



FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 08-030-9008

Rush University Medical Center

Case Summary: The Human Rights Authority substantiated the complaint that Rush University Medical Center did not follow Code procedures when it administered forced psychotropic medication absent an emergency and did not provide adequate care for the recipient at her court hearing. It did not substantiate the complaint that that the hospital unduly restricted the recipient's right to communication.

INTRODUCTION

The Human Rights Authority of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving a complaint of possible rights violations at Rush University Medical Center (Rush). It was alleged that the facility did not follow Code procedures when it administered forced psychotropic medication absent an emergency, unduly restricted a recipient's right to communication, and did not provide adequate care for the recipient at her court hearing. If substantiated, these allegations would be violations of the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.).

Rush is an academic medical center with a focus on teaching, research and patient care. The hospital has over 600 beds with an average of 16 beds on the acute psychiatric unit.

To review these complaints, the HRA conducted a site visit and interviewed the Department of Psychiatry Chairperson, a Registered Nurse (RN), and the hospital's outside counsel along with the attorney for the recipient. Hospital policies were reviewed, and the recipient's clinical records were reviewed with written consent.

FINDINGS

The recipient was brought to the Rush emergency department on 9/21/07 by her mother and escorted by police because she had been non-compliant with medications for several months and her apartment had become uninhabitable. At the time of her admission she was diagnosed with Bipolar Disorder and the record (Discharge Summary) shows that she was exhibiting signs of mania, paranoia, and delusional thinking. She was involuntarily committed to 13- Kellogg, the acute psychiatric unit, where she remained until her discharge on November 2, 2007 to the Rush Day Program.

Item #1: Emergency medication. Progress notes for 10/03/07 contain an entry at 1:30 p.m. that indicates that the recipient was administered forced medication: "At about 11:00 a.m. patient noted with increased agitation, verbally abusive, yelling in hall and room, banging on room door. Became uncontrollable, screaming while in the bathroom telling this nurse to stay away!! Refused all a.m. medications. Doctoron unit during above outburst. Patient refused to receive prn medications to calm her down as per Dr..... The charge RN and this RN explained to patient that medications, Ativan and Prolixin will be given to keep her calm. Received 5 mg Prolixin and 2 mg Ativan IM at 11:20 a.m. by force. Copy of notice of restricted rights of individuals given to patient who wished no one to be notified regarding above."

The notice regarding restricted rights form describes the rationale for the emergency medication: "Verbally abusive, yelling in hall, banging room door, in bathroom, yelling for nurse to get out."

The RN present at the site visit had witnessed the above incident and was interviewed about the event. She stated that the recipient had refused nearly all her psychotropic medication from the time that she arrived on the unit, and although she very often exhibited inappropriate behavior (yelling, screaming, slamming doors and talking and laughing to self), she was only given forced medication for the event that occurred on 10/03/07. For this incident, the RN stated that the recipient had become angry (no reason given) and breached the physical boundaries of another staff in a threatening posture, screaming forcefully. The recipient then retreated to her room where she continued screaming and then closed herself in the bathroom continuing with her outburst. While isolated in the bathroom the recipient could not be monitored, and in her unstable condition, staff felt it would have been dangerous to leave her unattended. The recipient was offered her prn medications, which she had at times agreed to take in the past for her anxiety, however she refused this intervention. She was administered emergency medication because the doctor and the staff present felt that she was an imminent physical danger to herself if she remained in the bathroom, and a danger to others if she was forced to come out.

Item #2 Restriction of communication rights. The record indicates that the recipient had four periods of restricted phone rights. The first restriction occurred on 9/22/07. The progress notes for this incident state: "Pt.'s mother called this writer and stated that pt. continues to call her, it has been as many as 10x per hour. Pt.'s mother requesting that pt.'s phone be removed from her room. Dr..... notified. Order received to restrict pt.'s outgoing telephone calls. Restriction of rights given to pt. Pt.'s phone removed from her room." The restriction of rights paperwork indicates that only outgoing calls were restricted for a 24- hour period beginning at 5:20 p.m.

On 9/27/07 the progress notes indicate another restriction of phone rights. The restriction of rights paperwork indicates that outgoing phone calls were restricted from 10 p.m. on 9/27/07 until 8 a.m. on 9/28/07. The reason given was "patient repeatedly telephones mother during the night leaving messages which fill up her voice mail."

On 9/29/07 the progress notes indicate that the recipient was making "harassing phone calls during the night." The restriction of rights paperwork indicates a restriction of calls from 10:00 p.m. on 9/29/07 until 9/30/07 at 8:00 a.m. The reason given is: "Repeatedly telephones mother throughout night leaving messages on phone mail."

The final restriction of phone rights occurred on 9/30/07. Progress notes indicate that, "Pt came to nursing station and slammed telephone on desk. She returned to room and slammed door. Immediately approached by staff and given opportunity to talk. Agitated. Told staff to 'Get out of my room'. When advised not to slam the door, "get out or I'm going to beat your f... face." The restriction of rights paperwork indicates a restriction of outgoing calls from 10:00 p.m. 9/30/07 until 8:a.m. 10/1/07 for the reason of "making harassing telephone calls to mother."

Staff were interviewed about recipients' rights to phone calls. They stated that phone usage times are posted as 8:30 a.m. until 5:00 p.m., however recipients are allowed to make calls at any time that is not disruptive to their roommates, as their phones are located in their rooms. Recipients are allowed to make phone calls even during their phone restriction periods, however these calls must be made from the nurse's station. The recipients are always allowed to receive incoming calls.

Item #3 Care for recipient at court hearing. The Psychiatric Flow sheet for the recipient indicates that the recipient left the unit at 8:30 a.m. on 10/11/07 for a medication court appearance accompanied by an RN, security guard and ambulance personnel. She did not return to the unit until 5:00 p.m. During this time she was not provided with a lunch or snack. The progress notes for this event indicate that the recipient was very anxious before the hearing, stating, "Pt. awake, preparing for court. Pt. discussed bringing items to court to occupy self since 'last time I read the magazine 10 times because I didn't want to stare at the judge. I tried my best not to look at you. Would I look crazy if I looked at you?'" Another later entry states, "pt. remains anxious"Pt. pleasant and cooperative although anxious." After the hearing, a progress note indicates that the recipient was "Hypervocal about court experience complaining about the length of time spent in court and absence of food/fluids."

Staff were interviewed about this event and they stated that the judge in these proceedings sets the time frames for all activities and on this day he did not allow for lunch but only for 2- 15 minute breaks. Additionally, staff were also unprepared for the length of the proceeding, stating that usually the recipients are back on the unit before noon on the day of their court appearance (and the record shows that the recipient had had a court appearance earlier that month and had returned by 11:30 a.m.).

STATUTORY RIGHTS

The Mental Health Code guards all adult recipients against the use of unwanted services, including medications, unless it becomes necessary to prevent serious and imminent physical harm:

An adult recipient of services or the recipient's guardian, if the recipient is under guardianship, and the recipient's substitute decision maker, if any, must be informed of the recipient's right to refuse medication or electroconvulsive therapy. The recipient and the recipient's guardian or substitute decision maker shall be given the opportunity to refuse generally accepted mental health or developmental disability services, including but not limited to medication or electroconvulsive therapy. If such services are refused, 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 5/2-107a).

Whenever a guaranteed right within Chapter II of the Code is restricted, the facility must issue a notice that describes the reasons for the restriction to the recipient and any person or agency he or she designates (405 ILCS 5/2-201). If the right to refuse medication is overridden, then the hospital must ensure that less restrictive alternatives were made available (405 ILCS 5/2-107) and that the recipient's emergency treatment preferences were considered (5/2-200).

The Mental Health Code also guarantees all recipients the right to unimpeded, private and uncensored communication with persons of his choice by mail, telephone or visitation and limits its restriction:

The facility director shall ensure that correspondence can be conveniently received and mailed, that telephones are reasonably accessible, and that space for visits is available....

Reasonable times and places for the use of telephones and for visits may be established in writing by the facility....

Unimpeded, private, and uncensored communication by mail, telephone, and visitation may be reasonably restricted by the facility director only in order to protect the recipient or others from harm, harassment or intimidation, provided that notice of such restriction shall be given to all recipients upon admission. (405 ILCS 5/2-103).

The Mental Health Code defines adequate and humane care and services:

"Adequate and humane care and services " means services reasonably calculated to result in a significant improvement of the condition of a recipient of services confined in an inpatient mental health facility so that he or she may be released or services reasonably calculated to prevent further decline in the clinical condition of a recipient of services so that he or she does not present an imminent danger to self or others. (5/1-101.2).

Also, the Code states that recipients shall be provided with adequate and humane care and services in the least restrictive environment, pursuant to an individual services plan. (5/2-102 a).

HOSPITAL POLICY

Rush hospital policy assures that all patients are given verbal and written information regarding the rights that are guaranteed by the Mental Health Code. Additionally the patients are informed of the possibility of the restriction of these rights, and patients are allowed to designate a person or agency to be notified if such restriction should occur. The policy also states that the name and

address of the Guardianship and Advocacy Commission shall be provided to the patient should their rights be restricted.

Rush hospital policy states that whenever the rights of a patient are restricted, the person responsible for overseeing the patient's care must inform the patient of the restriction and the reason that warranted it. This notification must also be given to the person or agency identified by the patient and/or to the Guardianship and Advocacy Commission. A Notice Regarding Restricted Rights of Individuals form is to be completed and entered into the patient's record.

Rush policy regarding telephone use states that all patients are permitted to use the phone. On the order of a physician the telephone rights may be restricted only to protect the patient or others from harm, harassment or intimidation. This rationale for restriction of phone use must be entered into the patient's record. Also, no patient is denied their right to contact his/her attorney or the Guardianship and Advocacy Commission.

CONCLUSION

Item #1 Emergency Medication. The record clearly demonstrates that the recipient was often verbally abusive and threatening to staff and demonstrated repeated behavioral outbursts such as screaming and slamming doors. It is a credit to the staff at Rush that most often the recipient was stabilized without the need for forced medication. However, for the event that included the use of emergency medication, there is no description in the record of specific threatening behaviors that would have implied a threat of serious imminent physical harm. Descriptions such as "verbally abusive", "screaming", "slamming doors" and "refusing to take prn medication" do not rise to the level of imminent physical harm and are very much in keeping with the recipient's common outbursts. Although the staff stated that the recipient had breached physical boundaries, the medication was administered after the recipient had retreated to her room and to her bathroom, which appear to suggest that the recipient had deescalated from her threatening stance and had initiated a corrective behavior. The HRA substantiates the complaint that the facility did not follow Code procedures when it administered forced psychotropic medication absent an emergency.

RECOMMENDATIONS

1. Instruct staff to follow the Mental Health Code policy requirements and administer emergency medications only to prevent serious and imminent physical harm (405 ILCS 5/2-107).
2. Be certain that Restriction of Rights Notices and corresponding progress notes are completed thoroughly and comply with Mental Health Code. Descriptions of behaviors must be specific and indicate the threat of serious and imminent physical harm. (405 ILCS 5/2-107 and 5/2-201).
3. Develop and train staff on hospital policy which specifically addresses emergency medication, including the consideration of patients' emergency treatment preferences and less restrictive alternatives. (405 ILCS 5/2-200 and 5/2-107).

Item #2 Restriction of communication rights. It is clear from the record that the recipient had her phone rights restricted because they had become harassing, which is in keeping with Code guidelines. Additionally, even when her phone use was restricted, she was able to call using the phone in the nurse's station, and all incoming calls were allowed. She was thus prevented from making calls only to the person who had complained of the harassment and the HRA does not substantiate the complaint that the facility unduly restricted the recipient's communication rights.

Item #3 Care of recipient at court hearing. The hospital had no control over the length of the court proceedings on the day of the recipient's hearing and indeed recipients historically returned from these hearings before noon as was demonstrated in the record of this recipient's hearing earlier in the month. For the event on 10/11/07, the recipient was out of the facility from 8:30 a.m. until 5:00 p.m. without food. Although this would be distracting for someone who is not a mental health recipient, it seems reasonable to assume that it would be even more difficult for someone with a history of anxiety and the natural nervousness accompanying a medication hearing. It seems reasonable to the HRA that someone could have obtained some type of refreshment or snack for the recipient during the 15 minute breaks that occurred twice that day. Although we do not think the event rises to the level of neglect, we do feel that it breaches the Code's directive for adequate and humane care. The HRA substantiates the complaint that the facility did not provide adequate care for the recipient at her court hearing.

RECOMMENDATIONS

1. In keeping with the Code's directive regarding the provision of adequate care, develop and implement a procedure for securing food and drink or a means to obtain food and drink for recipients attending court hearings and appointments, in the event that they are detained beyond their normal meal time (5/1-102.2).

RESPONSE

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

RESPONSE TO THE HUMAN RIGHTS AUTHORITY'S REPORT 08-030-9008
RUSH UNIVERSITY MEDICAL CENTER

INTRODUCTION

The Human Rights Authority issued a Report pursuant to 20 ILCS 3955/23 regarding the policies of Rush University Medical Center in documenting and administering involuntary psychotropic medications to the recipient, and in caring for the recipient at a court hearing. Specifically, the Report indicated that the Authority had concerns that: 1) Rush University Medical Center did not follow the procedures of the Mental Health Code in administering involuntary psychotropic medications to the recipient under circumstances which the Authority concluded did not constitute an emergency; and 2) Rush University Medical Center did not provide food and drink for the recipient at a court hearing when the trial court did not allow a lunch break.

In its Report regarding the involuntary administration of psychotropic medications, the Authority provided the following three Recommendations with respect to staff training at Rush University Medical Center: 1) instructing staff to follow the Mental Health Code requirements regarding the involuntary administration of emergency medications; 2) instructing staff to complete Restriction of Rights Notices and progress notes regarding the involuntary emergency administration of medications; and 3) developing policies and training staff on those policies which specifically address emergency medication.

With regard to the provision of food and drink at a court hearing where the court did not allow a lunch break, the Authority made one recommendation in its Report. The Authority recommended that Rush University Medical Center "implement a procedure for securing food and drink or a means to obtain food and drink for recipients attending court hearings and appointments, in the event that they are detained beyond their normal meal time."

With regard to the recommendations as to the involuntary emergency administration of medications, Rush University Medical Center has provided additional training and manuals to all staff on the management of combative and aggressive patient and the documentation of such incidents, including greater documentation of the events leading to the involuntary administration of psychotropic medications.

Specifically, Rush conducted training for all staff entitled, "Management of the Combative Aggressive Patient and Documentation". An outline of the in-service is attached to this response for your convenience. (See attached Exhibit A).

Central to the training with the staff was how to use interventions to avoid the use of restraints and seclusion, physical interaction, and medication unless other less restrictive interventions are tried before these more restrictive strategies are implemented.

The training approaches used included; direct presentation, video presentation, actual physical demonstrations, and an emphasis on how to complete all the proper documentation that accompanies these intervention strategies.

All staff were trained. The training was conducted at different times so all three shifts were trained. For your convenience, I have attached the attendance sheets in which document that

approximately 111 people were trained. (See attached Exhibit B) (We ask that these attendance sheets not be published with our response.)

As to the recommendation that Rush University Medical Center is responsible for providing food and drink for recipients attending court hearings and appointments in case they are detained past their normal meal times, staff have been instructed to bring appropriate snacks for the patient with them when they accompany patients to court and other appointments outside of the hospital.

Respectfully submitted,


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One of the Attorneys for
Rush University Medical Center