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HUMAN RIGHTS AUTHORITY-CHICAGO REGION

REPORT 22-030-9018
Thorek Memorial Hospital

INTRODUCTION

The Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission opened an investigation due to potential rights violations regarding the care and services provided to a mental health patient at Thorek Memorial Hospital (Thorek). The complaints being investigated are that the facility provided forced medications without cause, did not explain to a patient their rights and did not discharge a patient per Code requirements.

Substantiated findings would violate protections under the Mental Health and Developmental Disabilities Code (405 ILCS 5).

Per the website, Thorek Memorial Hospital has been providing quality, progressive health care to Chicagoans since 1911. Currently the hospital is a 218-bed, not-for profit, acute care facility. Thorek offers a variety of services including adult inpatient behavioral health. The behavioral unit has 44-beds and provides services to over 2,000 patients annually.

The HRA met with an attorney, director of nursing and one unit staff. Relevant policies were reviewed as well as the patient's record with proper authorization.

COMPLAINT SUMMARY

It was reported that the patient was wrongfully detained at Thorek without a signed petition. It was reported that upon admission to the facility the patient was restrained, given forced medications and not explained their rights. Finally, it was reported that the patient requested discharge and was not discharged timely after the request.

FINDINGS

Thorek's Record Review

The HRA received a record that had two different admissions for the same patient. The first admission occurred in the Spring of 2021. For this admission the patient was brought in the facility by police after a domestic violence dispute. Per the responding officer the patient had scissors and was threatening to hurt himself and others. Once at Thorek, the responding officer filled out an involuntary petition for judicial admission. The petition was accompanied by a certificate completed by a nurse. There is also a second certificate completed by the emergency room physician. The petition details that the patient was given a copy on completion, however the record does not give any indication that the petition was filed.

Next, the record indicates that the patient was given medication, medically cleared by hospital staff, and given a voluntary application. The record indicates that the patient refused to sign the voluntary application, but it is noted on the application that the patient is the applicant seeking admission and accepts voluntary admission. The patient also refused to sign all intake paperwork. The patient was then given an initial psychiatric assessment to which he was assessed to be oriented to all spheres and then was transferred to the behavioral unit.

Once on the unit the patient was monitored quarterly for safety. The record indicates that the patient did agree to take several medications one day after admission. The patient signed acknowledging consent for Haldol, Lorazepam, Benadryl, Bupropion, Trileptal and Risperdal. On the medication consent for the Risperdal, the patient wrote a note stating that “[Spring of 2021] I indicated that I had no insurance and wanted immediate discharge, I sign this indicating my desire for immediate discharge.”

The included notes do not indicate that staff ever responded to this request. The notes included for this hospitalization illustrate that the patient was compliant with medications and group attendance. The included notes further state that the patient was excessively sleeping and mostly isolative. Lastly, the included notes indicate that the patient was highly active in the discharge process.

For this hospitalization the medication and administration summary depicts one instance of forced medications, but the HRA was not provided with any restriction of rights forms. The medication and administration summary further indicates that four different medications were given intravenously. However, this record is missing detailed notes about what occurred to warrant the issuance of these medications.

Finally, for this hospitalization the patient was discharged back home after twelve days in the hospital. The patient was discharged home per his request. There are no formal complaints or grievances filed in the record regarding the patient’s care; and the record is absent any request for discharge forms.

For the patient’s second admission, he entered Thorek in late July of 2021. Per the notes, he came for this admission from a neighboring hospital with a petition for judicial admission.

However, the record did not contain a copy of the petition. Once at Thorek, it appears that the patient refused all care and was assessed to be oriented to all spheres.

The record then illustrates that the patient was explained his rights as a voluntary admittee and taken to the behavioral unit. Once on the unit the patient was mainly isolative. For this admission the patient did not receive any restraints or forced medications on the unit. Per the record the patient participated in groups, was compliant with medications and was discharged home after seven (7) days of care.

Site Visit and Interviews

The HRA conducted a site visit at the facility on September 27, 2022. The HRA toured the behavioral health unit. During the tour the HRA noted patient phones with signage listing avenues to contact IGAC and other advocacy services. The HRA also visited a few patients' rooms, the nurses' station, and the community area.

After the tour, the HRA spoke with the staff asking them to explain the admission process. The director of nursing informed the HRA that once a patient enters the facility an admissions nurse assesses the patient. The director continued that if the patient is appropriate for behavioral health, then a mental health counselor will meet with the patient, explain their rights of admission, and provide the patient with a copy of all rights of individuals. The director then explained that if a patient is involuntary, they are offered the opportunity to sign a voluntary application and their rights are explained to them as an involuntary patient.

The HRA then asked the staff to produce the patient's signed voluntary applications or filed petitions. For the first admission in the Spring of 2021 the staff produced a court filed involuntary petition for the patient's admission. The staff further stated that the patient was offered a voluntary application but refused to sign so the petition was filed. For the second admission in July of 2021, the staff provided a signed voluntary application.

Next, the HRA asked the staff about the forced medications and the missing restriction of rights forms. The staff reported that there were no forced medications given on the unit. The staff provided signed consents for all medications utilized during both hospitalizations for the patient. The attorney then reported that for forced medications given in the emergency room patients would not receive a restriction of rights form.

Finally, the HRA asked the staff the process for requesting discharge. The staff reported that all voluntary applicants can request discharge. The staff also indicated that once a patient makes a request the paperwork is provided and must be completed. The attorney also reported that during this patient's admission in the Spring of 2021 he was an involuntary patient, thus he was ineligible for a 5-day request for discharge. The attorney furthered that the patient was discharged once he stabilized, and an appropriate discharge plan was implemented.

Policy Review

The HRA reviewed Thorek's "Patient's Rights on Admission (AMH – 102)" policy. The policy was initiated in April of 2008. The policy was last reviewed in July of 2019 and is reviewed bi-annually. The policy opens indicating that it is the policy of the hospital "and Mental Health Unit that all patients are provided with their rights upon admission both verbally and in written form." The policy then lists a set of procedures for the staff to follow to ensure the compliance of Chapter 2 of the Illinois Mental Health and Developmental Disabilities Code.

The first noted procedure is that the registered nurse or mental health services personnel inform the patient of the right to request discharge when signing into the facility as a voluntary patient. The next listed procedure is for the staff to provide the patient with a copy of the patient's protected rights. The next procedure is for the registered nurse or mental health services personnel to explain the rights of recipients to the patient.

However, the policy does list a few minor differences for involuntary patients. The first procedure listed for involuntary patients is for the registered nurse or mental health services personnel to explain the Rights of the Involuntary Admittee with the patient. The next procedure for involuntary patients is for the staff to provide the patient with a copy of the rights. Therefore, this policy meets the requirements of the Code section 2-200 which states that "commencement of services, or as soon thereafter as the condition of the recipient permits, every adult recipient, as well as the recipient's guardian or substitute decision maker, ... shall be informed orally and in writing of the rights guaranteed by this Chapter which are relevant to the nature of the recipient's services program." It also complies with rights advisements for voluntary and involuntary admissions as required under the Code's sections 3-400 et seq. and 3-600 et seq.

The HRA also reviewed Thorek's "Emergency Administration of Medication Against a Patient's Will (AMH – 107)" policy. The policy was initiated in April of 2008. The policy was last reviewed in October of 2019 and is reviewed bi-annually. The policy states that "a patient may be given medication against his/her will only if he/she demonstrates that he/she is a serious and imminent threat of physical harm to self or other and no less restrictive alternative is available." The policy further lists procedures that require staff to secure the order for the medication, administer the medication if the patient is a threat to self or other, and document all activities in the medical record.

This policy meets most of the requirements of the Code as it requires that when medication or other services are refused then 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." (405 ILCS 5/2-107) However, this policy does not adhere to Code requirements of any time a recipient of services has their rights restricted "the professional responsible for overseeing the implementation of the recipient's services plan shall be responsible for promptly giving notice of the restriction or use of restraint or seclusion and the reason" for the restriction. (405 ILCS 5/2-201)

Finally, The HRA reviewed Thorek's "Definition of Legal Admission Status (AMH – 101)" policy. The policy was initiated in April of 2008. The policy was last reviewed in July of 2019 and is reviewed bi-annually. The policy beings indicating that is it necessary for all patients to have a legal admission status. The policy also notes that all changes to legal status should be properly recorded with the date of change in the patient's record.

The policy then defines the differences between a Voluntary Admission and Involuntary Admission. Both supplied definitions meet Code requirements of 3-400 and 3-600 as it regurgitates the definitions found in those statutes. Finally, the policy also requires hospital staff to explain to patients their admission rights at intake. Thus, this policy meets the Code requirements of "upon commencement of services, ... every adult recipient, ... shall be informed orally and in writing of the rights guaranteed by this Chapter which are relevant to the nature of the recipient's services program." (405 ILCS 5/2-200)

CONCLUSION

The facility provided forced medications without cause.

From the record reviewed and staff interviews, the patient did receive a forced medication during his initial hospitalization in the Spring of 2021. This medication occurred in the hospital's emergency department (ED). The Code defines a mental health facility as "any licensed private hospital, institution, or facility or section thereof, and any facility, or section thereof, operated by the State or a political subdivision thereof for the treatment of persons with mental illness and includes all hospitals, institutions, clinics, evaluation facilities, and mental health centers which provide treatment for such persons." (405 ILCS 5/1-114). In this case the patient was held by petition and provided treatment in the ED, so the Code applies.

Furthermore, the Code requires that any time a recipient of services has their rights restricted the "professional responsible for overseeing the implementation of the recipient's services plan shall be responsible for promptly giving notice of the restriction or use of restraint or seclusion and the reason therefor to ... [.]" (405 ILCS 5/2-201) The record lacks any evidence that the patient received notice of his restriction. The notes also do not detail what warranted the issuance. Therefore, a rights violation is substantiated.

The facility did not discharge a patient per Code requirements.

The patient was an involuntary admit during the Spring 2021 admission, therefore, was not able to request discharge under 5/3-403. Instead, per the record and interview the patient was discharged under 405 ILCS 5/3-902 which indicates that a director or physician "may at any time discharge an informal, voluntary, or minor recipient who is clinically suitable for discharge." It furthers that a director can "discharge a recipient admitted upon court order under this Chapter or any prior statute where he is no longer subject to involuntary admission on an inpatient

basis.” The record indicates that the patient was explained their rights and discharged appropriately during the July 2021 admission. Therefore, a rights violation is unsubstantiated.

The facility did not explain the patient their admission rights.

During the Spring 2021 admission the involuntary treatment petition is certified that the patient was given a copy of the petition. However, the record is missing notes indicating that the patient was explained any of their rights as an admitted or rights of an individual. From the interview, the staff allege that it is customary that patients are explained rights at admission. Yet it is not documented in the record thus a rights violation is substantiated.

RECOMMENDATIONS

1. The HRA recommends that all ED staff be trained on Code requirements for emergency medication issuance. The HRA further notes that the record was missing copies of restriction of rights notices. These are required to be included in the patient’s medical record. The HRA would also request copies of training completion.
2. The HRA recommends that the facility also conduct a training on Code requirements for explanation of patient’s rights. The HRA further recommends that the facility document explanation of rights in the patient’s chart to comply with Code mandates.

RESPONSE

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

ESP KREUZER CORES LLP

DOUGLAS J. ESP
ADAM S. KREUZER
ANDREW P. CORES
MATTHEW GROB
JEFFREY S. BARGER
WENDY M. MUSIELAK
ADAM C. CARTER
LAURA M. MAUL
SHARON M. PEART
SHANNA N. VALENTI
DEANNA C. ROSINSKI

400 SOUTH COUNTY FARM ROAD
SUITE 200
WHEATON, ILLINOIS 60187

630/871-1002
FAX 630/871-0224

WWW.EKCLAWFIRM.COM

Direct: 630-344-6522

E-Mail: desp@ekclawfirm.com

OF COUNSEL:

RUSSELL M. BARNETT
CHRISTINE M. RYAN
KIMBERLY J. WEISSMAN
MARY BETH O'BRIEN
RICHARD S. SCHULMAN

IN MEMORIAM

BRAN E. HARVEY
1974-2020

January 16, 2023

Darrell Richardson
Human Rights Authority
Illinois Guardianship and Advocacy Commission
1200 South First Avenue
P.O. Box 7009
Hines, IL 60141-7009

Re: No. 22-030-9018

Dear Mr. Richardson:

Thorek Hospital has reviewed your December 20, 2022 report of finding and recommendations. Thorek's response as to the findings/recommendations are as follows:

1. Regarding the medication issue, the patient was held by petition and according to the attached Exhibit A, "Application for Voluntary Admission," he was provided with his rights as a voluntary admittee. Further, Screening Information record attached as Exhibit B indicates, "Client has been informed of and given a copy of his/her rights under the MH Code," charted as "Yes," and "Client has been informed of the purpose of the assessment: Registered in the ER," answered as "Yes." Thorek Hospital will amend its emergency room policies to specifically document the patient was given notice regarding medications.

2. Unfounded.

3. The patient was given his rights as indicated in Exhibits A and B, and was given his rights as specifically documented on the Exhibits. The patient was also given a copy of the Application for Voluntary Admission which includes his rights as documented on the form.

Please contact me if you need any further information/clarification.

Sincerely,

ESP KREUZER CORES LLP

By


Douglas J. Esp

DJE:kjt

Enclosures

Wheaton / Oswego