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HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 09-030-9010

University of Illinois Hospital

INTRODUCTION

The Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving a complaint of possible rights violations at University of Illinois Hospital. It was alleged that the hospital did not follow Code procedures when it detained and treated a recipient. If substantiated, these allegations would be violations of the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.).

University of Illinois Medical Center is part of the largest health sciences center in the country, housing the largest medical school and one of only four comprehensive health science centers in the United States per the medical center website profile. The University of Illinois hospital is a 507-bed facility with more than 40 primary and specialty outpatient clinics. The Department of Psychiatry offers a full range of general psychiatric services as well as five specialty programs, and the inpatient program serves up to 37 patients.

To review these complaints, the HRA conducted a site visit and interviewed the Manager of Behavioral Health, the Director of Safety and Risk Management, the attending Psychiatrist, and the Behavioral Health Nurse Manager. Hospital policies were reviewed, and an adult recipient's clinical records were reviewed with written consent.

COMPLAINT SUMMARY

The complaint states that the recipient was sitting on a bench at the University of Illinois Behavioral Health Center, when he was approached by a campus security officer and questioned. He was then escorted by another security officer to the emergency department of University of Illinois Hospital, where he was evaluated and petitioned for involuntary admission to the Behavioral Health Unit. While on the Behavioral Health Unit, the recipient was allegedly forced to take psychotropic medication and he was not allowed to take his regularly scheduled medication for his blood pressure and high cholesterol.

FINDINGS

The record (Emergency Department Nursing Documentation) indicates that the recipient arrived in the ED at 3:55 p.m. on 9/18/08. Triage Notes state, "UIC police brought pt to ED after picking him up in the Behavioral Sciences building, police state that pt. was wandering in the lobby talking about killing himself. Pt. states that he doesn't want to kill himself, he just wanted someone to help him. Denies HI [homicidal ideation]. Denies A/V [audio/visual] hallucinations. States that he has been taking his prescribed Depakote and Seroquel." The Adult Psychiatry Consult includes the following history of the recipient's illness: "46 y/o with history of Bipolar Affective Disorder presents to ED by police subsequent to bizarre behavior… Pt. reported history of Bipolar Disorder Affective Disorder with treatment at…where he apparently attends their Community Outpatient Clinic. He stated that he takes Ativan and Depakote. Pt. presented with the following symptoms; acutely elevated mood, flight of ideas, grandiosity, pressured speech, tangential TP. He is sexually preoccupied (verbal scatological comments referring to body parts, being a woman, homosexuality, and apparently masturbating in ED), laughing hysterically. He has grandiose delusions of a political nature. He did not appear to be responding to internal stimuli…." The Assessment section states, "….Pt. is sexually preoccupied and verbally intrusive and unable to provide history. This behavior increases his risk for unsafe interactions in the community. Pt. requires inpatient psych. hospital to diagnose, treat, and stabilize his acute condition…." The diagnosis is listed as Bipolar Affective Disorder- Manic with psychotic features. An addendum to this report was made the following morning which stated, "….Patient stated that he does take Depakote ER (unsure of dosage-3 tablets at night?) and Ativan for sleep. Patient stated that he had allergies to all other medications besides Depakote. He also stated that he has a history of HTN [hypertension] (unsure about medications), denies history of DM, Cardiac problems…." There was no medication administered in the ED.

On 9/18/08 at 3:59 p.m. the recipient signed a Consent for Treatment and at 6:00 p.m. he also signed a voluntary application for admission with the stated reason: "Acutely elevated manic state, brought to ED by police due to bizarre behavior in the community. Sexually inappropriate and behaving inappropriate." The record contains a signed "Rights of Recipients" form along with a behavioral contract and a completed De-escalation Plan. The recipient was discharged from the ED to the Behavioral Health Unit at 8:36 p.m.

Hospital representatives reported that the ED screens an average of 3-5 patients per day for mental illness and it offers inpatient, partial hospitalization, intensive outpatient psychotherapy, and general outpatient care. There are two rooms reserved for ED patients who may be mentally ill and once a patient has been identified by the emergency care staff as needing mental health assessment, he is evaluated by an Urgent Intervention Team. This team is available within the ED and comprised of a social worker, a resident psychiatrist and the attending psychiatrist who meet with the patient and consult with emergency staff. Once the patient is medically cleared and determined to be in need of inpatient care, he is transferred to the Behavioral Health Unit. The attending physician in this case reported that the recipient presented as "angry, difficult, and clearly bipolar". The recipient completed his voluntary admission forms while in the emergency department as is generally the practice and then on the behavioral health unit he received his complete psychiatric evaluation along with treatment plan recommendations.

Per Psychiatry Inpatient Progress Notes, the recipient reported that his prescribed medications upon admission were Depakote and Ativan. He claimed an allergy to most psychotropic medication but particularly Geodon, Haldol, Seroquel, and Thorazine. Per the admission Medication Orders History the recipient was ordered Depakote ER 1500 mg PO qhs ("requested because patient insists on its use") and Ativan 2 mg PO/IM q 6 h PRN for anxiety. The Pharmacy Administration History indicates that the recipient then received his requested daily administration of Depakote, along with Olanzapine for his bipolar disorder, Enalapril, for his high blood pressure, and Atorvastatin and Simvastatin for high cholesterol. He was also administered one dose of Clonazepam to relieve anxiety. The medication administration record indicates that the recipient had refused his ordered medications several times and at these times he was not administered them. There is no record of injected medication and no indication that the recipient was administered forced medication. There is no written statement of decisional capacity in the inpatient record nor are there indications of informed consent for the psychotropic medication.

Hospital representatives reported that recipients are informed of their right to refuse medication and recipients would only be administered forced medication if there was a threat of imminent physical harm to the recipient or others. They also indicated that if the recipients' rights are ever restricted, a completed Restriction of Rights form is included in the record. The hospital also utilizes are very thorough de-escalation plan that outlines less restrictive alternatives to forced treatment. In this case the hospital representatives did not feel that the recipient had ever received forced psychotropic medication, and they also indicated that his medication was consistent with the treatment that would be ordered for his stated medical conditions of high blood pressure and high cholesterol. Since patients are not allowed to bring their own medication into the hospital while they are in the inpatient unit, the recipient's medications would have been ordered to match his prescribed drug regimen, along with any medication to address identified health issues.

On 9/22/08 the recipient completed a Request for Discharge and he was then discharged on 9/23/08 to his home.

STATUTORY RIGHTS

The Mental Health Code states that when a person is asserted to be in need of immediate hospitalization, any person 18 years of age or older may complete a petition (5/3-600), which specifically lists the reasons (5/3-601). The Code also allows any person 16 years of age and older to be admitted voluntarily if suitable (405 ILCS 5/3-400).

The Mental Health Code guarantees all recipients adequate and humane care in the least restrictive environment. As a means to this end, it outlines how recipients are to be informed of their treatment and provides for their participation in this process to the extent possible:

"(a) A recipient of services shall be provided with adequate and humane care and services in the least restrictive environment, pursuant to an individual services plan. The Plan shall be formulated and periodically reviewed with the participation of the recipient to the extent feasible and the recipient's guardian, the recipient's substitute decision maker, if any, or any other individual designated in writing by the recipient. The facility shall advise the recipient of his or her right to designate a family member or other individual to participate in the formulation

and review of the treatment plan. In determining whether care and services are being provided in the least restrictive environment, the facility shall consider the views of the recipient, if any, concerning the treatment being provided. The recipient's preferences regarding emergency interventions under subsection (d) of Section 2-200 shall be noted in the recipient's treatment plan.

(a-5) If the services include the administration of electroconvulsive therapy or psychotropic medication, the physician or the physician's designee shall advise the recipient, in writing, of the side effects, risks, and benefits of the treatment, as well as alternatives to the proposed treatment, to the extent such advice is consistent with the recipient's ability to understand the information communicated. The physician shall determine and state in writing whether the recipient has the capacity to make a reasoned decision about the treatment. The physician or the physician's designee shall provide to the recipient's substitute decision maker, if any, the same written information that is required to be presented to the recipient in writing. If the recipient lacks the capacity to make a reasoned decision about the treatment, the treatment may be administered only (i) pursuant to the provisions of Section 2- 107…." (405 ILCS 5/2-102).

Should the recipient wish to exercise the right to refuse treatment, the Mental Health Code guarantees this right unless the recipient is a serious and imminent physical threat of harm to self or others:

"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. The facility director shall inform a recipient, guardian, or substitute decision maker, if any, who refuses such services of alternate services available and the risks of such alternate services, as well as the possible consequences to the recipient of refusal of such services." (405 ILCS 5/2-107).

Additionally, the Code states that whenever any rights of the recipient of services are restricted, notice must be given to the recipient, any person or agency designated by the recipient, and the facility director, and it must be recorded in the recipient's record (ILCS 405 5/2-201).

HOSPITAL POLICY

The University of Illinois Medical Center 8 East Adult Psychiatry policy No. CLPSY 1A categorizes voluntary admission as "Any person 16 years or older in need of hospital treatment for a psychiatric condition, or his/her legally authorized representative, may apply for admission to 8 East Adult Psychiatry and sign a voluntary admission form." Those who are in need of protection from themselves or others and who are unwilling to sign in voluntarily may be admitted through the petition and certification process. Policy states, "8 East Adult Psychiatry represent a secure environment with a locked door to care for severely disturbed patients on an acute, short-term basis. Its concern is to complete a comprehensive evaluation, institute an intensive treatment program, stabilize the patient's symptoms, and safely discharge the patient as soon as practicable to an appropriate outpatient facility for continuing treatment. The aim of the patient's admission is to be clearly established from the outset."

The 8 East Adult Psychiatry policy No. CLPSY 1C states the "medication may be administered involuntarily to patients on an emergency basis, as described in the Mental Health Code. Patients believed to be incompetent but not meeting the standard for emergency involuntary medication may have a petition for involuntary medication filed with prior approval of team attending and Unit Director. This may be filed at the same time as a petition for involuntary commitment or may be done independently if the patient is on a voluntary basis."

The University of Illinois Medical Center hospital policy No. CLPSY 19 outlines the policy and procedure for discharge by means of a five day notice. It states that "Any patient hospitalized under voluntary status who is requesting discharge is offered a 5-Day Notice to signify his/her intent to be discharged. Nursing and/or physician staff will explain to the patient requesting a 5-Day what procedure can be expected following his/her submission of same." The procedure directs the nursing staff to notify the physician that the Notice has been submitted. The physician will then evaluate the patient's appropriateness for discharge. The physician will then discharge the recipient at the earliest appropriate time, not to exceed 5 days, excluding Saturdays, Sundays, and holidays, unless reasonable safety concerns exist. If there are reasonable safety concerns and it is determined that the patient is not ready for discharge, and there is clinical evidence to support commitment, the physician will initiate a transfer to a mental health facility on a petition and certificate, or file for a commitment hearing.

CONCLUSION

The record shows that the recipient completed a voluntary application for admission after being medically cleared within the University of Illinois Hospital ED. He was then admitted to the Behavioral Health Unit where he received his rights information, all within the requirements of the Mental Health Code. After four days of treatment the recipient requested and was given a Request for Discharge and was duly discharged the following day.

The Mental Health Code states that if a recipient's services include psychotropic medication, the physician must advise the recipient in writing of the side effects, risks and benefits of treatment as well as alternatives. Also, the physician is to determine and state in writing whether the recipient has the capacity to make informed decisions regarding their treatment (405 ILCS 5/2-102). However, although the physician certified that the recipient was appropriate for voluntary admission, he did not provide a written statement of decisional capacity and there is no indication that the recipient received written information regarding the side effects, risks and benefits of his psychotropic medication when they were proposed as mandated by the Code.

The HRA does not substantiate the complaint that the hospital did not follow the Mental Health Code procedures when it detained a recipient, but it does substantiate the complaint that the hospital did not follow Code procedures when it treated this recipient.

RECOMMENDATIONS

1. Follow Mental Health Code requirements and ensure that if treatment services include the administration of psychotropic medication, the physician or the physician's designee advises the recipient, in writing, of the side effects, risks, and benefits of the treatment, as well as

alternatives to the proposed treatment, and ensure that the physician determines and states in writing whether the recipient has the capacity to make a reasoned decision about the treatment. (405 ILCS 5/2-102). This rule holds whether the recipient is treated in the ED or on the Behavioral Health Unit.

SUGGESTIONS

1. Although the record suggests that the recipient voluntarily requested treatment while in the ED, it is not clear whether he was involuntarily detained prior to signing a voluntary application for admission. The HRA suggests that the hospital develop policy to address those patients who object to being in the ED but are detained for further evaluation or treatment, thus requiring a petition under the Mental Health Code.