FOR IMMEDIATE RELEASE

Northwest Regional Human Rights Authority
Report of Findings
Case #19-080-9019
SwedishAmerican Hospital

Introduction

The Human Rights Authority (HRA) opened an investigation into potential rights violations at SwedishAmerican Hospital in Rockford. The complaints include the injection of psychotropic medications without proper consent or need, denied the right to review and receive a copy of medical records and the denied right to seek authoritative counsel on medical treatment and needs. Substantiated findings would violate protections under the Mental Health and Developmental Disabilities Code (405 ILCS 5).

A division of the University of Wisconsin Health system, SwedishAmerican's Emergency Department (ED) sees about 70,000 patients each year, some 14,000 of the patients seen are for mental health reasons/purposes and the hospital has a Special Needs Unit (SNU) within the emergency department. Currently all employees are SwedishAmerican and not contractual. The hospital has an inpatient psychiatric program, the Center for Mental Health (CFMH).

The HRA met with representatives from the CFMH, ED personnel and administrators. Relevant policies were reviewed as was the patient's record and security incident reports with authorization.

Complaint Summary

The complaint states that while in the ED, the patient was given a psychotropic shot in the arm after six police officers entered the room and stared him down. The ED doctor allegedly did not advise the patient of his rights under evaluation, but acknowledged this task completed on the certificate. Also, the patient requested a copy of medical records and was reportedly told that records could only be requested after discharge.

Record Review

(SNU) Record Review

According to ED records the patient arrived via ambulance to the ED with the local police department assisting on March 26, 2019 at 12:59pm, due to experiencing auditory and visual hallucinations. Per the ED nurse, at 1:42pm, the patient refused to have labs drawn, relayed being afraid, but would not divulge what the fear was pertaining to and stated not

having any mental health issues or taking psychotropic medication. While meeting with the ED nurse, an order was placed for Haldol 5mg and Ativan 2mg, due to the patient disclosing the reason he was brought to the ED, due to his being on the roof looking at five feet radiation waves which he believed were affecting his body. At 3:07pm, the patient was interviewed by the assessment and referral (A&R) staff, where he disclosed that there was a current order of protection in place at the residence from which he was brought. The first inpatient certificate was completed at 3:30pm by the ED attending physician who signed that the patient was informed of his rights to speak with the doctor , speak with a person of his choice and to have legal representation.

While gathering relevant information, the A&R staff consulted with the hospital psychiatrist and advanced nurse practitioner who diagnosed the patient with unspecified psychotic disorder and deemed him appropriate for an involuntary admission to the CFMH. Around 4:00pm, the ED nurse practitioner, documented in the records that the patient refused to complete any lab work, his behavior was restless and quarrelsome with staff and he was jumping from subject to subject and displaying symptoms of paranoia. At 5:39pm, the patient was informed by the ED nurse that he was being admitted to the CFMH , so that a psychological evaluation could be completed. The patient debated with staff, that his human rights were being violated, although he was provided with a copy of the petition and certificates, which gave specifics regarding what had been transpiring and why these steps were being taken. The patient was not receptive to hearing the information contained in the petition or certificate. At this time, the patient was still refusing to have labs drawn or provide a urine sample and he requested his clothes be returned so he could leave. During this interaction, the ED staff requested that security be in the area. It was determined at 6:00pm by the ED nurse practitioner that the patient would be admitted to the CFMH, his rights be restricted, and that psychotropic medication was needed to "help sedate him for his safety and the safety of the staff". At 6:11pm, the patient was pacing in and out the room, making request for his clothes and maintaining that he was leaving the hospital. The patient refused to stay in his room and at this time the ED nurse manager educated the patient on Ativan 2mg and Haldol 5mg and gave shots intramuscularly in the upper left arm. Per the nursing notes, the patient readily took the medication, but consistently argued regarding admission.

The patient was admitted to the SNU on March 26, 2019 at 8:14pm. On March 27, 2019 at 2:10am, four hospital security officers were called for patient standby and assisted with the transferring of the patient from the SNU to the CFMH along with a nurse and assessment counselor by riding the elevator to the fourth floor. The initial call was due to the patient refusing medication and to complete the intake admission, stating the initial admission information was completed incorrectly. After much conversation with the security officers present, the patient agreed to be transferred to the CFMH at 2:40am, according to the security incident reports provided. Once the patient with all his belongings arrived on the unit, he had calmed down and there were no other incidents to report,

security left the unit. The patient was officially admitted to the CFMH on March 27, 2019 at 2:53am.

CFMH Record Review

While overnight on the unit, the patient still refused to sign paperwork, claiming that the initial intake via local law enforcement was incorrectly handled. The patient did not complete required testing of vitals and was provided with food and drink. The second inpatient certificate was completed on March 27, 2019 at 9:00am by the attending psychiatrist. Around, 9:41am, the patient met with the unit nurse who attempted to complete the admission paperwork which patient refused but did provide answers to admission questions. According to the nurse, the patient was unclear in decision-making and not focused enough to understand the requested paperwork to sign. The unit therapist met with the patient at 10:10am who insisted again his human rights were violated and the therapist provided contact information for the Illinois Guardianship and Advocacy Commission to file a complaint. Per the records, at 12:00pm, the patient was seen by a nurse who attempted to run urine and blood tests, the patient stated, " I do not want to give my bodily fluids to the hospital, it is against my beliefs". Throughout the day there were various groups to participate in and the patient chose to participate in only one group. The feedback provided from this group, was that the patient was frustrated throughout the session.

On March 28, 2019, during a session with the nurse on duty at 6:13am, the patient requested a copy of the patient's rights and responsibilities form and when it was brought to the patient to sign, the patient was asleep. During a session with the attending psychiatrist at 11:58am, the patient continued to refuse psychotropic medication and stated that the hospital admission was invalid and incorrect. At 12:23pm, while seeing the therapist, the patient continued to believe and voice that he should not be admitted and was not redirectable in conversation. Per the nursing notes, on each shift the patient has admittedly refused any form of medication and testing in which the hospital has offered or suggested. The patient's refusal to participate in testing or take medication continued throughout stay at hospital. On March 29, 2019, the patient voiced to a nurse on duty that "rights are being violated and that six police officer conspired towards admission". The nurse on duty explained to the patient how to contact the legal advocacy services and patient understood.

On March 31, 2019, the patient relayed to the nurse during the evening shift that he will continue to refuse medication, testing and that a lawsuit for unjust admission will be brought against the hospital. During the discharge session with the hospital's therapist on April 3, 2019 at 9:45am, the patient continued to refuse outpatient services, medication and to give permission for records to be shared with the primary physician. The therapist tried working on a discharge plan with patient and explained that the patient has current police hold for violating an order of protection based on a previous living arrangement. The patient reiterated to the therapist that he will be returning to the prior living arrangement at this time and was discharged at 12:19pm.

Interviews

Clinical Manager

During the site visit, the clinical manager answered questions raised regarding patient and law enforcement relations, specifically related to police holds and active warrants. This specifically was brought up, because the patient at the time of admission had an active order of protection and the committee was curious if this information had any bearing on the patient's stay. Specifically, in the Center for Mental Health (when there is a warrant or police activity the patient must have a green form attached to their file). Patients cannot be put on a police hold without a warrant or a call from the local police department. A police hold on a patient is usually an individual with whom law enforcement has an interest in speaking, once the patient's medical condition has improved or they are stabilized. On the psychiatric unit rules regarding law enforcement notification is much different from a regular medical unit (law enforcement is notified on the medical unit).

Associate Director of Emergency Department

The associate director of the emergency department stated that all personnel in the ED, when dealing with a patient that might become unruly or restless, try to utilize de-escalation techniques to calm the patient down. When patients are calm the delivery of services are more effective and beneficial to the recipient.

Emergency Department Nurse Manager

The ED nurse manager stated that there are various reasons as to why security would be called the to the ED; for example, a staff member feels unsafe and to ensure safety of all, but security is not used as a form of intimidation. Also, if security is contacted, a security report must be completed by security personnel involved in all instances regardless of the outcome. In this instance when security was called, the nursing notes stated the patient willingly provided his arm for an injection with security. The HRA committee questioned the documentation of the patient willingly providing his arm for the medication received, if security is in the vicinity. The ED nurse manager stated normally there is documentation that supports the patient making the decision to accept the medication or not.

It was also discussed the lapse in the patient receiving medication, originally scheduled for 2:00pm but the dosage was actually received at 6:00pm; it was stated that the staff were waiting for the patient to calm down on their own accord. In the conversation it was expressed that the patient was informed that psychotropic medication dosages are the last avenue used to assist the patient in calming down.

Behavioral Therapist

The behavioral therapist during the site visit stated recalling this patient during the admission and specifically remembering providing the patient with a card for legal advocacy services and discussed in details the patient's rights and responsibilities as listed on the "Rights of Individuals Receiving Mental Health and Developmental Disability Services (IL 462-2001)". The therapist stated the patient claimed that he should not be there, and the contact information for the Illinois Guardianship and Advocacy, was pointed out.

Nurse Manager Psychiatric Service

During the site visit, there was discussion around the process in which complaints are made by patients, due to the patient's statements surrounding the possibility of "suing the hospital for a wrongful admission". The nurse manager of psychiatric services outlined the following procedure for a patient complaints: a) unit staff addresses patients' issues/concerns, b) if not satisfied by the outcome delivered by staff, a patient grievance form is completed, c) if still not satisfied with the result of the grievance form, a guest relation staff member will visit the patient directly on the unit to discuss and address the complaint.

Policy Review

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". This policy is practiced on the CFMH unit as well as in the ED. The medical records indicated that the patient, while in the ED was given psychotropic medication intramuscularly, after being educated on the medication that was given. The nursing note states that the patient took the medication willingly, although the patent was still arguing with staff personnel. There were no notices completed during this patient's time in the ED, when psychotropic medication was administered.

The "**Provision of Care with Law Enforcement Involvement**" policy states "states nursing staff will notify security first and then the nursing manager regarding the need of assistance with restraints. Security will decide if additional assistance is needed, such as law enforcement. Police are not called directly, except in the ER". According to the records provided, security was called to assist with a patient, and at that time psychotropic medication was administered and no restriction notices were completed, which as per staff, would have stated if security assistance was needed with the patient. Security also was utilized in transporting the patient to another unit, which it was decided by the lead security officer. Per this interaction, a review of the policy should include the need and presence of security.

The **"Police Hold/Police Warrant for Arrest of Patient"** policy states "warrant must be present on admission in order to notify police when patient is discharged." Per the

medical records, it was noted that patient was on a "police hold" during the initial admission, but after meeting with hospital personnel it was stated that if there is no actual warrant in the record no call is given to police during the discharge process.

Conclusion

Complaint: The injection of psychotropic medications without proper consent or need.

Per the Mental Health and Developmental Disabilities Code, when an individual or his/her guardian is given the chance to decline mental health or developmental disability services, which include medication or electroconvulsive therapy, these services will not be provided unless there is a necessity to avoid serious and imminent harm to self or others (405 ILCS 5/2-107). A rights violation is **substantiated** while the patient was in the ED. During the patient's admission in the ED, the patient was injected with Ativan 2mg and Haldol 5mg in the upper left arm, there was no documentation that restriction notices were completed, although the records state that the patient's rights were restricted "to help sedate him for his safety and the safety of staff". There was no notation that the patient displayed a need to prevent serious or imminent harm (pacing, arguing, threatening to leave) to self or others.

Recommendations

1) Stop the practice of forcing medications on patients without a documented need to prevent serious and imminent physical harm and no less restrictive alternative is available.

2) Complete restriction notices (IL462-2004M) whenever a patient's rights will be restricted, and document said restriction in the medical record.

Complaint: The behavioral health patient was denied the right to review and receive a copy of medical records.

Per the Mental Health and Developmental Disabilities Code, when a patient has been admitted in the hospital before the 12th hour, she or she must receive a copy of their petition and instruction on how to contact legal representation, if needed and an explanation of their current legal status (405 ILCS 5/3-205). A rights violation is **unsubstantiated.** Numerous times throughout the medical records are instances in which the staff provided the patient with copies of his admission records, which included rights and legal counsel information, and tried to explain what the documents meant. There was no indication that the patient's condition prevented him from comprehending the information provided. The patient was given a copy of his petition and certificate at 5:39pm on March 26, 2019, while the ED nurse attempted to go over the documents, but the patient was focused on the actions of the medical personnel .

Complaint: The behavioral health patient denied the right to seek authoritative counsel on medical treatment and needs.

Per the Mental Health and Developmental Disabilities Code, when services begin, an individual or his/her guardian is given the chance to reach out to a person of their choosing (spouse, family member, attorney or advocate form Illinois Guardianship and Advocacy Commission,(405ILCS 5/2-200c). A rights violation is **substantiated,** reviewing the medical records, the conversation regarding the patient's right to counsel was not discussed until transported to the unit and met with the therapist, which occurred 12 hours after said admission of 8:14pm. Although patient, was in the ED for 8 hours there was no mention of seeking additional information from a relative, attorney or advocate until after one certificate was already completed.

Recommendations

1) Hospital personnel must ensure that the patient understand that they have a right to counsel from the beginning of the admission, when services are being rendered.

2) SwedishAmerican is cautioned to remember that when hosting patients on police hold, the Mental Health Code prohibits involuntary admissions for any person with a pending felony (405 ILCS 5/3-100).

Suggestions

The HRA offers the following suggestions:

1) Hospital personnel and administrators should review any and all policies regarding law enforcement involvement and specifically determine and identify the need and presence of security with patients.

RESPONSE

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