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Northwest Regional Human Rights Authority
Report of Findings
Case #19-080-9012
SwedishAmerican Hospital

Introduction

The Northwest Human Rights Authority (HRA) opened an investigation into potential right violations at SwedishAmerican Hospital in Belvidere and Rockford. The complaint is that a behavioral health patient's right to refuse psychotropic medications was ignored, rights were not discussed, a petition was filed inappropriately, and her confidentiality was disregarded. Substantiated findings would violate protections under the Mental Health and Developmental Disabilities Code (405 ILCS 5) and the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110).

A division of the University of Wisconsin Health system, SwedishAmerican Hospital has two locations in the Boone/Winnebago Counties. The Rockford location's Emergency Department (ED) sees about 70,000 patients each year, some 14,000 of whom are evaluated for mental health reasons/purposes. The Center for Mental Health (CFMH) Unit has 42 beds, in which 16 are specifically for adolescent patients. A majority of the employees are employed by SwedishAmerican and in the ED there is a dedicated psychiatric special need unit (SNU). The HRA met with representatives from the CFMH, ED personnel and administrators.

Subsequently, the HRA took a tour of the Belvidere (ED) location, which has four exam rooms and sees about 24 patients yearly who are treated for mental health issues and 2 patients per week, who are emergent, stabilized and transferred to the Rockford location. The normal staffing levels at this site is: 3 nursing staff members, 1 tech, 1 doctor and 1 security guard. Relevant policies were reviewed as was the patient's record with proper authorization.

Complaint Summary

According to the complaint, the patient was not allowed to refuse Haldol injections that were given in the ED without appropriate need. Hospital staff reportedly did not inform the patient of her right not to talk to anyone during an emergency admission evaluation, and the patient was not allowed to leave although no involuntary admission documents had been completed. It was also alleged that once completed, a petition and supporting documentation were not filed in the mental health court timely and that the

attending physician had reached out to the patient's family members without gaining permission from the patient.

Record Review

Belvidere (ED) Record Review

On September 26, 2018, the patient arrived at the ED via emergency personnel, after experiencing an anxiety attack at the workplace at 6:35pm. Around 7:13pm, the patient was asked about suicidal ideations, the patient sobbed and responded by stating "I don't want to stay so I am not going to say anything." A minute later, a call was made to the Rockford location to confirm that the patient could be transferred for mental health services, which was approved. Additional documentation received, including the security incident report, detailed an interaction between hospital staff and patient on September 26, 2018 at 8:20pm. Per the security officer, who was not called to the scene until after the patient became "combative", all parties involved were on the floor outside one of the exam rooms. Security aided by holding down the patient's left arm and shoulder while a nurse injected medicine to aid the patient in calming down. The security officer stated in the incident report that both the doctor and he tried to calm the patient down by talking and after the conversation the doctor decided to restrain the patient. When trying to restrain the patient, it was stated "she fought us the entire time", while being carried by hospital personnel. It was stated that she kicked the tech, who was injured in the left shoulder area. While being restrained the patient was given another shot of psychotropic medication.

Per the medical records at 8:25pm, the nursing staff reported that the patient was trying to elope off the premises, after being informed that a transfer was being sought to another location for additional treatment and services. The records indicate that the patient fought staff members by kicking and hitting them. Per the ED note, the patient was restrained at 8:35pm, given two dosages of Haldol 5mg intramuscularly and two dosages of Ativan 2mg intramuscularly at 8:46pm without completed restriction orders. At 8:47pm, the nurse on duty readjusted the restraints, due to the patient screaming "just let me go, I fucking hate you" and tried to remove the upper limb restraints. The same ED note states that the patient was already being held due to having a completed involuntary admission form [petition] and inpatient certificate on file. According to the records the petition was not completed until 10:27pm by the attending physician, who noted contacting the patient's daughter on the involuntary admission form and the inpatient certificate was completed prior at 9:15pm on September 26th by the same attending physician. The Petition for Involuntary/Judicial Admission form noted clearly stated that the attending medical provider notified the patient's family member of the admission, without prior consent from the patient. Per the medical records, there was no information or notes from the conversation with the patient's family member. The patient was sedated and transferred to the Rockford location at 11:35pm and arrived at 12:01am on September 27, 2018 in the ED.

(SNU) Record Review

On September 27, 2018 at 6:00am, the patient woke up and attempted to walk; her speech was garbled, and she was provided with water from the nursing staff and advised to lay back down. At 9:30am, while speaking with a counselor, the patient refused to answer questions regarding suicidal ideations or participate in completing an assessment.

(CFMH) Record Review

The patient was transferred to the CFMH unit at 12:24pm, and once admitted there, the unit offered three different groups at various times throughout the day and the patient chose not to participate in any unit sessions. The second certificate was completed and signed on September 27, 2018 @ 12:40pm by the attending psychiatrist. The patient met with the attending psychiatrist on September 27, 2019 at 1:08pm to offer medical history and limited mental health history. The patient did receive respiratory therapy at 10:12pm and it was determined that there was a need for inhaled medication to be provided and the remainder of the evening was uneventful. On September 28, 2019, the involuntary admission petition and certificate were e-filed with the mental health court at 8:14am. Later that day at 11:33am on September 28, 2018, the patient was seen for telepsychiatry in which the patient was noted to be "fairly cooperative" and displayed a "constricted affect" and was "vague and guarded". That afternoon at 2:05pm, the patient met with the unit counselor and expressed the following statements, "always experienced suicidal thoughts and am able to manage them and would like her family not to be notified of current situation". There was a follow-up session with the tele psychiatrist who provided the patient with medication choices and noted that the discharge of the patient was court ordered at 3:21pm. The Patient was discharged on the above date at 3:41pm by court order for various Mental Health Code violations, as well as a late petition filed outside the 24-hour filing deadline.

Interviews

Belvidere Location

Emergency Department Manager

The ED manager stated, the rule of thumb that she follows is personally inquire of patients if they would like any specific individual contacted while they are in the hospital. The restraints were on the patient for 60 minutes with 15-minute checks being completed, but if the patient was resting, the restraints should have been removed sooner than 9:05pm.

It was also discussed if the certificate and petition time is relayed to the receiving hospital over the phone or through the transfer packet. It was stated yes, it is communicated both ways, but after reviewing the paperwork in this particular case and discussing the admission process that took place, it was noted that the normal process was not followed. It is the job of the nurse of the transferring hospital to relay the times to the assessment and referral personnel at the receiving hospital.

Hospital System Director of Risk Management

Per the hospital system's director of risk management, the attending physician who informed the family of the admission of this patient, will receive one-on-one training from the physician director of emergency medicine. Also, if there is an interaction or scuffle between the patient and staff with the involvement of security, an incident report will be generated and become part of the patient records.

Director of Emergency Services

The director of emergency services at the Belvidere location, stated it is extremely difficult to directly claim which hospital personnel contacted the patient's family members (either a nurse or the attending physician) without the patient's knowledge, consent, or by using prior patient records as a reference. It is not customary for hospital staff to notify family members based off prior records or interactions. The director stated the attending doctor while in the ED works to ensure the safety of the patient and staff if admission is needed and warranted by having security present.

The three administrators reiterated that based on the records provided, the attending doctor was justified in admitting the patient, since the patient was elusive and refusing to cooperate or answer questions. The possible scuffle between the patient and the ED staff was generated from the patient being told that she was being transferred to another location. It was pointed out that at the time of the decision to transfer the patient, who was trying to leave, an involuntary application or certificate had not been completed as of yet (so the patient was free to go). It was further discussed that a petition and certificate must be completed before the patient is forced to stay.

Rockford Location

Clinical Manager

According, to the clinical manager, the IL 462-2005-Petition for Involuntary/Judicial Admission form can be completed by either family members, police or emergency personnel and the section that questions if there are others with information, must be completed and state whether the patient wants them notified.

Hospital Tele Psychiatrist via phone

In describing the process of determining that a patient should be hospitalized, the hospital's tele psychiatrist stated the justification for admitting a patient starts with the completion of the IL 462-2005-Petition for Involuntary/Judicial Admission. This form can be completed by a family member, law enforcement or hospital personnel, who believe that the patient is a harm to themselves or others and treatment is necessary. The hospital personnel must examine and determine if hospitalization is appropriate, which includes observation of current behavior and patient history.

Policy Review

The HRA conducted a policy review of the **"Involuntary Detention for Psychiatric Evaluation in the ED"** at SwedishAmerican Hospital, regarding patients' rights and restraints in the ED, which states "Petition for Involuntary/Judicial Admission (MHDD-5)", must be finished before confinement can commence and as the medical records pointed out, the involuntary admission form was not finalized until at least four hours after the patient had arrived in the ED at 10:27pm. While reviewing this same policy, the portion regarding restriction notices stood out, which states, the "Notice Regarding the Restricted Rights of Individuals (IL462-2004D)" form is completed, discussed with the patient, and a copy is provided to the patient and/or appointee. There were no notices completed during this patient's time at the Belvidere ED, when restraints and psychotropic medication was administered.

The **"Informed Consent – Psychotropic Medications"** policy states "the psychiatrist will make the decision that the patient has the competency to make a rational determination regarding their treatment options". The medical records indicated that the patient, while in the ED was given psychotropic medication intramuscularly in the presence of security and vehemently repeated not wanting to answer questions and was not an admitted patient in the ED. The medical records display that the patient was admitted after being medicated and told of the hospital's plan.

Conclusion

Complaint: Right to refuse; given involuntary medication without proper cause.

Under the Mental Health and Developmental Disabilities Code, a recipient will be allowed to refuse any type of medication, and when refused, shall only be given when it is essential to avoid serious and imminent harm and no less restrictive alternative is available (405 ILCS 5/2-107). At the time of the injection, the patient was informed of being involuntarily transferred to the other hospital location for admission purposes and was told that she was not allowed to leave and needed psychiatric services. Although the medical records show that a tussle ensued, the patient repeatedly refused to discuss anything. The patient was not given an option to refuse or accept the medication, however, once the tussle ensued and staff members were on the floor and kicked at, emergency treatment was warranted to protect others from harm. The complaint that the patient's right to refuse medication was violated is **unsubstantiated.**

Suggestion

1) SwedishAmerican is open to scheduling Mental Health Code training for ED physicians and staff at the Belvidere location. The HRA recommends that psychotropic medications and restrictions be included in that training. (405 ILCS 5/2-102a-5; 2-107 and 2-201). The training should address medication consent, the right to refuse, least restrictive alternatives and patient emergency treatment preferences.

Complaint: The patient's rights were not discussed, and a right restriction form was not completed.

Under the Mental Health and Developmental Disabilities Code, the rights of a recipient receiving services that are restricted, including the right to refuse medication, must be given notices (notice regarding restriction of rights of an individual, 462-2004D). A copy of that form must be shared with a contact of the patient's choice, explaining what occurred (405 ILCS 5/2-201). The documentation indicates that the patient became physically aggressive towards hospital personnel and there was a need for medication and restraints to ensure safety of all involved and no restriction notices were completed, which should have been completed and provided to the patient as well as anyone of the patient's choosing. The complaint that the patient's right to restriction rights was violated is **substantiated**.

Recommendation

1) Complete restriction notices whenever a right under Chapter II of the Code is restricted and provide to any person or agency the patient so chooses. (405 ILCS 5/2-201). Train staff accordingly.

Complaint: The inappropriate filing of the patient's involuntary petition

Under the Mental Health and Developmental Disabilities Code, there is a 24-hour deadline following admission, that does not include Saturdays, Sundays and holidays, in which two copies of the petition, along with the first certificate is filed in the appropriate county court where the facility is located and once the second certificate is completed it is immediately filed with the court and a copy given to the patient (405 ILCS 5/3-2-611). Based on the documentation provided, the first inpatient certificate was completed on Wednesday, September 26, 2019 at 9:15pm and the involuntary petition was completed on the same date at 10:27pm by the attending physician at the Belvidere ED. The petition and first certificate were filed with the mental health court on Friday, September 28, 2018 at 8:14am, which was over ten hours after the detention began (405 ILCS 5/3-600;601). The second certificate was completed and signed on September 27, 2018 at 12:40pm by the attending psychiatrist but was not promptly filed with court until September 28th (405 ILCS 5/3-611). The petition for involuntary/judicial admission was subsequently dismissed.

Although SwedishAmerican had previously implemented a process of ensuring timely petition filings, through the Rockford location's Health Unit Coordinator (HUC) (see #19-080-9005), there was no indication that the Belvidere location has as an HUC. The complaint that the patient's involuntary petition was filed inappropriately is **substantiated.**

Recommendation

1) Follow Mental Health Code requirements and timelines for involuntary admission and train staff accordingly.

Suggestion

1) Consult the hospital's legal resource for detention and admission qualification and filing requirements.

Complaint: The patient's confidentiality was disregarded

Under the Mental Health and Developmental Disabilities Confidentiality Act, information pertaining to a recipient can be shared with someone else with written consent by the recipient (740 ILCS 11/3;4). There were numerous statements from the patient to various clinical team members that she did not want anyone alerted or notified of her current situation. Although the Mental Health and Developmental Disabilities Confidentiality Act states that the medical personnel can contact family members to start the involuntary process (740 ILCS 11/ii), based on the records, the attending physician had enough information without involving the family to initiate a petition. The records do not reveal any additional information that the physician received from contacting the family. The complaint that the patient's confidentiality rights were disregarded is **substantiated.**

Recommendation

1) Provide Mental Health Code training for ED physicians and staff at the Belvidere location. The HRA recommends that psychotropic medications, restrictions and the involuntary admission process be included in that training as well as the Mental Health and Developmental Confidentiality Act (405 ILCS 5/2-102a-5; 2-107 and 2-201, 740 ILCS 11/5).

Suggestions

1) The HRA suggests that hospital develop a policy on transferring patients with completed petitions to ensure all time frames are being followed.

2) Additionally, SwedishAmerican Hospital should give all patients who receive medication voluntarily or involuntarily, written educational material.

RESPONSE

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