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HUMAN RIGHTS AUTHORITY - NORTHWEST REGION

REPORT 08-080-9007
H. DOUGLAS SINGER MENTAL HEALTH CENTER

Case Summary: the HRA substantiated Code violations for restricting the right to refuse medications. The facility's response immediately follows.

INTRODUCTION

The Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving complaints of possible rights violations in the treatment of a recipient at H. Douglas Singer Mental Health Center, a state-run hospital in Rockford that has over seventy beds.

It was alleged that the facility did not follow requirements for administering emergency medications. Substantiated findings would violate rights protected by the Mental Health and Developmental Disabilities Code (405 ILCS 5) and Illinois Department of Human Services policies.

The HRA met with a recipient's physician to discuss the matter. Program policies related to the complaint were reviewed as were sections of the adult recipient's record upon his written authorization.

COMPLAINT STATEMENT

The complaint states that the recipient was getting multiple emergency injections day after day without provocation, and, reportedly, neither he nor his designated persons were given notice of his restricted right to refuse medication each time the injections were given.

FINDINGS

According to the recipient's record, he was admitted to Singer on August 11th, 2007 unfit to stand trial. His treatment plan noted that he preferred seclusion as an emergency intervention and that he wished no one to be notified whenever his rights were restricted. The initial psychiatric evaluation stated that he refused to take psychotropic medications from the start of admission.

Progress notes showed that all went fairly well until early September when the recipient was said to be occasionally hostile or inappropriate toward staff. By September 5th he was described as being easily agitated and belligerent and was observed making verbal threats to harm a peer if she got too close to him. Five days later he shoved the woman away after she approached him. He was successfully redirected and reminded that physical contact was not allowed. The notes stated that a couple of times during the next week the recipient became angry and loud, one of those times standing in front of a staff member with clenched fists. On the 20th he was quoted as saying to the same female peer, "I am going to burn you to mother earth you fucking whore…I am going to put you in the ground…." He was asked repeatedly to stop talking in that manner. He kept walking up and down the hall making similar threats to others, and a male peer complained about being harassed and threatened. The recipient's physician came in to see him and subsequently ordered emergency medications. Her initial determination sheet cited bizarre delusions and threatening behavior as reasons to start them. Progress notes stated that security was called for help in giving injections and that the recipient was provided a rights restriction notice although there is no notice included in the record. Two more emergency administrations followed within the next twenty-four hours but the recipient took the medications by mouth. One was at 9 p.m. later that night and the other was at 6 a.m. the next morning. For both administrations he was described as being cooperative without displaying threats. There were no documented indications of what alternatives were explored or attempted to contain these emergencies and there were no corresponding restriction notices included in the record.

The physician or nurses completed emergency redetermination sheets for seven consecutive days until the medications were stopped on the 28th. All of the sheets listed delusions, agitation and threatening another peer as reasons to continue. Progress notes in the meantime referenced nothing of the sort, only that the recipient took his emergency medications cooperatively and without incident at 6 a.m. and 9 p.m. daily for the duration and that he was mostly pleasant, non-aggressive, appropriately active in groups and in the general milieu although he was seen teasing another peer or heard using profanity from time to time. Likewise, overt aggression scales completed on each shift throughout the seven days called the recipient positive and responsive for the most part and included nothing as potentially dangerous. The medications were given on schedule nonetheless, and there were no references in the chart as to what alternatives were tried or considered to contain these repeated emergencies before each administration.

A petition for involuntary treatment had been completed by the physician on the 25th; the specific date on which it was court-filed is not noted. There is no approval from Singer's medical director to continue the emergency treatments anywhere in the record. A progress note stated that the petition was dismissed on October 3rd.

Not all restriction notices were completed according to the record provided. There were none from the first four days, during which time the recipient received eight emergency doses per the medicine administration records. Notices were issued daily however, from the 24th through the last administration on the morning of the 28th. Most of them included the threatening and shoving incidents from the first day as reasons to restrict his right to refuse medications. Others listed lack of insight, need for long-term treatment, denial of illness, paranoia and belief in conspiracies as reasons. The notices stated that his preference for seclusion was not appropriate because he needed long-term treatment with medications and that he wanted no one contacted about his restrictions. An HRA representative visited the recipient on the morning of the 28th. He also did not have copies of all notices at that time, only ones from the 6 a.m.

administrations starting on the 24th, and he said the others were never given to him. He asked for the HRA and his attorney to be notified whenever his rights were restricted, and the pair gave that information to a nurse who said she would enter the request. Emergency orders were stopped that afternoon when the recipient consented to another psychotropic medication.

The physician explained during an interview that there was a pregnant peer on the unit who annoyed the recipient. Efforts were made to keep them separated but the recipient targeted her and began to get aggressive. He was encouraged to take time in the soothing room or in his own room, but that was not working up to the point when the physician started the emergency medications. She considered his preference for seclusion but decided it was not appropriate and that he would not be able to think about what he was doing. She said that eventually the medications were helpful and that he showed signs of improvement.

CONCLUSION

DHS/Singer policy on psychotropic medications calls an emergency "…an impending or crisis situation which creates circumstances demanding immediate action for preservation of life or prevention of serious and imminent bodily harm…." (PPD 02.06.01.02, p. 2). The rest of the policy outlines emergency medication requirements from Section 5/2-107 of the Mental Health Code and adds that a treatment team member must document that alternative techniques to contain the emergency were explored and include an explanation as to why less intrusive means are not appropriate. The physician or a nurse in consultation with a physician makes a determination that an emergency exists based on personal examination (p. 6). If the emergency continues for three consecutive days and a petition is filed, the facility's medical director or designee shall review the case with the treating physician and document his or her approval in the clinical record (p. 7).

The superceding Mental Health Code guarantees all adult recipients the right to refuse mental health services including medications.

> *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 5/2-107 a).

Medications in these situations may be given for up to twenty-four hours only if the circumstances leading to the need for emergency treatment is documented in the record. The treatment may not continue unless the emergency is redetermined at least every twenty-four hours and the circumstances are again documented in the record (405 ILCS 5/2-107 b and c). In order to exceed seventy-two hours, excluding weekends and holidays, a petition for court-ordered treatment must be filed and the need still be necessary in compliance with requirements under subsections a, b and c (405 ILCS 5/2-107 d).

Singer's policy on restricted rights notifications states that whenever restrictions are made by restraint, seclusion, or emergency medication or any other manner of action, it shall be recorded in that person's record and notice shall be given to him and anyone he designates (MI 1023). The Mental Health Code adds that such notice shall be documented and promptly delivered to the recipient and to anyone designated (405 ILCS 5/2-201).

In this case there was consistent and compelling documentation that the recipient's behaviors were brewing toward serious and imminent physical harm before the first emergency medications were ordered. According to the charted information, he made repeated verbal threats of intent to harm other people, stood with clenched fists in front of a staff member and shoved a peer. Alternative redirections were made on numerous occasions before medications were started, which worked with limited success for a time. Based on that kind of evidence, it seems the initial order for emergency medications was appropriate and in line with policy and Code requirements. But, there were no documented causes to continue emergency orders beyond that. Emergency redetermination sheets through the next seven days referred to the initial incident and stated that the recipient remained delusional and agitated, and, while many restriction notices were not completed, the ones that were stated the same but added that the recipient lacked insight, was paranoid and needed long-term treatment, all without indication of a need to prevent serious and imminent physical harm. Continuations carried on anyway for scheduled emergencies at 6 a.m. and 9 p.m. every day, despite the lack of documented indication surrounding the administrations to support a need or indication as to what less restrictive alternatives were available before each emergency medication was given pursuant to Code requirements in Section 5/2-107 a, b and c. Finally, there was no documentation from the facility's medical director that he reviewed the situation and approved its continuation beyond three days pursuant to Department policy. A violation of the recipient's protected rights is substantiated.

RECOMMENDATIONS

1. Instruct physicians to stop the practice of continuing emergency medications without documented need to prevent serious and imminent physical harm pursuant to policy and Code requirements (PPD #02.06.01.02 and 405 ILCS 5/2-107).
2. Require physicians and other appropriate staff to consider and document less restrictive alternatives to contain emergencies every time it is necessary to restrict an individual's right to refuse medications pursuant to policy and the Code (PPD #02.06.01.02 and 405 ILCS 5/2-107 a, b, and c).
3. The facility's medical director must follow Department policy and document approval of all emergency continuations beyond three days (PPD #02.06.01.02).
4. Require all appropriate staff to complete rights restriction notices for every emergency administration (MI 1023 and 405 ILCS 5/2-201).

COMMENT

See case #s 03-080-9011, 03-080-9014, 05-080-9004, 05-080-9012, 07-080-9001 and 07-080-9010 for similar findings at Singer.

RESPONSE

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

Rod R. Blagojevich, *Governor*

Illinois Department of Human Services

Carol L. Adams, Ph.D., *Secretary*

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Erin Wade, PhD, Acting HRA Vice-Chairperson
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Illinois Guardianship and Advocacy Commission
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July 7, 2008

Re: 08-080-9007

Dear Dr. Wade:

Singer agrees with your conclusion that the individual's behaviors demonstrated serious and imminent physical harm prior to the initiation of emergency medications. Singer strongly disagrees with the conclusion that restriction of rights notices were not given in every instance. There appears to be a discrepancy between the Singer clinical record and the materials utilized during the investigation. Restriction of rights notices are in the Singer clinical record for every medication administration. The individual's report to the investigator that he was not given copies of the restrictions are not consistent with staff charting that the restrictions were given, the presence of the restrictions in the chart and staff charting that he refused to accept copies of the restriction on at least one occasion. Singer suggests that given the lengthy nature of the investigation that it would be useful for the investigator to contact Singer if unable to find documentation. This would serve the dual purposes of assuring that the findings of the investigation are accurate and alerting Singer if there is a problem so that it can be rectified. Singer agrees that there was not documented review by the medical director. The period under investigation overlaps the period in a previous investigation and the improvements developed following the prior investigation were not yet implemented. Although Singer agrees that the documentation of the basis for redetermination can and should be improved, Singer does not agree that the redeterminations are in violation of the code. The redeterminations were done every 24 hours. The psychiatrist or nurse in consultation with the psychiatrist signed each redetermination. The redetermination form is part of the medical record and in each form the staff attests that the "circumstances require continued emergency medication for prevention of serious and imminent bodily harm to the individual or others." The staff utilized progress notes and personal observations such as "threatening to peers (male and pregnant female), denies mental illness, paranoid"... "threatens patients at various and numerous times"... "threatening to peers, condescending to peers, threatening to staff and denies mental illness or need for medications"... "orders obtained to continue emergency medications due to hostile, delusional, threatening behaviors" ... "threatening and menacing behavior" ... "verbally threatening toward staff and recent history of pushing peer" ... "at times appeared hostile, reckless, throwing balls at peers as well as throwing frisbee at peers heads" ... "hostile and sarcastic, hostile undertones all shift when out of room" ... "teasing male peer who became upset and angry"...

"physically and verbally aggressive to others when not on medication, refuses voluntary medication." With these aggressive behaviors as well as his recent history of spending extensive time in jail due to allegations of assault of a police officer the risk of discontinuing the medication prematurely was both serious and imminent. The staff also attests that less intrusive means of treatment are not appropriate due to his denial that he has a mental illness or that his behavior is inappropriate and that he refuses voluntary treatment. Clearly he was refusing all voluntary interventions. The code and program policy do not require a new event prior to each administration of medication or each redetermination which is implied in the investigation findings. Singer staff make a good faith clinical judgment that the imminent risk exists, particularly if the emergency medications were to be discontinued. The factors considered such as refusal of treatment, unwillingness to consider or discuss voluntary medication, verbal aggression, hostility, aggressiveness and persistent denigration of peers who do not have the intellectual or emotional ability to cope with his behaviors are not grounds in and of themselves but taken together they inform the clinical decision of emergent risk. Persistent denigration of peers who are known by him to explosively and aggressively react to such denigration clearly constitute serious and imminent risk of harm. Singer is committed to providing a safe treatment environment while minimizing the need for emergency medications. Typically less than 5% of patients receive emergency medications and most are for less than 72 hours.

RESPONSE TO RECOMMENDATIONS

1. Singer will continue to require that all physicians and other appropriate clinical personnel continue emergency medications only when evidence of serious and imminent physical harm is present and documented.
2. Singer will continue to require that all physicians and other appropriate personnel always consider and/or attempt and document less restrictive alternatives to contain emergencies every time a right to refuse medications is restricted. Singer has fully implemented a revised Initial Determination and Redetermination form.
3. As noted previously the medical director receives emails of all emergency medications daily to trigger documentation of approval for continuation beyond 72 hours. Singer has recently implemented a new form **RO-64(b)**, the Medical Director's Assessment of Court-Petitioned Medication. In addition, a new protocol is implemented which requires a Medical Director or designee order to pharmacy prior to filling any medication prescription beyond 72 hours (excluding weekends and holidays).
4. Singer continues to require all staff to complete rights restriction notices for every emergency medication administration.

Sincerely,

Mohammad Yunus
Hospital Administrator