



FOR IMMEDIATE RELEASE

North Suburban Human Rights Authority
Report of Findings
Lutheran General Hospital
HRA #08-100-9018

Case Summary: The HRA concluded that rights were violated. The consumer stated she wanted to go home for almost five weeks before the Notice of Discharge was given. The HRA's public record on this case is recorded below; the provider's response immediately follows the report.

The North Suburban Regional Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission has completed its investigation of alleged rights violations at Lutheran General Hospital. In November 2007, the HRA notified Lutheran General Hospital of its intent to conduct an investigation pursuant to the Guardianship and Advocacy Act (20 ILCS 3955). The complaint accepted for investigation was that staff members did not advise a recipient that she had the right to sign a five-day notice of discharge.

The rights of consumers receiving services at Lutheran General Hospital are protected by the Mental Health and Developmental Disabilities Code (405 ILCS 5/3-401).

To pursue this investigation, the HRA reviewed, with written authority, the clinical record of the consumer whose rights were alleged to have been violated. An on-site visit was conducted in January 2008, at which time the allegation was discussed with the Manager of Behavioral Health, the consumer's attending Psychiatrist, the Medical Director, two Licensed Certified Social Workers and a representative from Risk Management.

Advocate Lutheran General Hospital is a 617-bed teaching, research and referral hospital, a Level I trauma center, and one of the largest hospitals in the Chicago area.

Findings

According to the clinical record, the consumer is a 72-year-old female who was admitted to the unit as a voluntary patient on September 23, 2007. The consumer lives in southern Illinois and had been visiting her daughter in the northern suburbs when she fell; an injury resulted requiring seven stitches. After receiving the medical care at one hospital, she was transferred to Lutheran General due to dementia.

The chart contained a Rights of Recipient form signed by the consumer, indicating that the consumer was given an explanation of her rights and that she received a copy of the form. The form advises the consumer of the right to request discharge by reading the application for voluntary admission. This application explains the discharge process.

On September 26, progress notes documented that the consumer was very angry, stating that she needed to go home. She stated she ran a business out of her home and needed to get home to manage the business. It was noted that the consumer's dementia was significant and that she had no insight into her illness. A family meeting was held on September 27 and the consumer, her

daughter and the treatment team discussed discharge plans. It was recommended that the consumer needed 24-hour supervision and she needed a guardian.

The chart showed that daily, the consumer said something about wanting to go home and that she was described as "preoccupied about wanting to go home." On October 4, the Social Worker documented that because the consumer did not agree to 24-hour supervision upon discharge, it is necessary to get guardianship. The daughter was contacted and reported that she was concerned because her mother is getting angry at her and wants to be discharged and go home. It was documented that the daughter was advised that due to the nature of the illness, the consumer had no capacity to recognize, understand, accept or integrate the reality that she has dementia. The consumer was then advised that the hospital was working with her daughter to obtain guardianship and to place her in a secure site. The consumer stated she did not want her daughter in control of her decisions and assets, and advised that her lawyer would be at the hospital the following day and that he would fight for her. The consumer also stated that she would get another psychiatrist to dispute the hospital diagnosis and recommendation.

On October 5, the consumer attempted to contact her Primary Care Physician to request a second opinion about her diagnoses. On October 16, the consumer asked that the Social Worker contact her friend whom she did, and it was documented that the friend was encouraging the consumer to get a second opinion. It is noted that on October 19, the daughter stated that she could not become the guardian due to the financial burden.

On October 26, the consumer completed a Request for Discharge. On October 26, a petition for Involuntary/Judicial Admission with accompanying certificates was filed with the court. On October 30, 2007, the State's Attorney notified the hospital that the court had determined not to seek involuntary commitment and to release the consumer from the hospital. The consumer was discharged Against Medical Advice on October 30, 2007.

At the site visit, it was stated that each consumer is given a verbal explanation of his or her rights by nursing personnel during the initial nursing assessment. The Physician stated that he reiterates rights with each consumer. When a consumer requests discharge, a 5-day notice is given, and the consumer is again told that he/she will be assessed during the 5-day period. The consumer is advised that the assessment will show whether the consumer will be discharged or taken to court for an involuntary admission. It was stated that every time a consumer says that he/she wants to go home, a 5-day Notice would not be provided, since they would be handing out the Notices on a continuous basis. The HRA asked what would make the hospital provide the 5-day to the consumer - it was stated that the consumer would have to say they wanted to be discharged.

The hospital's Admissions to the Department of Psychiatry policy state (in part) that all voluntary patients have the right to request discharge at any time. Such requests must be made in writing, and dated and signed.

Conclusion

Pursuant to the Mental Health Code, Section 3-401, "The application for admission as a voluntary recipient may be executed by: 1. The person seeking admission, if 18 or older; or 2. Any interested person, 18 or older, at the request of the person seeking admission; or 3. A minor, 16 or older, as provided in Section 3-502. (b) The written application form shall contain in large, bold-face type a statement in simple nontechnical terms that the voluntary recipient may be discharged from the facility at the earliest appropriate time, not to exceed 5 days, excluding Saturdays, Sundays and holidays, after giving a written notice of his desire to be discharged, unless within that time, a petition and 2 certificates are filed with the court asserting that the recipient is subject to involuntary admission. Upon admission the right to be discharged shall be communicated orally to the recipient

and a copy of the application form shall be given to the recipient and to any parent, guardian, relative, attorney, or friend who accompanied the recipient to the facility."

The HRA concludes that rights were violated. The consumer stated she wanted to go home for almost five weeks before the Notice of Discharge was given.

Recommendation

The hospital must follow the Mental Health Code stipulations, and ensure that each consumer is given the right to give a written notice of his desire to be discharged, unless within 5 days, a petition and 2 certificates are filed with the court asserting that the consumer is subject to involuntary admission.

RESPONSE

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

April 30, 2008

Kori Larson
Chairperson
North Suburban Regional Human Rights Authority
9511 Harrison St., W-300
Des Plaines, IL 60016-1565

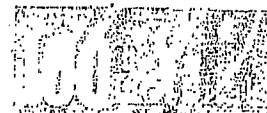
RE: HRA#08-100-9018

Dear Ms. Larson:

This is in reply to the findings and recommendations in the referenced case.

We respectfully disagree with the investigative finding that we violated this recipient's rights. We base this disagreement on the following:

- 1) Contrary to the recipient's complaint, it is documented that she was informed at the time of admission of her right to request discharge in writing. This is acknowledged in the HRA findings.
- 2) Because of the limited number of individuals that the Human Rights Authority requested to meet with during the investigation, it was not made clear during the investigative process that on several occasions, when the recipient spoke about her wish to go home, the nurse assistant manager of the unit presented her with the opportunity to put the request for discharge in writing. The recipient chose not to do so. It is unfortunate that these incidents were not documented in the record, and that lack of documentation might infer that it was not done. However, it is NOT required by the Mental Health Code that such instances be documented. Nevertheless, we will address this matter later in our response to the recommendations.
- 3) When the patient finally did choose to put this request in writing, she was not only allowed to but assisted in doing so. The patient completed this written request on October 21, four (not five) weeks after admission. A Petition and 2 Certificates for Involuntary Hospitalization were filed with the court in timely fashion (within 5 days) on October 26. On October 30, when the State's Attorney indicated that he would not take the case forward, the patient was discharged.
- 4) We also wish to note that there is no mention in the findings of the HRA of additional salient facts of the case that led to serious concerns for the safety of the community as well as of the patient. Not long before this hospitalization, the patient had been involved as a driver in a fatal motor vehicle accident. Despite the assessment by her Lutheran General Hospital psychiatrist that it was no longer safe for her to drive, and the recommendation to the Secretary of State that her license be revoked, the patient stated



that she intended to drive anyway. These concerns were well documented in the clinical record. Omission of important facts of the case can give a distorted impression of the care and concern for the patient and others that was behind the clinical decisions.

In summary, contrary to the findings of the Human Rights Authority, we believe that our care was in compliance with the Mental Health Code, and also with the spirit and intent of the law. We request reconsideration of the finding that we violated any rights of the recipient.

Response to the Recommendation

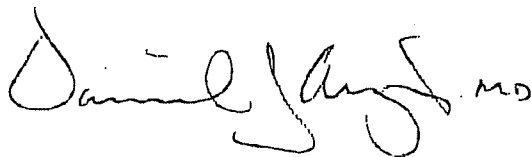
To address the recommendation of the Human Rights Authority: "The hospital must follow the Mental Health Code stipulations, and ensure that each consumer is given the right to give a written notice of his desire to be discharged, unless within 5 days, a petition and 2 certificates are filed with the court asserting that the consumer is subject to involuntary admission."

While we have disagreed with the findings that we violated the recipient's rights or failed in any way to comply with the Mental Health Code, we agree that we and all facilities must follow the Mental Health Code requirements. In order to further ensure and demonstrate our compliance with these requirements of the Mental Health Code, and to increase the documentation of our compliance, we have taken the following steps:


- 1) We will review the Mental Health Code provisions at issue, and the corresponding hospital policy on Admissions to the Department of Psychiatry, with all psychiatric unit staff and with the Medical Staff psychiatrists.
- 2) We have instituted a more comprehensive practice (beyond that required by the Code) of documenting in the record whenever a Voluntary patient makes a verbal request to be discharged, or what might be construed as such a request, that the patient was offered opportunity to give written notice, and by whom, and whether the patient, as a result, chose to submit such a written request or not.

We respectfully request that our response to the recommendations, as well as our disagreement with the findings, be posted publicly along with the HRA findings, if the HRA determines that these will be posted.

Sincerely,



Daniel J. Anzia, MD
Chairman, Department of Psychiatry
Mental Health Facility Director



Bruce C. Campbell, Dr.P.H.
President

