



FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case # 20-090-9012
OSF St. Elizabeth Hospital

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving a complaint of possible rights violations at OSF St. Elizabeth Hospital. The complaints alleged the following:

- 1- Inadequate care/treatment of a patient while on a behavioral health unit and not following State of Illinois Executive Orders and Illinois Department of Public Health (IDPH) guidelines for COVID-19 precautions, such as wearing a mask when a person is unable to social distance and social distancing during dinner times and group activities.

If found substantiated, the allegations will violate State of Illinois Executive Orders, the Mental Health and Developmental Disabilities Code (405 ILCS 5/1) and the Joint Commission and Center for Disease Control. The facility primarily covers LaSalle County. The hospital has an average of 29,000 visits to the emergency department (ED) per year. The hospital has a behavioral health unit with an addiction unit. The average length of treatment for an Emergency Department patient in need of mental health treatment is 7 ½ hours. The emergency department has 65 employees without including physicians. The HRA had a signed consent and was able to discuss patient specific details.

COMPLAINT STATEMENT

The allegations state that a patient was admitted to the behavioral health unit at St. Elizabeth Hospital in Ottawa, Il from 6/15/-6/18/2020. The admission was for suicidal ideation and when the patient admitted to the behavioral health floor, hospital staff allegedly took away the patient's mask. Staff on the unit were wearing masks but none of the patients were. Allegedly, there were other patients being admitted to the floor without COVID-19 precautions in place and they could be asymptomatic. Allegedly, patients ate dinner right next to one another with no social distancing.

Staff Interviews (9.23.20)

OSF St. Elizabeth in Ottawa, Illinois has a Behavioral Health unit that accepts patients from anywhere in the State of Illinois. Medical patients are primarily from LaSalle County. They have approximately 350 Behavioral Health Admissions each year through their emergency

department (ED). The average stay is 5-6 days. They have bed capacity for 22 patients but the daily census usually runs about 15 patients who are receiving inpatient care.

The inpatient process for most patients begins in the ED where they present for a mental health evaluation. Upon arrival they are assessed by the ED Physician to be medically cleared before mental health would be called to screen the patient to determine if they need further behavioral health care in the inpatient or outpatient setting. The hospital has a Medical Director that oversees the ED and also a Psychiatrist and 2 Hospitalists who treat on the hospital's behavioral health floor.

Staff explained that during the pandemic, the COVID-19 guidance has had frequent changes from March 2020-May 2020 from the Centers for Disease Control, OSF Healthcare system and the State of Illinois. These changes were communicated to the hospital staff through emails and trainings. Each department had huddles to review COVID-19 data and guidelines. Staff were given an update at every shift change, training on proper Personal Protective Equipment (PPE), identifying potential COVID-19 patients and mandatory trainings through the employee training portal to ensure communication was disseminated to the front line staff. The hospital also followed the guidance provided to the organization at the upper management level and in consultation with the Infection Prevention Department. In June 2020, the LaSalle County area did not have a high number of their population test positive for COVID-19 and the positivity rate had declined for the county. In April/May the restrictions on the behavioral health unit that were in effect at the hospital were: all patients were medically cleared and those considered high risk were tested before admission; single-room occupancy was maintained on the unit; no groups of more than 4 were convened; there was limited table space for meal times; patients were encouraged to eat in their rooms; staff were masked at all times; social distancing was encouraged; signage was posted and the therapy room was closed. The unit was also split-up for patients considered to be higher risk. There were 6-8 beds identified for the high risk patient subgroup and then those considered to not be high risk were roomed on the other side. In June the restrictions again changed and double occupancy was permitted in the patient rooms. Patients also had to stay in groups up to 10 people, masks were worn by staff, furniture was removed from the common areas, the testing of high risk patients continued and patients were not admitted until medically cleared. All meal trays and snacks were served in the patient's rooms with plastic wrap over the whole plate and drink. The unit meal tables provide seating for 6 people and this was changed to 2 patients per table during times they chose not to eat in their rooms. During the time of admission for this individual, which was June 15, 2020 - June 18, 2020, the unit had no positive COVID-19 cases for employees or patients. If any patients were running a fever, they would be moved from the behavioral health unit to a medical bed. At the time of the site interview, behavioral health patients had the option to wear masks and many patients were wearing their own masks.

Masks for patients were not mandated on the behavioral health unit after the Behavioral Health team collaborated on the risk for patients that masks posed. Some mental health patients, especially those with self-injurious behaviors and suicidal ideations or attempts as their admission diagnosis. The Behavioral Health Team was constantly trying to problem-solve what is the most ideal mask to be used by the patients. There was also a shortage of PPE occurring at the same time. The non-surgical masks with ear loops that the hospital had available at the time

of this patient's treatment, had a metal wire that would go across the bridge of the nose that could be removed. The ear loops were also made from a synthetic material with spandex and could stretch to wrap around a person's neck. The unit did eventually have access to non-surgical disposable masks with soft plastic at the bridge of the nose that were considered a safer option. The hospital tried a mask that was more of an adhesive to the chin/nose and cheek area without ear loops but this type of mask did not work well for many patients due to skin reactions and men with facial hair were not able to use this type of mask. If a patient who was not considered high risk requested a mask then the nursing staff would consult with the attending doctor and request an order for a mask.

When a patient is admitted to the behavioral health unit on a voluntary basis there is an orientation process that staff review with the patient. A patient is provided with an Admission Handbook that documents the rules of the unit. They are also given a tour of the unit and provided with a daily schedule. During this time, there were no visiting hours due to the pandemic. Use of the phone was available and guidelines for COVID-19 precautions were discussed. Precautions included social distancing, into two groups of A/B which limited the number of individuals involved in a group setting, washing hands, using disinfecting wipes in the common areas and taking patient vitals twice a day. Patients did not receive anything in writing about the COVID-19 precautions but there was a verbal conversation. Patients who were admitted through the ED for behavioral health care wore a mask up until arrival on the unit and at that point the mask was removed. If a patient had their own mask it would have been noted on their property log. No restriction of rights form would have been used if a patient had their mask placed with their personal belongings.

If a patient was admitted on suicide watch, and were considered high risk, then they required 1:1 attendance the whole time. Patients who exhibited suicidal/homicidal ideation required 15 minute checks, hospital scrubs, no tie or shoes, no skid socks, ligature proof rooms and items in rooms were bolted to the floor or wall. Treatment on the unit runs from 9am-4pm and involves groups, individual therapy, activities, and meal/snack times.

The patient involved in this HRA case spent three days on the behavioral health unit. She had no prior history of being treated at this hospital. She was transferred to the hospital by her psychiatrist when she disclosed suicidal ideation. This was an Outpatient appointment and her provider recommended inpatient care. The patient agreed and was sent via ambulance to the hospital where she was admitted voluntarily and sent directly to the unit upon her arrival. Her documented medical history showed high blood pressure, past history of breast cancer in 2000, a history of a mastectomy, and no respiratory diagnosis. If her underlying medical issues were a primary concern at the time of treatment on the unit, then she would have been sent to a medical floor before being admitted for psychiatric needs. If she was on a medical floor, then psychiatric services could be provided via telehealth. If the patient had been diagnosed with a respiratory condition such as asthma or other chronic respiratory disease, she would have been roomed on the behavioral health unit on the high risk side. During this month of treatment the census on this wing of the unit was 5 patients with a maximum of 8. This patient had an order for 1:1 supervision but was still free to move about the unit. In June/July PPE was difficult to acquire for the hospital and the only mask options available were the beforementioned masks with the metal wire across the nose. The record did not show the patient requesting a mask during her

treatment on the unit. According to staff, the record reflects two comments made by the patient on 6/18/20 at discharge that she wished patients would have been able to wear masks and she would have liked to have had more group therapy.

FINDINGS (Including record review, mandates, and conclusion)

Complaint #1 – Inadequate care/treatment of a patient while on a behavioral health unit and not following State of Illinois Executive Orders and Illinois Department of Public Health (IDPH) guidelines for COVID-19 precautions, such as wearing a mask when a person is unable to social distance and social distancing during dinner times and group activities.

The HRA reviewed chart records for patient. This patient was a direct admission to the hospital after she verbalized suicidal ideation at a psychiatric appointment. She was then admitted to OSF St. Elizabeth Hospital for voluntary inpatient treatment from 6/15/20-6/18/20. The HRA reviewed hospital Plan of Care notes for this patient from 6/15/20 to 6/18/20 at 1:15pm. Because the patient was admitted for suicidal ideation, she was on 15-minute checks the whole admission. The HRA reviewed the 1:1 observation Checklist beginning on 6/15/20 at 5:35pm. On 6/15/20 the patient was in the Interview Room (IR) from 7:45pm to 8:15pm. She was then in Patient Room (PR) from 7:30pm until 8:45pm on 6/16/20. On 6/16/20 the patient was documented in the Lounge (L) from 7:45am-8:15am to eat, and was marked as “cooperative” for three other, different timespans. On 6/17/20 the 1:1 Observation Checklist documents the patient out of her room from the times of 07:45am-08:15am in the Lounge, in the Group Room (GR) from 10am-11:30am, in the lounge from 11:45-12:00pm, 4:30pm-5pm, and from 8:00pm-10:00pm. On 6/18/20, the day of discharge, the patient was out of her room for the majority of the day in either the lounge or group room area from 0730am-8am and then from 9:15am until her discharge at 1:00pm.

The HRA reviewed an Interdisciplinary Behavioral Health Discharge note dated 6/18/20 completed by a Registered Nurse. This note indicates that Discharge instructions, Safety plan and medications were reviewed with the patient. There is a section “Belongings” with the following information “Patient Belongings: other (see comments)(Bin), returned to patient. Belonging sheet reviewed and signed by patient.” Further along it states “RN and patient reviewed AVS (after care visit summary). Patient acknowledges understanding and accepted copy of AVS. Patient reviewed safety plan, acknowledged understanding and accepted copy of safety plan. Patient escorted off the unit safely.”

In the interview, staff stated that the patient made two comments on 6/18/2020 that she wished patients could wear masks and that she wanted more group therapy. The HRA reviewed the records received and could not find the statements documented.

The HRA reviewed a policy document, titled “Masking of Patients”. The purpose of this policy is “To ensure that patients are masked appropriately and safe[ly] to prevent spread of infection and mitigate risk. Implementation: 1. Masks will be handed out first thing in the morning by the CAN/BHA and will then be collected at the end of each night by the RN before patients retired to bed. 2. In order to keep track of each patient with a mask, there will be a spot

on the patients' board at each nurse's station where the CAN/BHA/RN will place a check mark next to the patient's names if the patients were given a mask. 3. Patients have a right to refuse a mask. When patients refuse the RNs/CAN/BHAs are responsible for notating in the patient's chart that the patient refused to wear a mask, 4. RNs/BHACNA will write refused next to the patient's name on the board at the nurse's station. 5. When Masks are collected at the end of the day, please ensure that the masks have not been tampered with and in one piece before discarding the masks. 6. The RN collecting the masks at the end of the day will then erase the check mark next to the patients' names and the process will start over the next day. 7. Patients seen not wearing a mask, if one was given, will be asked to get their mask to show to the staff. 8. No masks with metal nose pieces will be given to patients, and if the physician determines that a patient is to high risk to have a mask they will inform the nursing staff of their concern." This information is also documented in the "Daily Huddle" on 9/24/2020.

The HRA reviewed a general OSF Healthcare policy, with no date, titled "Suicidal and Behavioral Health Patients Risk/Source Control Masking". This document has the following information: "S: Ear loop masks provided to patients at OSF Hospitals have metal within the mask to form a seal over the nose. An event occurred in which a patient at OSF removed the metal strip from the mask and subsequently harmed themselves. B: Universal source Control states that all patients, visitors and staff wear a personal or surgical (ear loop) mask. Patients may remove their face mask when alone in a room. An exception is made in situations of anxiety, or when patients cannot tolerate the face mask. Bandanas, scarves or tissues can be used to cover the face as an alternative. Patients with behavioral health disorders or who are suicidal, have unique needs that merit balancing safe public health measures with appropriate clinical protocols. The Joint Commission issued a statement in support of the CDC's recommendation of source control and states that it is the expectation for organizations to complete a clinical risk assessment of individuals served, for possible self-harm or harm to others. An organization must have a process to determine if the individual is capable of wearing a face covering or mask. Additionally, the American Hospital Association recognizes that a face loop mask may pose safety risks for both the patients and the staff, as many patients with mental illness feel uncomfortable in limited physical spaces, may be unwilling to wear a mask, and the masks themselves may be considered a ligature risk for patients demonstrating suicidal ideation. A: OSF has not completed a formal risk assessment of how universal source control masking affects the suicidal and behavioral health population. Additionally, the ear loop masks within OSF do contain metal, which can be removed, in addition to the loops themselves, which present a ligature risk. R: Assemble a team of subject matter experts to evaluate current processes for masking suicidal and behavioral health patients in the ED and Non-Behavioral Health Units, and provide recommended mitigating actions to prevent patient and mission partner harm."

The HRA reviewed an internal email correspondence between the Director of Behavioral Health and another team member dated 4/6/2020 with the Subject of "Face masks for patients and other changes". This email outlines changes to the Behavioral Health unit "...Incident Command and [OSF Physician] feel as though patients should not have masks on the BH unit, as it could pose a risk, if they are displaying symptoms or sick, they would be transferred to the 4th floor. The staff and providers are free to wear masks at this time. We have also put the following into play: 1. No more than five in a group, we will run group in two or three locations on the units depending on census. 2. Patient will be encouraged to eat in the day rooms, patient

rooms and group room to decrease the number together. 3. Nurses station will only allow two nurses, third will be on the unit. 4. Therapy and recreational also will have options where there are three in the office to have one relocate to the nurse's station outside east entrance." The Hospital Psychiatrist responded to this email on the same date with, "OK that's fine."

On April 21, 2020 there is another email between Behavioral Health staff and upper hospital management with the subject line of "Outside transfers". This email includes an attachment with details on the patient process. There is a flowchart included for staff to review when a patient has been referred for admission. This chart differentiates between a patient being transferred from an OSF hospital or other provider. According to the flow chart, if a patient is a transfer from a non-OSF hospital, such as this case, then the following would take place; "Charge RN gives BHC packet who calls and asks medical questions, does the patient have a fever, or had one in the last three days, and do they or have they had any symptoms of illness in the past seven days, or been exposed to a positive COVID patient." If the patient responds yes then the "RN calls and discusses with hospitalists to determine further assessment and placement. Hospitalist consults with [Hospital Psychiatrist] about admission. Patient fever free for three days or seven days from onset of symptoms, whichever is longer to be medically cleared." If the patient meets the criteria then "Admitting RN and BH staff meet patient at transport area; take patient to patient access, secure belongings. Have patient sign consent for admission and treatment at patient access desk." A negative response would result in "Hospitalist denies admission due to patient not being medically cleared."

On April 24, 2020 the HRA reviewed another internal email written by the Behavioral Health Director with the Subject line of "social distancing and masking on inpatient." The body of the email communicates state level and OSF ministry changes that will go into effect on the unit. "This plan was determined by quality, infection control, incident command and approved by [Hospital Psychiatrist]. This is a step towards meeting social distancing and masking requirements. ... 1. Mission Partners need to be masked with a personal mask, homemade mask or paper mask when working and having patient contact. 2. East will admit individuals over 60 only so that we can keep the younger population and older population separate. 3. As possible, patients should not share rooms, individuals should be placed in opened single rooms; only patients needing medical beds should be placed in medical beds. If we get an increase in census as admission start sharing of room should be done based on ages of patients. Attempt to put the younger patients in rooms together and the older patients in the single room. 4. Day area and group number of patients in each should be 4. The day room will need a staff in there and we can use the computer or tv on cart to have them watch something. Continue with smaller group sizes and not co-mingling east and west. We should encourage patients to stay 6 feet away from each other, with only one sitting at the table at a time. 5. Continue to disinfect after patients have left the area, table, shower, etc. Encourage them to wash their hands frequently. ... I will bring some masks up to the floor tonight, so we have some on hand."

The HRA reviewed hospital policy titled "OSF Healthcare Universal Source Control Part 1" with the date of 4.23.20. Beginning on page 3, the purpose of this policy clearly states "According to the latest guidance from the CDC, Universal Source Control should be implemented for everyone entering healthcare entities which provide patient care. Source control involves having people wear a hospital-provided ear loop mask or personal mask over

their mouth and nose to contain their respiratory secretions and thus reduce the dispersion of droplets from infected individuals. For source control to be effective, it requires that everyone wear a mask within a healthcare buildings to prevent droplet and (to a lesser degree) aerosol spread of respiratory viruses such as COVID-19 (CDC, 2020). In addition, the Joint Commission supports the CDC's recommendations. The Joint Commission believes that universal masking within healthcare settings is a critical tool to protect staff and patients from being infected by asymptomatic and presymptomatic individuals and should be implemented in any community where coronavirus is occurring. Even a single case of community spread of COVID-19 means that healthcare facilities and staff are at risk because asymptomatic and presymptomatic patients may come in for care and inadvertently infect staff (the Joint Commission, 2020). ... Personal cloth masks, ear loop (healthcare masks) and N95/PAPR use: Healthcare clinical settings-masks are worn at all times. Generally Healthcare Personnel wear either a hospital provided ear loop mask or personal mask at all times other than when patient care requires specific PPE, based on precaution based standards and provided by OSF. **Generally** (emphasis added) Visitors and Patients wear personal masks. N95 or PAPR is used for direct patient care with COVID-19 flagged patients....page 8 Appendix B Types of Mask by Scenario Patient MaskingInpatient or outpatient does not have a personal mask with them (provide ear loop mask). Patient is alone in their room (May take off mask)...”

The HRA reviewed another internal email dated April 30, 2020 sent to “OSF Mission Partners in Ottawa and Streator” with the subject “Universal Masking and Screenings”. This document states “To help battle the spread of novel coronavirus (COVID-19) and to align ourselves with the State of Illinois and the Center for Disease Control and Prevention, beginning Friday, May 1, 2020 all persons are required to wear masks while in any OSF HealthCare facility in the I-80 region. ... ‘What this Means for patients and visitors’ On Friday, May 1, universal masking will be required for anyone entering the medical facilities. ...”

On May 1, 2020 there is another internal email providing guidance to staff of the Behavioral Health unit with the subject title of “Important Guidelines” classified as “High”. The body of this email documents the following guidance “...in compliance with the COVID-19 and in keeping ourselves and our patients safe, we will be enforcing the guidelines that were put in place for the safety of everyone. Below is the new schedule to accommodate the groups of only 4 patients at a time in a group. Additionally, you will notice that there is only 1 chair per table in the day room, Patients are to be one per table and encouraged to utilize the group room and their room for meals. When patients are in the group room, we need to have 1 Mission Partner in there with them at all times, and one Mission Partner in the day room. We need to stick to the schedules for groups. (excess chairs from the day room have been placed in the group room and are not to be returned at this time to encourage social distancing for the patients in the dayroom). ...”

On May 5, 2020 there is another internal email with the Subject “Daily Updates with some clarification items.” Part of this email provides a COVID-19 update as of 5/5/2020: “According to IDPH there are 2,122 new cases including 176 additional deaths. There is a total of 65, 962 cases, 2,938 deaths in 97 counties. ...Inpatient: Just a reminder to limit groups to 4 plus the leader. Everyone is responsible for maintaining social distancing and masking. The reason for having only 4 in a group is due to the size of the room and limited space in order to

comply with the 6 foot rule. ...Schedules: Please note: we have updated the group schedule to reflect the correct group lengths and we have rearranged which group number attends which group. The start times of group did not change. The reason for the change was to ensure there was not a long gap between treatment times for group #1 and group #2. This is a temporary schedule and we have to reevaluate it day by day week by week, in order to provide the best services for our patients. Individuals will also be done as needed daily. Reminder: Patients when not in group can be in the day rooms, up to 4 people or be in their rooms working on their handbooks, etc. On East when there are more than 4 people wanting to attend group we will adjust the schedules as necessary. Social Distancing and masking: Social distancing is a must; you need to keep at least 6 feet apart and wear a mask. This goes for the nurses' station and personal offices as well. The reason for this is to keep each other safe and accountable, and it addresses the concerns of many mission partners. We also need to remind and encourage the patients to social distance and remind them of the Why's behind us masking, which is to protect from us spreading to them."

On June 2, 2020 an OSF St. Elizabeth Hospital internal email communicates to staff information about "COVID Phase 3. Visitors". The body of this email documents management communicating to floor staff that the hospital will start to receive more visitors and there is a universal screening process that will remain "...Because our patients are ambulatory and we are limited on space for visitors. For behavioral health, we reviewed and discussed the visitor policy that goes into effect tomorrow with the psych leadership. ... the team would like to continue with no visitors, but phone visits and if possible video visits, until we move into the next phase. ...The patients are not masked, so we would have to try to maintain a distance. ..."

CMS released a document on March 30th, 2020 which was titled **Guidance for Infection Control and Prevention of Coronavirus Disease (COVID-19) in Hospitals, Psychiatric Hospitals, and Critical Access Hospitals (CAHs)**. The document reads "**...Hospital/CAH Guidance and Actions - CMS regulations and guidance support hospitals and CAHs taking appropriate action to address potential and confirmed COVID-19 cases to mitigate transmission and prepare for community spread transmission, including screening, discharge and transfers from the hospital, mitigation of staffing crises, and visitation.** Limiting visitors and individuals: Expanded recommendations: CMS is providing the following expanded guidance for hospitals, psychiatric hospitals, and CAHs located in States with COVID-19 cases are present to prevent the spread of COVID-19: a) Visitors should receive the same screening as patients, including whether they have had: • Fever or symptoms of a respiratory infection, such as a cough and difficulty breathing. • International travel within the last 14 days to CDC Level 3 risk countries. ... Recent trips (within the last 30 days) on cruise ships. Contact with someone with known or suspected COVID-19 or ill with respiratory illness. • Travel in the last 14 days within the United States to restricted areas. ... b) Healthcare facilities should set limitations on visitation. For example, limitations may include restricting the number of visitors per patient, or limiting visitors to only those that provide assistance to the patient, or limiting visitors under a certain age. c) Facilities must ensure patients have adequate and lawful access to chaplains or clergy in conformance with the Religious Freedom Restoration Act and Religious Land Use and Institutionalized Persons Act. d) Healthcare facilities should provide signage at entrances for screening individuals, provide temperature checks/ ask about fever, and encourage frequent hand washing and use of hand sanitizer before entering the facility and before and after

entering patient rooms) If visiting and not seeking medical treatment themselves, individuals with fevers, cough, difficulty breathing, body aches or runny nose or those who are not following infection control guidance should be restricted from entry. f) Facilities should instruct visitors to limit their movement within the facility by reducing such things as walking the halls or trips to the cafeteria. g) Facilities should establish limited entry points for all visitors and/or establish alternative sites for screening prior to entry. h) Facilities can implement measures to: • Increase communication with families (phone, social media, etc.) • Potentially offer a hotline with a recording that is updated at set times so families can stay current on the facility's general status. • If appropriate, consider offering telephonic screening of recent travel and wellness prior to coming in for scheduled appointments. This may help limit the amount of visitor movement throughout the organization and congestion at entry points. i) Consider closing common visiting areas and encouraging patients to visit with loved ones in their patient rooms.

During the time of this initial complaint LaSalle County was in State of Illinois Restore Illinois Phase 3. The description of this phase reads "The rate of infection among those surveillance tested is stable or declining. COVID-19-related hospitalizations and ICU capacity remains stable or is decreasing. Face coverings in public continue to be required. Gatherings of 10 people or fewer for any reason can resume. Select industries can begin returning to workplaces with social distancing and sanitization practices in place. Retail establishments reopen with limited capacity, and select categories of personal care establishments can also begin to reopen with social distancing guidelines and personal protective equipment. Robust testing is available along with contact tracing to limit spread and closely monitor the trend of new cases." And "**Health care:** All health care providers are open with DPH approved safety guidance."

The 4/30/20, State of Illinois Gubernatorial Disaster Proclamation enacted by the Governor of Illinois, JB Pritzker documents concerns of adequate Personal Protective Equipment for essential staff. This document also publicly acknowledges that the CDC had changed their guidance on the importance of wearing a facial covering in public settings where social distancing is not able to be implemented with the need for a universal mask mandate.

The HRA reviewed the Joint Commission website (www.jointcommission.org) on Universal Masking Precautions and the website has the following guidance for patients:

"Issued on April 13, the CDC stated that to address asymptomatic and pre-symptomatic transmission, health care facilities should 'implement source control for everyone entering a healthcare facility (e.g., healthcare personnel, patients, visitors), regardless of symptoms.' Source control involves having people wear a cloth face covering or face mask over their mouth and nose to contain their respiratory secretions — reducing the dispersion of droplets from an infected individual. This will decrease the possibility that anyone with unrecognized COVID-19 infection will expose others and will allow organizations to forgo contact tracing if a case is identified. For source control to be effective, it requires that everyone wear a mask within health care buildings to prevent droplet and (to a lesser degree) aerosol spread of respiratory viruses, such as COVID-19."

The Joint Commission issued a statement in April 2020 on the universal mask mandate which reads that the Commission "... believes that universal masking within health care settings

is a critical tool to protect staff and patients from being infected by asymptomatic and pre-symptomatic individuals and should be implemented in any community where coronavirus is occurring. Even a single case of community spread of COVID-19 means that health care facilities and staff are at risk because other asymptomatic and pre-symptomatic patients may come in for care and inadvertently infect staff. ... ***Patients and visitors:*** All patients and visitors should be instructed to wear a cloth mask when entering any health care building. If they arrive without a cloth mask, one should be provided. If there is a sufficient supply of medical grade face masks, one may be provided instead of a cloth mask. In accordance with CDC recommendations, face masks and cloth face coverings should not be placed on: Young children under age 2. Anyone who has trouble breathing. Anyone who is unconscious, incapacitated or otherwise unable to remove the mask without assistance. Patients may remove their cloth face covering when in their rooms but should put them back on when leaving their room or when others (e.g., care providers, visitors) who are not wearing a mask enter the room. If available, organizations should consider switching patients with respiratory symptoms (e.g., cough or sneeze) — including patients with confirmed COVID-19 — to a medical grade face mask. ...”.

The **Mental Health and Developmental Disabilities Code 405 ILCS 5/2-100** states “(a) No recipient of services shall be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Illinois, or the Constitution of the United States solely on account of the receipt of such services. (b) A person with a known or suspected mental illness or developmental disability shall not be denied mental health or developmental services because of age, sex, race, religious belief, ethnic origin, marital status, physical or mental disability or criminal record unrelated to present dangerousness.”

The **Mental Health and Developmental Disabilities Code (405 ILCS 5/2-104)** states “Every recipient who resides in a mental health or developmental disabilities facility shall be permitted to receive, possess and use personal property and shall be provided with a reasonable amount of storage space therefor, except in the circumstances and under the conditions provided in this Section. (a) Possession and use of certain classes of property may be restricted by the facility director when necessary to protect the recipient or others from harm, provided that notice of such restriction shall be given to all recipients upon admission.”

CONCLUSION:

The HRA concludes the complaint allegation of *Inadequate care/treatment of a patient while on a behavioral health unit and not following State of Illinois Executive Orders and Illinois Dept. of Public Health guidelines for COVID19 precautions such as to wear a mask when a person is unable to social distance and not social distancing during dinner times and group activities* is **SUBSTANTIATED**. This conclusion is made based on patient rights to care mandated through guidelines presented by Center for Disease Control (CDC), State of Illinois Executive Orders and the hospital accreditation body the Joint Commission. Although there was a universal mask mandate implemented on 5/1/20 per the State of Illinois Governor’s Executive Order, at the site visit on 9/23/20 hospital staff acknowledged that patients on the behavioral health floor did not wear the masks available due to limited access to PPE (personal protective equipment) and the masks that were available had metal in the nose area and

considered this a risk to the behavioral health patients. Cloth masks could have been another option; either staff use a personal mask or a patient using their own mask, especially on a temporary basis until PPE could be acquired. There is no information in the patient record to indicate that the patient asked to wear a face mask and was denied this request during admission from 6/16/20-6/18/20, but the universal mask mandate was not being applied to any patients on the behavioral health floor. The behavioral health unit had implemented a strict screening prior to patient's admitting to the behavioral health unit, encouraged patients to eat dinner in their rooms and if they chose to eat in the common area had one patient per table. A mask would not be able to be worn while eating. The allegation is substantiated based on the hospital facilitating therapy and activity groups with no masks being worn during the group activity by patients, although the HRA recognizes that the hospital took other precautions. The HRA is aware that as of 9/24/20 the hospital had implemented a universal mask mandate for behavioral health patients and hopes that practice is continuing.

The HRA makes the following **recommendations**:

- 1- Ensure all patients on the behavioral health unit are wearing masks when not in their bedrooms.
- 2- As long as the mask mandate continues. Provide evidence to the HRA that patients on the behavioral health unit are using masks when outside of their patient rooms.

The HRA makes the following suggestion:

- 1- If the hospital's behavioral health unit still believes the behavioral health patient should not follow the State of Illinois' universal mask mandate they should apply for a waiver through the Centers for Medicare and Medicaid Services (CMS).

RESPONSE

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

REGIONAL HUMAN RIGHTS AUTHORITY

HRA CASE NO. 20-090-9012

SERVICE PROVIDER: OSF St. Elizabeth Hospital

Pursuant to Section 23 of the Guardianship and Advocacy Act (20 ILCS 3955/1 *et seq.*), we have received the Human Rights Authority report of findings.

IMPORTANT NOTE

Human Rights Authority reports may be made a part of the public record. Reports voted public, along with any response you have provided and indicated you wish to be included in a public document will be posted on the Illinois Guardianship and Advocacy Commission Web Site. (Due to technical requirements, your response may be in a verbatim retyped format.) Reports are also provided to complainants and may be forwarded to regulatory agencies for their review.

We ask that the following action be taken:

We request that our response to any recommendation/s, plus any comments and/or objections be included as part of the public record.

We do not wish to include our response in the public record.

No response is included.

Dawn Trompeter
NAME

President
TITLE

06.24.2021
DATE



June 21, 2021

IGAC

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401 Main Street, Suite 620

Peoria, IL 61620

OSF Saint Elizabeth Medical Center Behavioral Health has taken the following actions in response to the substantiated complaint/case # 20-090-90-9012 related to inadequate care/treatment by not following the Governor's Executive order related to masking on the inpatient behavioral health unit.

Prior to the investigation, Saint Elizabeth Medical Center and OSF Ministry had approved and begun to have patients on the unit wear behavioral health safe masks when in groups. Social distancing for the unit had been in place at the start of the order and adhered to in all common areas. The "Masking of Patients" Behavioral Health Policy states the following:

1. Masks will be handed out first thing in the morning by the PCT/BHA and will then be collected at the end of each night by the RN before patients retire to bed.
2. In order to keep track of each patient with a mask, there will be a spot on the patient board at each nurse's station where the PCT/ BHA/RN will place a check mark next to the patient name if they were given a mask.
3. Patients have the right to refuse a mask. When patients refuse, the PCT/BHA/RN are responsible for notating in the patient chart that the patient refused to wear a mask. The PCT/BHA/RN will write refused next to the patient name on the board at the nurse's station.
4. When masks are collected at the end of the day, ensure that the masks have not been tampered with and in one piece before discarding the masks.
5. The RN collecting the masks at the end of the day will then erase the check mark next to the patient name and the process will start over the next day.
6. Patients seen not wearing a mask, if one was given, will be asked to get their mask to show to the staff.
7. No masks with metal nosepieces will be given to patients, and if the Physician determines that a patient is too high risk to have a mask, they will inform the nursing staff of their concern.

On 10/22/2020, Masking for behavioral health education included the following:

- a. Patients are handed a mask each morning. In order to keep track of each patient with a mask, there will be a spot on the patient board at each nurse's station where the PCT/ BHA/RN will place a check mark next to the patient name.
- b. Educate patients that if they do not want to wear their masks, they can keep them in their rooms. Please encourage and educate patients why they need them. If they still refuse, please document accordingly and encourage patients to keep it in their rooms. PCT/BHA/RN will write refused next to the patient name on the board at the nurse's station.
- c. Inform patients that it is mandatory to wear the masks when attending groups for their safety and others. Group leaders, be sure patients do not come into the group room without a mask.



- d. At the end of the day, the night PCT/BHA/RN collects the masks and new ones are handed out to the patients each morning. Inspect the masks and make sure they have not been tampered with and in one piece before discarding. The RN collecting the masks at the end of the day will then erase the check mark next to the patient name and the process will start over the next day.
- e. No masks with metal nosepieces will be given to patients, and if the Physician determines that a patient is too high risk to have a mask, they will inform the nursing staff of their concern.

On 2/17/2021, a Behavioral Health safer mask was available and obtained by our supply department. The mask has a moldable plastic nose piece, and comfort ear loops that easily break away.

Per the recommendations, a checklist was created to demonstrate compliance with the masking order according to the OSF Behavioral Health Masking of Patients Policy.

If you need any further documentation, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Dawn Trompeter".

Dawn Trompeter, President
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