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HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case # 20-090-9011
Sharon Healthcare Pines

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving a complaint of possible rights violations at Sharon Healthcare Pines. The complaint alleged the following:

1- **A guardian is being told by facility that they do not have to get consent from the guardian for a psychotropic medication reduction as an attempt to reduce medication as required by IDPH guidelines.**

If found substantiated, the allegation would violate the Skilled Nursing and Intermediate Care Facilities Code (77 Illinois Administrative Code 300).

Sharon Healthcare Pines is a licensed intermediate care facility owned by Arten Management Corporation. It provides care to a younger age group of residents who have suffered a traumatic brain injury. The facility has 116 beds and the current census is 94 residents. The facility employs approximately 90 staff. Approximately 27 residents have a Power of Attorney (POA) or a legal guardian, and the remaining residents do not have a guardian.

COMPLAINT STATEMENT

Allegedly, the facility makes reductions in psychotropic medications without verbal or written consent from the legal guardian to reduce the medication per Illinois Department of Public Health guidelines.

FINDINGS

Staff Interviews (8.24.20 and 9.10.20)

The facility provides 24-hour care to 94 residents. They offer medical, dental, psychiatric, podiatry, and skilled therapy. The length of stay varies for individuals; some have been short-term (6 month) and others have resided at the Pines for years. The individual that the HRA has a consent to release information for has resided at this facility for “a long time” according to staff. The facility typically provides in-person appointments with the facility psychiatrist but due to Covid19 restrictions, these appointments have moved to more telehealth

and are via Skype. The facility Medical Director is at the facility every other month. This doctor does not change psychotropic medications for patients.

If a resident has a change in behavior and displays symptoms of their diagnosis such as physical aggression or psychosis, then the Interdisciplinary Team would meet to discuss options for the resident's behaviors. There would then be a referral to the psychiatrist for follow-up if medication changes are necessary. The facility would then send the psychiatrist's order to the pharmacy via email. If the email is sent for the medication change then the new medication changes would start right away. If after 4pm, then it would be started at the next scheduled dose. The nurse would then document in the Medication Administration Record (MAR) date, time, dosage of new medication or medication dosage change. Any changes are documented in the resident's chart. If the resident makes their own decisions, then the resident would sign the medication consent form. If the resident has a legal guardian, and if this person is not available right away for written consent when medication needs to begin, then they will call and provide medication changes via telephone and staff would document the verbal consent received from the guardian. The written consent form has the dose, time, and side effects listed. When someone signs this form, they attest to the following statement "This signature below shall serve as my consent when dosage changes are made by my physician." This form is used when medication is decreased, increased or discontinued. This form is not usually signed again when there has been a medication change. The facility has an addendum page to add the medication changes and then staff would call for verbal consent from the legal guardian or POA agent and send a copy to the legal guardian asking they sign and return to the facility.

If a medication is brought to the nurse's attention it is usually based on a recommendation from the pharmacy for a dose reduction. The dose reduction would then be presented to the psychiatrist with the pharmacist recommendation and the medication changes are discussed with the resident. The legal guardian does not typically attend these meetings but is welcome to participate. If a medication change is recommended, then this information would be communicated to the guardian after the recommended change from the psychiatrist. If there is an adverse reaction to the medication it would be addressed by the physician and there would be a reduction or a discontinued use of the drug. The pharmacy makes their recommendations based on improvement in behaviors that the medication is targeting or if the person is having an adverse reaction.

The facility is monitored by Illinois Department of Public Health and has been told that guardian consent is not needed when there is a reduction in psychotropic medications and a reduction of psychotropic medications is mandated. Those involved in the interview indicated that they have never been directly told by a public health surveyor that consent to reduce psychotropic medication was not necessary. Cost of care is covered by Medicare and Medicaid. The facility's practice is to communicate with the legal guardian, Power of Attorney (POA) agent or resident about psychotropic medication changes.

The resident is currently prescribed Clozaril 200mg BID [two times a day] and had a reduction in medications in February 2020. The facility has a signed consent by the supervisor of the Office of State Guardian (OSG) representatives for the medication reduction. The facility also ensures that they are receiving informed consent on any and all medications. This involves

the resident, the guardian, and the POA agent. The facility relies on the legal guardian/POA agent if the resident has limited insight/capacity to understand the changes. This resident has a very involved legal guardian. The representatives from the facility indicated that OSG only signs consents for a specific dosage of a medication and never a window of dosage. Insurance does become involved in these discussions and determines what they will cover. The facility information from the pharmacy will indicate if the insurance will not cover an ordered medication. If this occurs, there is an integrated computer system between pharmacy, the facility, and insurance to request prior authorization to cover the medications, inquire about other alternative medications and then notify OSG, the family guardian or the POA agent of the changes.

The resident in question had medication consents up to date in the chart at the time of the interview. He receives Zyprexa 5mg at bed, Haldol 5mg BID and 150mg intramuscular injection every 28 days. The legal guardian's name is noted on these consent forms. Clozaril was reduced in February 2020 from 200mg to 25mg BID and 50mg at bed, this consent was signed by the assigned legal guardian in February. He is also prescribed Ativan as needed, which the consent was signed by the Office of State Guardian Administrator in March 2020. Lastly, he is also prescribed Depakote and they have a consent signed from the legal guardian from August 2019.

FINDINGS (Including record review, mandates, and conclusion)

Complaint #1 – A guardian is being told by facility that they do not have to get consent from the guardian for a psychotropic medication reduction as an attempt to reduce medication is required by IDPH guidelines.

The HRA reviewed a document titled Admission Record which includes information on diagnosis for the resident involved with this HRA complaint. This resident has the diagnosis of: Unspecified Dementia without Behavioral Disturbance with an onset date of 3/20/2007, Paranoid Schizophrenia, Major Depressive Disorder, Single Episode, Unspecified both with onset date of 9/12/14 and several other medical diagnoses. The August 2020 Medication Administration Record (MAR) documents the following psychotropic prescribed medication: Haldol tablet 5mg-1 tablet by mouth twice a day, Depakote 250mg one time a day, Depakote ER 250mg 3 tablets at bed, Clozapine 25mg in the morning, Clozapine 50mg at 4pm, and Clozapine 50mg at bed, Citaloprem Hydrobromide 20mg one time a day, and Remeron 15mg at bed. This Service Recipient also receives a 100mg intermuscular injection of Haldol every 28 days.

The HRA reviewed the Consent for Psychotropic Medication Use and observed that in January 2020 this individual had a discontinuation in Clozaril and this information was documented on 1/31/20, "verbal consent received from [Office of State Guardian]" for Clozaril 100mg BID for 7 days and then to increase to 200mg BID beginning February 2020. It was then formally signed by an OSG Supervisor on 3/27/20 for a reduction in Clozaril 25mg BID and 50mg at HS. This information is different then what was reported in the site visit but does indicate the medication change was communicated with the legal guardian.

The facility provided Progress Notes for the Service Recipient from 7/28/19-11/17/20. The HRA did not see any other reduction of psychotropic medications occurring in the record. The record did reflect conversation with the assigned Office of State Guardian Representative and an Office of State Guardian on-call staff providing consent for emergency medication due to aggressive behaviors on two occasions and medical needs.

This individual has a Care Plan Goal, since December 2019, of being "… on lowest possible dose of psychotic medication unless contraindicated thru next review date."

Sharon Health Care Pines policy titled "Medication Monitoring-Reduction Changes Policy and Procedure", with no date of implementation, describes how the facility will attempt a medication reduction "The facility will attempt a gradual Psychotropic Medication Reduction at least twice yearly. For any Psychotropic changes, the supervisor nursing staff will ensure that proper monitoring is performed with the documentation made of progress weekly for a minimum of six weeks and monthly thereafter, on the resident's record. When a behavioral change in a resident presents, without positive response, to behavioral/diversional intervention, the physician will be notified, with treatment performed in accordance with physician's orders. For some residents, medication reduction may be contraindicated, documentation of such can be found throughout the resident record. Once a medication reduction has been successfully established, further reduction will be considered and discussed by the IDT and the physician. For residents on a medication reduction, incorporation will take place on the care plan, reviewed at least quarterly and as needed, and behavioral measures taken as appropriate to individual in need."

The HRA reviewed a mandate that has changed since the complaint has occurred. The first mandate was in effect during the time of the complaint, and it is below:

Nursing Home Regulations (77 Public Health Ill. Adm. Code 300.686) regarding Unnecessary, Psychotropic, and Antipsychotic Drugs state: "a) *A resident shall not be given unnecessary drugs* in accordance with Section 300.Appendix F. In addition, *an unnecessary drug is any drug used:* 1) *in an excessive dose, including in duplicative therapy;* 2) *for excessive duration;* 3) *without adequate monitoring;* 4) *without adequate indications for its use; or* 5) *in the presence of adverse consequences that indicate the drugs should be reduced or discontinued.* (Section 2-106.1(a) of the Act) b) *Psychotropic medication shall not be prescribed* or administered *without the informed consent of the resident, the resident's guardian, or other authorized representative.* (Section 2-106.1(b) of the Act) Additional informed consent **is not** required for reductions in dosage level or deletion of a specific medication. The informed consent may provide for a medication administration program of sequentially increased doses or a combination of medications to establish the lowest effective dose that will achieve the desired therapeutic outcome. …". This regulation was effective September 10, 1996 until January 21, 2021.

That mandate has been updated and the one below has been in effect since January 8, 2021:

Public Health regulations for Nursing Homes (77 Ill. Adm. Code 300.686) on Unnecessary, Psychotropic, and Antipsychotic Medications now require the following: "… e) *Except in the case of an emergency, psychotropic medication shall not be*

administered without the informed consent of the resident or the resident's surrogate decision maker. (Section 2-106.1(b) of the Act) Additional informed consent **is** required for reductions in dosage level or deletion of a specific medication, pursuant to subsection (f)(9). *[emphasis added]* Informed consent is required for a medication administration program of sequentially increased doses or a combination of medications to establish the lowest effective dose that will achieve the desired therapeutic outcome, pursuant to subsection (f)(9). This is an amendment to **77** Ill. Adm. Code 300.686 which went into effect January 8. 2021.

CONCLUSION:

The HRA finds the allegation **unsubstantiated**. At the time of the incident, the facility was not responsible for obtaining consent on psychotropic medication reductions according to 77 Il Admin Code 300.686 and also, the HRA saw that consent was received for medication and there was no medication reduction change made. With that being said, 77 Il Admin Code 300.686 has been updated and now the facility must obtain consent for psychotropic medication reductions, as of January 2021. The HRA **strongly suggests** that if they have not already, the facility update their consent policy to reflect the change.

RESPONSE

Notice: The following page(s) contain the provider response. Due to technical requirements, some provider responses appear verbatim in retyped format.