to review the menu posted and then toured the cafeteria unannounced to compare the menu with what was being served. On both occasions, the HRA found that the food being served was the same food listed on the menus for that day. The only exception was juice being served one day instead of milk as the menu stated. The HRA did find a therapist's note dated 7/19/16 which documented that she had spoken to the dietary director about an incident that happened the previous day involving this recipient's food tray. The recipient received carrots on his lunch tray which he is allergic to and when it was brought to dietary's attention, they scraped the carrots off the tray and it was documented that no substitution was given. Another case note dated 7/25/16 documented that the recipient did not receive milk due to his complaints of GI upset with drinkable milk but in that case the recipient was given juice as a substitute. Chester's policy "ordering and serving modified diets" states that the regular diet provides approximately 2300-2700 calories, 4 to 5 grams of sodium and 98 grams of protein. The menu that the HRA reviewed totaled about 2340 calories not including the evening snack. 4 oz of carrots (typical amount served at the facility) equals approximately 40 calories. Although it was documented that carrots were removed from the recipient's lunch tray and an alternative was not offered, considering the low caloric content of carrots, the facility still would have met the daily dietary requirements of the facility policy. Therefore, the allegation is **unsubstantiated**. The following **suggestions** are offered:

1. Although the minimum dietary requirements were met in this case, the HRA contends that an alternative should have been offered when the carrots were removed from the recipient's tray since that was due to a food allergy that dietary staff was aware of that should have been accommodated. The HRA suggests that this issue be addressed with dietary staff to ensure that special diets are accommodated in the future.

2. The HRA was concerned with the recipient's statement that he was denied his evening snack for refusing medication. Chester's policy "Operation of Patient Dining Room" states that *"Patients are encouraged to eat all meals, especially breakfast since medication may cause gastric upset with the absence of food. Food is not withheld from patients as punishment; nor are patients forced to eat a meal not to their liking."* It was documented in case notes that the recipient had maladaptive behaviors upon not receiving his snack. The OIG report also noted this fact and that his snack was not received until after a STA called the unit to advise staff that snacks could not be denied due to medication refusal. The HRA strongly suggests that unit staff be retrained on policy TX 03.00.00.06 Operation of Patient Dining Room which prohibits food from being withheld as punishment.

3. The HRA found nothing in the policy addressing that changes may sometimes have to be made to a planned menu. The HRA suggests that the policy be revised to clarify that diet modifications are sometimes necessary and that the menu may include substitutions for certain food items occasionally.