

REPORT OF FINDINGS
AMITA HEALTH ADVENTIST MEDICAL CENTER- 18-040-9014
HUMAN RIGHTS AUTHORITY- South Suburban Region

INTRODUCTION

The South Suburban Regional Human Rights Authority (HRA), the investigative division of the Illinois Guardianship & Advocacy Commission has completed its investigation into allegations concerning Amita Health Adventist Medical Center. The complaint stated that a social worker shared information with the recipient's family without her consent. Additionally, the complaint stated that the social worker told the recipient that she would be released from the hospital on that same day or that next day if she signed a request for discharge form. If substantiated, these allegations would be violations of the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110/5 [a]) and the Mental Health and Developmental Disabilities Code (the Code) (405 ILCS 5/100 et seq.).

Located in Bolingbrook, this general hospital has a geriatric behavioral health unit with 24 beds and reportedly had about 12 patients on the unit when the complaint was discussed with the staff.

METHODOLOGY

To pursue the investigation, the hospital's Director of Risk Management, the Director of Behavioral Health, and two social workers were interviewed. The complaint was discussed with the adult recipient, who maintains her legal rights, and sections of her record were reviewed with consent. Relevant hospital policies were also reviewed.

COMPLAINT SUMMARY

The complaint stated that the social worker shared information with the recipient's brother, sister and daughter without her consent. For example, it was reported that the social worker shared information about her progress, medications, and discharge plans with her family. Additionally, the complaint stated that a social worker told the recipient to sign a request for discharge form and that she would be released from the hospital on that same day or that next day, and she was not.

FINDINGS

An HRA record review revealed that the recipient had been petitioned for involuntary psychiatric hospitalization on Tuesday, May 1st, 2018 and was transferred to Amita Health Adventist Medical Center (AHAMC) on that same day. A petition prepared by the transferring hospital's emergency department at 4:30 a.m. documented that the police had been called because the recipient was screaming that she did not know who she was while running around in her neighborhood. She told the staff that she had stopped taking her medications because she was not able to get them. She said that she had refused to accept help from a senior services agency because she did not want anyone in her home. She reported having problems with eating and sleeping and doing daily living activities. Her hygiene and appearance were described as being poor. The

petition asserted that the recipient needed immediate hospitalization because of her illness and was unable to provide for her basic physical needs to guard herself from serious harm without the assistance of others, unless treated on an inpatient basis.

According to the AHAMC's psychiatrist's order, the recipient was admitted to the hospital's geriatric behavioral health unit on the transfer day around 11:00 p.m. Her admitting diagnosis was Dementia with behavioral disturbance. A health and physical examination and medical management were ordered. According to the admitting nursing note, the recipient was cooperative and oriented to person and place upon her arrival to the hospital's locked unit. She had a history of depression, bipolar disorder, anxiety, and some physical medical problems. Her discharge plan included acute stabilization, medication management, and to follow-up with outpatient care. A copy of the petition was provided to the recipient on that same day. And, a copy of the Rights of Individuals Receiving Mental Health and Developmental Services was provided and rights were explained. Also, this was documented on the petition. There was no certificate for involuntary emergency hospitalization found in her record.

For May 2nd, 2018, the recipient signed a Durable Power of Attorney (POA) for Health Care form that authorized her brother to make health care decisions for her starting on that same day and when she was no longer able to make them. An Application for Voluntary Admission documented that the recipient's POA agent gave verbal consent for hospitalization under this status at 12:15 p.m. It documented that the recipient was considered to be clinically suitable for voluntary admission and had the capacity to consent to admission under this status and understood her discharge rights. A copy of the voluntary application would be provided to any one of her choice and that rights under this status were provided. There was no indication that she wanted an agency or someone to be notified of her admission to the unit or that she had agreed to the voluntary application. A psychotropic medication consent form documented that the recipient's POA agent gave verbal consent for the administration of Ativan every four hours as needed. Another form documented that he gave verbal consent for the hospital to share treatment and transitional care planning information with her daughter, son, himself, and discharge planning service providers. According to the progress notes, the social worker sent referral information for discharge planning to other community service providers. A Determination of Need Screening form was faxed to a senior agency for after care services.

For May 3rd and 4th, 2018, the recipient's record contained a Health and Physical report that was completed by a medical physician. Zoloft was added to her medication regimen with consent and during her hospital stay other psychotropic medications were subsequently added. She reported having muscle weakness and pain in her back area. An Occupational Evaluation and Treatment Report documented increased difficulty with mobility and doing daily living activities and that she lived alone. She said that she did not want to cook and wash her clothing and other dirty items. According to the evaluation and treatment report, a supportive living facility was recommended because the recipient would not be safe living alone due to cognitive and safety deficiencies. For May 7th and the 8th, the social services' notes indicated that a referral packet for discharge planning was sent to a named provider and that the recipient's POA agent was updated on her treatment progress. Her POA agent told the social worker to send referral packets to

facilities in a particular area. Also, her record indicated that she was referred for after care services to other providers including two of her choice.

For May 10th, 2018, a physician's note documented that the recipient wanted to go home but there was no planned discharged date. The HRA noticed that she was not offered any help with her request to be discharged from the hospital until May 16th. A form signed by the recipient documented her request and was received by the hospital's social worker on that next day. A social services' note documented that rights were explained and that she understood them. For May 17th and the 18th, it was recorded that the recipient was seen by the psychiatrist and that she had agreed to the administration of Depakote. A form documented she had the capacity to consent to the medication. Another physician's note indicated that the recipient was feeling less anxious, ambulating without difficulty, and her food intake had increased. She was upset with the staff and her family for making alternative living arrangements for her post-hospital discharge. She wanted to go home but she would more likely to be transferred to a skilled nursing home.

For May 21st, 2018, a physician's note indicated that the recipient's thought process was clearer and that she was able to make decisions for herself. She told the social worker that she wanted her son to pick her up when she was released from the hospital. According to a form, the recipient gave written consent for treatment and transitional care planning information to be shared with her friend, sister, son, and a community outpatient program. The social worker's notes documented that she had left multiple phone messages for the recipient's son. However, there was no indication that he had returned her phone calls. She called the recipient's sister about her discharge plan because the individual said that the family member would help her with cleaning and other household tasks. Her sister reportedly told the social worker that she was willing to help and that she had already cleaned the recipient's house. Also, the social worker faxed a referral packet for outpatient services to a local hospital. According to the record, the recipient was discharged from the hospital on Wednesday, May 23rd, and she was transported home by ambulance.

The hospital's social worker, who completed the Voluntary Application dated May 2nd, 2018, told the investigation team that the recipient understood that she was being admitted to a behavioral health unit and her discharge rights. The social worker explained that the recipient had been non-compliant with medication leading up to her hospitalization. Her insight was poor. Her hair was very "matte" and it took the staff many days to untangle her hair. The social worker named in the complaint denied telling the recipient that she would be released from the hospital on that same day or that next day if she signed a request for discharge form.

The hospital's social worker said that the recipient signed a Durable Power of Attorney Health Care form for her brother to make her decisions during her hospital's stay. Her POA agent gave verbal consent for sharing information with her son, daughter and community providers on May 2nd. Also, the recipient gave consent to share her information with her sister and a friend. The consent forms were found in her record. The social worker said that information was shared with only those authorized. She said that the recipient's daughter was not involved in her care and that she did not have any contact with her.

Amita Health Notice of Privacy Practices state that all of its health facilities are required by law to keep identifying medical information private. The notice applies to all employees, volunteers, students, health care providers at any Amita Health locations, and all contractors that provide services to Amita Health. It describes how patients' medical information may be disclosed and how they can get access to this information. According to the notice, the provider may use and disclose medical information for treatment, payment, health care operations and other situations. Patients have a right to restrict or limit the medical information used or disclosed. They have the right to choose someone to exercise their rights and to make choices about their health information. They have the right to choose how their health information is shared with family, friends, and others involved in their care.

AHAMC's "Patient Rights and Responsibilities" policy states that a patient who is not incapacitated may designate, orally or in writing, another individual to be his or her representative. This explicit designation of a representative takes precedent over any non-designated relationship and continues throughout the patient's inpatient stay or outpatient visit, unless withdrawn, either orally or in writing, by the patient.

CONCLUSION

Complaint #1 Confidentiality

Section 110/2 of the Confidentiality Act defines communication as any ... in connection with providing mental health ... services to a recipient. Communication includes information indicating that a person is a recipient.

Section 110/5 (a) of the Act states that records and communications may be disclosed to someone other than those persons entitled listed in Section 4 of this Act only with the written consent of those persons who are entitled to inspect and copy a recipient record pursuant to Section 4 of this Act, which includes an agent appointed under a recipient's power of attorney for health care.

The Authority cannot substantiate the complaint stating that a social worker shared information with the recipient's family without her consent. According to the record, the recipient signed a Durable Power of Attorney for Health Care form that authorized her brother to make health care decisions for her shortly after her arrival to the hospital's unit. Her POA agent gave verbal consent for sharing her protected health information with other family members and for follow up services post-hospital discharge. A second form indicated that the recipient gave signed consent for sharing her medical information with her sister, son, friend, and a community hospital outpatient program. Based on the social worker's notes reviewed, the recipient's health information was disclosed as authorized by the recipient and her POA agent. The HRA finds no violations of Section 110/5 (a) of the Act or the hospital's Patient Rights and Responsibilities policy or its notice of privacy practices.

CONCLUSION

Complaint #2 Discharge

Section 5/3-400 of the Mental Health Code states that,

(a) Any person 16 or older may be admitted to a mental health facility as a voluntary recipient for treatment of a mental illness upon the filing of an application with the facility director of the facility if the facility director determines and documents in the recipient's medical record that the person (1) is clinically suitable for admission as a voluntary recipient and (2) has the capacity to consent to voluntary admission.

(b) A person has the capacity to consent to voluntary admission if the facility director or his or her designee determines that the person is able to understand that: 1) he or she is being admitted to a mental health facility, and, 2) he or she may request discharge at any time. The request must be in writing, and discharge is not automatic.

Section 5/3-401 (a, b) states that,

The application for admission as a voluntary recipient may be executed by: ...

2. Any interested person, 18 or older, at the request of the person seeking admission....

Upon admission the right to be discharged shall be communicated orally to the recipient and a copy of the application form shall be given to the recipient and to any parent, guardian, relative, attorney, or friend who accompanied the recipient to the facility.

Section 5/3-403 states that,

A voluntary recipient shall be allowed to be discharged from the facility at the earliest appropriate time, not to exceed 5 days, excluding Saturdays, Sundays and holidays, after he gives any treatment staff person written notice of his desire to be discharged unless he either withdraws the notice in writing or unless within the 5 day period a petition and 2 certificates ... are filed with the court.

The hospital's Voluntary Admission policy states the same as the Code's Sections listed above.

The Authority cannot substantiate the complaint stating that the social worker told the recipient that she would be released from the hospital on that same day or that next day if she signed a request for discharge form. The social worker, who completed the Voluntary Application, said that the recipient understood her discharge rights. Additionally, the social worker named in the complaint denied making the statement above. The Authority finds no clear violations of Section 5/3-403 of the Code or the hospital's policy in regard to the complaint as presented above. However, a physician's note dated May 10th, 2018 documented that she wanted to go home but

there was no indication that she was offered a request for discharge form on that same day. This violates Section 5/3-403 of the Code and the hospital's policy regarding the right to request discharge. She was eventually given a request for discharge form as evidence by the form signed on Wednesday, May 16th, 2018 found in her record. The discharge request form was reportedly received by the hospital's social worker on that next day and she was discharged from the hospital on May 23rd, 2018.

RECOMMENDATIONS

1. Pursuant to Section 5/3-403 of the Code and the AHAMC's policy, the hospital shall ensure that all voluntary recipients' rights to request discharge are honored and that discharge request forms are promptly given when recipients do not want to continue hospitalization and make this known to the clinical staff.
2. A physician's note dated May 10th, 2018 indicated that the recipient wanted to go home prior to her signed request for discharge on May 16th. Discuss the right to request discharge with the behavioral health clinical team including the physicians. The HRA requests training documentation.

SUGGESTIONS

1. Clearly document if a recipient agrees with a POA agent's consent to hospitalization under a voluntary admission status.
2. Ensure that notes in recipients' records are communicated to appropriate personnel for adequate discharge planning.

COMMENT

The recipient was transferred to AHAMC on a petition completed on Monday, May 1st, 2018 at 4:30 a.m., and she was admitted to the hospital's behavioral health unit for older adults on that same day around 11:00 p.m. Her record lacked a certificate as required under the Code's Sections 5/3-602 and 5/3-604. According to the hospital's Director of Risk Management, a certificate was not prepared because the recipient's POA agent had signed a voluntary application shortly after her arrival to the behavioral health unit. The HRA disagrees with the hospital's Director of Risk Management that the entire involuntary process did not need to be completed. Her record contained a Voluntary Application completed on May 2nd, 2108 at 12:15 p.m. under Section 5/3-403. The voluntary admission form was completed about thirty-two hours after the petition was prepared. This exceeds the 24 hours allowed for detention for examination with a petition only. AHAMC violates the Code's Section 5/3-602 and 5/3-604. The hospital is reminded that the Code's involuntary admission process requires that a petition be accompanied by a certificate for immediate hospitalization.

Section 5/3-602 states that,

The petition shall be accompanied by a certificate executed by a physician, qualified examiner, or clinical psychologist which states that the respondent is subject to involuntary admission and requires

immediate hospitalization. The certificate shall indicate that the physician, qualified examiner or clinical psychologist personally examined the patient not more than 72 hours prior to admission [and shall contain his or her] clinical observations, other factual information relied upon in reaching a diagnosis, and a statement as to whether the respondent was advised of his rights under Section 3-208.

Section 5/3-604 states that,

No person detained for examination under this Article on the basis of a petition alone may be held for more than 24 hours unless within that period a certificate is furnished to or by the mental health facility. If no certificate is furnished, the respondent shall be released forthwith.

The hospital's Involuntary Admission policy states the same as the Code's Sections listed above.