FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY-PEORIA REGION
REPORT 08-090-9001
METHODIST MEDICAL CENTER OF ILLINOIS

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving a complaint of possible rights violations at Methodist Medical Center of Illinois in Peoria. It was alleged that a recipient on the psychiatry unit was subjected to sexual harassment by staff. Substantiated findings would violate recipient rights protected by the Mental Health and Developmental Disabilities Code (405 ILCS 5) and federal regulations for hospitals (42 C.F.R. 482).

Behavioral Health Services at Methodist provides comprehensive care for central Illinois residents of all ages in and out of the hospital. Inpatient programs have a total of sixty-four beds that are divided into age-specific needs. This review focuses on the adult side of the program and how it addressed the patient's grievance.

The HRA visited the facility where representatives were interviewed. Relevant hospital and program policies were reviewed as were sections of an adult recipient's clinical record upon his written authorization.

COMPLAINT SUMMARY

The complaint states that a female staff member harassed a patient by making inappropriate and unwanted sexual advances. She allegedly offered to make him feel good in the shower and stood in his bathroom with her pants down as he tried to sleep one night; she was said to warn him that if he told on her no one would believe him because he was mentally ill. The complaint further states that nurses did nothing about an elderly female patient who repeatedly said nasty things to the males and touched their genitals.

FINDINGS

It was explained during our visit that all employees are trained to recognize the signs and symptoms of abuse. They are required to follow up on complaints and can be disciplined for not doing so. Methodist has a hospital-wide philosophy that patient concerns should be addressed where they occur and by the quickest route possible. A lead nurse would typically handle the situation unless it must be taken further or a patient remains dissatisfied. In those instances the nurse can refer to the compliance officer who will take the matter up or patients can reach the compliance officer themselves. They are also encouraged to call the patient advocate whose number is provided in an orientation booklet at admission. However a complaint travels,

feedback should always make its way to the patient and to the unit in question.

We were told that the patient in this case never complained during his stay and that right to the end he spoke about being pleased with his care. It was well after discharge that he and his wife reported these allegations to the patient advocate. The nurse manager from the patient's unit said he immediately began an investigation going on the information provided. The program director, the compliance officer and the patient advocate were kept aware of his follow up efforts in the meantime. He interviewed staff members but none of them were able to account for the incident. He determined that the employee named in the complaint did not match the patient's physical descriptions of her, which we verified; she was not assigned to his care and did not work nights during the time he was in the hospital. There was some suspicion that an elderly female patient might have spoken inappropriately toward male peers at the time the patient was there, but there were no complaints from others and she had been properly redirected whenever there was a problem. We were also told that the Illinois Department of Public Health visited the facility on the same complaint and that they had no findings either.

The HRA reviewed this patient's chart and various related documents for verification. He was hospitalized voluntarily from June 28th through July 4th, 2007. There was no information linking to the complaint, and, as suggested to us, progress notes and discharge summaries referenced how happy the patient and his wife said they were about the treatment and care provided. Fifteen-minute check sheets were completed daily throughout the hospitalization and showed that the patient was in bed sleeping most often between 11 p.m. and 6 a.m.; he was out in the milieu otherwise. There was nothing remarkable noted. Checks on two of the overnights shifts were done by a male nurse and the nurses who completed the remaining overnight shifts were not named in the complaint. Shift assignment sheets listed that employee as working 7 a.m. to 3 p.m. daily and as a shower monitor on two of those mornings. Fifteen-minute check sheets put the patient in the dining room or hallway at those times and in the shower during evenings.

Methodist provided documentation on how it handled the patient's complaints once they were received. Email trails between a customer relations staffer, the patient advocate and unit administrators stated that on or around July 20th the patient's wife called to say that an elderly patient and a nurse tried to touch her husband's genitals while he was in the hospital. The claim was immediately shared with the unit's nurse manager who asked for more details so he could fully review. The staffer got back to him on the 23rd with the name of the elderly patient and clarification that the nurse did not touch him although she allegedly said she could make him feel good in the shower. It was determined that the nurse manager would follow up from there. Meanwhile, customer relations alerted the unit's director with general concerns about potentially inappropriate or easily misinterpreted statements and that the nurse manager would be addressing this with staff. The next piece of documentation came from the patient advocate who added that she heard from the patient and his wife on the morning of the 25th. They mentioned the accused nurse's name and said that she went in the patient's room during the middle of the night and stood in his bathroom playing with herself while looking at him. When he told her she was immoral, the nurse reportedly said that no one would believe him and that she would have him locked up. An approximate date for when this happened was not provided. The advocate passed the information on to the unit's director who said he would speak with the nurse manager and the hospital's compliance officer. She also wrote a response to the patient and his wife on the 25th. It said that Methodist takes every patient concern seriously, that theirs was being thoroughly reviewed by administrators and that appropriate steps and actions would take place if any staff related issues were identified. The letter thanked them for giving the hospital an opportunity to

respond and invited them to call again should they want to discuss it further. The case was closed for patient advocacy with July 27th as the resolution date; a letter to the party/reporter and referrals to the manager and director were listed as results. This concluded the documentation provided to us.

We also checked in with Public Health. According to their report on this complaint a survey completed on September 25th found the hospital in substantial compliance with requirements--which ones specifically were not mentioned.

According to Methodist's policy on complaints and grievances, patients are assured the right to file grievances and to resolve them in a timely manner per state and federal laws. A complaint is defined in the policy as an expression of displeasure with a process, person or aspect of care that is resolved at the point of service between unit-based caregivers and the patient. If not resolved, it shall be forwarded to the patient advocate. A grievance is the same but has not been resolved to the patient's satisfaction at the point of service. A grievance raises issue with a real or perceived rights violation or a serious complaint and is intended to improve the patient care process. Any issue that is received by a hospital representative such as the patient advocate, risk managers or hospital administrators is a grievance. Complaints received following discharge will be considered a grievance. Each patient is given the title and telephone number of the person to contact to file a grievance, which is included in the patient handbook (#Q-17, pg. 1). The patient advocate or the house supervisor after hours is the designated person to whom formal grievances shall be reported. A grievance committee is made up by the patient advocate, the risk manager, the customer relations manager and a representative from the performance improvement department. They are responsible for reviewing formal grievances and recommending policy changes as needed. The policy goes on to say that patients are responsible for communicating their concerns to a care team member or a hospital representative such as the patient advocate, the risk manager or the house supervisor. As for the procedure, if a patient's complaint cannot be resolved on the unit it shall be forwarded to the patient advocate, the risk manager or the house supervisor. It now becomes a grievance and will be addressed in a reasonable timeframe. The responsible party investigates in collaboration with appropriate departments. The patient will receive written acknowledgment of his concerns within seven days with additional written communication following if there is no resolution in that time. Final written communication will include the name of the hospital contact person, the steps taken to investigate the grievance, the results, and the date of completion (#Q-17, pg. 2).

The program's handbook given to patients at admission lists useful information such as confidentiality matters, keeping and protecting personal clothing and other properties, meal times, telephone and visiting hours, and various therapy descriptions. Contact numbers for the hospital's licensing body, the patient advocate and the Illinois Guardianship and Advocacy Commission are provided. A list of rights is included although it is not all-inclusive of rights guaranteed under Chapter II of the Mental Health Code. We note however that a state-issued rights list that is Code inclusive is provided on admission as well. A complaint/grievance procedure is included in the handbook. It states that if concerns or dissatisfactions cannot be resolved by available staff then patients can call the Pride Line for help, which is a direct line to lodge complaints within the hospital.

CONCLUSION

The Mental Health and Developmental Disabilities Code prohibits all forms of abuse, which it defines as any physical or mental injury and any sexual abuse inflicted on a recipient other than by accidental means (405 ILCS 5/2-112 and 5/1-101.1).

Conditions for participation in Medicare/Medicaid also prohibit abuse and call for hospitals to provide patients a means to address their grievances (42 C.F.R. 482). Specifically under Section 482.13:

> The hospital must establish a process for prompt resolution of patient grievances and must inform each patient whom to contact to file a grievance. The hospital's governing body must approve and be responsible for the effective operation of the grievance process and must review and resolve grievances, unless it delegates the responsibility in writing to a grievance committee. The grievance process must include a mechanism for timely referral of patient concerns regarding quality of care…. At a minimum:
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> (i) The hospital must establish a clearly explained procedure for the submission of a patient's written or verbal grievance to the hospital.
> (ii) The grievance process must specify time frames for review of the grievance and the provision of a response.
> (iii) In its resolution of the grievance, the hospital must provide the patient with written notice of its decision that contains the name of the hospital contact person, the steps taken on behalf of the patient to investigate the grievance, the results of the grievance process, and the date of completion.

The complaint states that a staff member on a psychiatric unit sexually harassed a patient. A particular staff member was identified, but in this case there is no factual evidence tying her to the alleged incident. Documentation from the patient's chart and from staff assignment rosters showed that she was not working during the overnight shifts when the harassment was said to take place. There may have been an elderly peer acting out inappropriately during this time as suggested by those we interviewed. Given limited information and without authorization to access this patient's record, we cannot say that she was allowed to be abusive. Although it is possible for anyone to feel harassed or offended by staff members or others and it is possible for anyone to mistakenly identify staff members who come in their rooms as they try to sleep in the middle of the night, based on the information provided in the complaint, personnel statements and the materials reviewed, the complaint that abuse occurred is <u>not substantiated</u>. But, we take issue with how the patient's grievance was ultimately handled per the documentation versus requirements under hospital policy and federal rules. According to documentation, the patient's concerns were reported after his discharge and were considered a formal grievance. The grievance seemed to make its way appropriately to unit leaders and other key hospital staff for review and an acknowledgement letter from the advocate was sent to the patient within seven days. The letter said that steps and necessary follow up action would take place if anything was found. It thanked the patient for giving the hospital an opportunity to respond and asked him to call if there was anything further to discuss. There was nothing else to demonstrate that he was

provided a final written notice of the hospital's decision, the steps taken to investigate his grievance, the results of his grievance and the date of completion. A violation of hospital policy and federal participation requirements for addressing patient grievances is substantiated.

RECOMMENDATIONS

1. Review policy and federal rules on responding to grievances with leaders from the unit in question, patient advocacy and other appropriate departments.

2. Ensure that thoroughly completed written resolutions are provided in every grievance case.

3. Provide this patient with a written resolution.

SUGGESTIONS

1. The grievance section of the patient handbook is so brief that it provides nothing for a patient to know what is supposed to happen with a grievance. It only instructs them to call the Pride Line number or the Illinois Department of Public Health's hotline. We think Methodist should take a look at it, consider the patient's viewpoint, and consider adding more information about the established process and include the name and title of a contact person in conjunction with the Pride Line (Handbook, pg. 6).

2. The involvement in care and informed consent section of the handbook states that patients have the right to access their records in the presence of physicians while hospitalized (Handbook, pg. 5). This is a stricter rule that is not provided for under the Mental Health and Developmental Disabilities Confidentiality Act. The Act states that all recipients 12 and older *shall be entitled, upon request, to inspect and copy their records* (740 ILCS 110/4). There is no stipulation that a physician must be present or must approve a recipient's access, and we encourage the program to remove that requirement from its rules.

3. The visiting hours section of the handbook states that children under 16 are not permitted to visit on the unit without a physician's order and that former patients may return to visit a patient 30 days following their discharge. These are also stricter rules that are not provided for under the Mental Health Code. The Code states that a recipient shall have unimpeded, private and uncensored communication *with the persons of his choice* through mail, telephone and visitation. Restrictions on certain mail, telephone calls or visitors can be placed only to prevent harm, harassment or intimidation as so informed during rights admonishments at admission (405 ILCS 5/2-103). The Code makes no stipulation on age, physician approval, unless otherwise determined harmful, etc., on an individual basis, or former status as a patient, and we encourage the program to remove that language from its rules.

RESPONSE

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

Methodist
221 Northeast Glen Oak Avenue
Peoria, Illinois 61636-0002
Phone: 309-672-5522
methodistmedicalcenter.org

September 8, 2008

Mr. James Runyon
Guardianship & Advocacy Commission
Peoria Regional Office
5407 N. University, Suite 7
Peoria, IL 61614

Re: Case #08-090-9001

Dear Mr. Runyon:

Thank you for giving us the opportunity to respond to the above listed complaint filed with the Guardianship & Advocacy Commission. We have thoroughly reviewed the report and do appreciate the thoroughness in which the commission's evaluation was done.

Please be advised that we take all complaints and grievances very seriously, and that it is our intent to investigate and resolve all consumer complaints in a timely manner according to rules/regulations and our own policies.

We have taken the necessary steps to address your recommendations. We have also discussed your concerns with our Patient Advocate Department and are in the process of reviewing and modifying our internal Grievance Policy to better deal with situations like this.

In addition, our Behavioral Health leadership team has reviewed the suggestions provided, and they will make appropriate modifications that will also help address these issues.

Thank you again for this opportunity to address your concerns and please do not hesitate to contact my office if you should have any questions or need any additional information.

Sincerely,

Mark Novak
Corporate Compliance Officer/In House Legal Counsel

REGIONAL HUMAN RIGHTS AUTHORITY

HRA CASE NO. 08-090-9001

SERVICE PROVIDER: Methodist Medical Center of Illinois

Pursuant to Section 23 of the Guardianship and Advocacy Act (20 ILCS 3955/1 *et seq.*), we have received the Human Rights Authority report of findings.

IMPORTANT NOTE

Human Rights Authority reports may be made a part of the public record. Reports voted public, along with any response you have provided and indicated you wish to be included in a public document will be posted on the Illinois Guardianship and Advocacy Commission Web Site. (Due to technical requirements, your response may be in a verbatim retyped format.) Reports are also provided to complainants and may be forwarded to regulatory agencies for their review.

We ask that the following action be taken:

X We request that our response to any recommendation/s, plus any comments and/or objections be included as part of the public record.

_____ We do not wish to include our response in the public record.

_____ No response is included.

DEAN STEINER
NAME

DIRECTOR
TITLE

9/8/08
DATE