FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 09-030-9011

St. Bernard Hospital

The HRA substantiated the complaint that the hospital detained and treated a recipient in violation of the Mental Health Code. The facility's response follows below.

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 St. Bernard's Hospital. It was alleged that the hospital detained and treated a recipient in violation of the Mental Health Code. If substantiated, these allegations would be violations of the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.).

St. Bernard Hospital is a Catholic teaching hospital sponsored by the Religious Hospitallers of St. Joseph and serves the community of Englewood. There are 40 beds on the Adult Crisis Stabilization Unit.

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

COMPLAINT SUMMARY

The complaint alleges that the recipient, who was taken to St. Bernard's Hospital Emergency Department (ED) for the treatment of her diabetes and high blood pressure, was given psychotropic medication without her knowledge or consent while on the general medical floor (GMF), and petitioned for involuntary admission to the Adult Crisis Stabilization Unit because she refused treatment.

FINDINGS

The complaint statement indicates that the recipient's mother called 911 on 9/29/08 because her daughter had notified her that she was not feeling well. The recipient is a 26 year

old female who suffers from diabetes and hypertension and she feared that her blood pressure was causing dizziness. The recipient had been using Novolin insulin, regular insulin, Hydralazine, and Hydrochlorothiazide, and reported that she had been taking her medication regularly. ED records indicate that the recipient arrived at St. Bernard's Hospital at 1:30 p.m. with complaints of abdominal pain, hypoglycemia, some shakiness, and with a history of diabetes. The record shows that the recipient signed a general consent for admission and treatment in the ED. The electronic MAR shows that at 3:45 p.m. the recipient was given 5 mg morphine IV for pain, and also an Accucheck was begun to continue every three hours. At 10:00 p.m. the recipient was referred to the GMF with the following diagnostic impressions: hypoglycemia, renal insufficiency, chronic hypertension, undetermined abdominal pain, and pelvic inflammatory disease. The Patient Notes written at 2:40 a.m. indicate that the recipient was admitted via stretcher to the GMF and that the admission was "routine".

Patient Notes entered at 10:06 a.m. on 9/30/08 indicate that the recipient complained of sharp back pain and nausea. Her attending physician ordered Tigan 200 mg IM and Tylenol #3 PO. Patient Notes indicate that the Tigan was given but it is not clear when the Tylenol was begun, although the electronic MAR shows a 12:15 p.m. administration of Tylenol #3 30 mg tab. An entry made at 4:00 p.m. states, ""Patient refused her Tylenol #3 claims 'it is not working. My back still hurts; it's a 10'." At 4:30 p.m. an entry in the Patient Notes indicates that Demerol 50 mg IM was given. At 6:54 p.m. the Patient Notes state, "Patient refused to eat her dinner despite repeated offers. Dr…made aware and he will see patient. Afebrile, no [shortness of breath] and claims she still has pain on her back despite Demerol 50 mg IM was given." The Patient Notes entry for 8:00 p.m. states, "Received pt. on bed awake, alert, oriented x 3, latest blood sugar per AM nurse was 272 but patient is asymptomatic. Denies any pain at this time…."

Hospital personnel stated that the ED contains an area, "Triage 2", that is reserved for possible mental health recipients. There is a psychiatrist on-call for the ED and the on-call physician also services the rest of the hospital. In this case, the patient was immediately transferred from the ED and admitted as a medical patient due to her physical condition, and was not assessed for psychiatric issues until she was treated on the medical floor.

The HRA interviewed the staff regarding the hospital record of medication administration. The HRA had received a printout of an electronic record, the Medication Discharge Summary, which listed all the medications which had been ordered and administered for the recipient. At the site visit the hospital representatives informed the HRA that this record might not be an accurate reflection of the medication administration, and they accessed a record from the hospital computer that differed somewhat from the first record. This record, the MAR, was very difficult to interpret, and a portion of it could not be read. In addition to these medication records are the Patient Notes that include medication orders and administration within the narrative of patient activity, which also differ from the other records. Hospital representatives explained that the hospital utilizes Medtech software which is supplemented with Bedside Medication Verification (BMV), the scanned, bracelet system of medication recordkeeping, and these two systems at times require some reconciliation. An example of this reconciliation would be an entry made in the patient Notes on 10/01/08 where it states, "Unable to scan medication in MAR at this time." Hospital representatives explained that the patient received emergency medication for her blood sugar at this time and the nurse entered the

administration in the progress notes but she should have also entered the medication into the electronic file, which would have reconciled the two reports.

The recipient's attending physician ordered several physician consults to address the recipient's needs. On 10/02/08 a physician consult report to address the recipient's renal insufficiency states, "The patient is a 26 year old female who has been admitted to the hospital with chief complaint of hypoglycemia and abdominal pain. Further workup in ER at St. Bernard Hospital found that she had [pelvic inflammatory disease] and her blood sugar was 31 per dl with confusion. She was admitted. At current time patient is not in a state to give meaningful history…..I would presume that with given her long standing history of diabetes she has kidney disease but nonetheless we would try to do a 24 hour creatinine clearance, estimated GFR. Will also plan on doing a renal ultrasound to rule out obstruction, hence I have instructed the nurse to put in a foley catheter so we could get an accurate 24 hour collection of urine."

The Patient Notes from 10/02/08 contain an entry at 6:06 p.m. that record the first incidence of the recipient's resistance to the treatment. The entry states, "Tried several times to have Heplock (IV) re-insertion but patient kept refusing. Dr…was notified that the patient refused to have Heplock reinsertion and that patient has IVPB antibiotics. He said to try again later." Shortly after this incident the record indicates that the attending physician requested that the patient be assessed for psychiatric care.

On 10/03/08 a psychiatric consult report was completed on the recipient. It states, "This 36 year old African American female was admitted complaining of abdominal pain. She was hypoglycemic with glucose of 35. The patient is a known diabetic on insulin at home. She also has hypertension and is on oral Hydralazine and Hydrochlorothiazide. She was placed on Levaquin, Doxycycline, and Flagyl for PID. CT of the abdomen and ultrasound of the pelvis are unremarkable. Initially she had a WBC count of 15,000; it has come down to 11,600. Chlamydia and GC are negative. Vaginal culture is growing Methicillin-resistant Staph aureus….Reveal a Black female who is alert but very uncooperative. She refuses to answer any questions. She is being evaluated by the psychiatric service and was put on Risperdal, Haldol, and Cogentin. She is awaiting transfer to the psychiatric unit." Another notation made on the same day by another physician states, "Pt. is not obeying commands…..Refused blood draws. Foley's refused so no 24 hour urine. Will do follow up once pt. is more docile."

Throughout the day and evening of 10/02/08 the recipient continued to refuse the IV reinsertion. At 12:11 p.m. on 10/03/08 the Patient Notes indicate that the recipient refused the foley catheter, a blood draw, and would not continue to collect urine. At 1:00 p.m. the recipient removed her IV and at 2:00 p.m. she was placed in isolation for her MRSA infection. Patient Notes made at 6:43 p.m. state, "Pt is very quiet the whole time, uncooperative, ate fairly, slept at intervals, seen by psych consult with orders, on 1:1; sitter for safety, observed, no hypoglycemic and hyperglycemic reactions noted, will endorse accordingly." Although it is not included in the Patient Notes, the electronic medication administration record indicates that the recipient received Risperidone 1 mg on 10/03/08 at 5:00 p.m. and again on 10/04/08 at 8:30 p.m.

On 10/04/08 at 2:58 p.m. the Progress Notes show that a nurse was able to re-insert the recipient's IV.

The recipient's mother reported that the recipient's family was in contact with the recipient by phone or text messaging throughout her hospital stay. However, when no one was able to contact the recipient all day on 10/3/08 the mother became concerned. On 10/4/08 the recipient called her mother, crying, and told her that she felt she had lost an entire day. The mother visited her daughter on the GMF and found her daughter to be "disoriented and struggling with completing her thoughts." The mother obtained a release of information consent from her daughter to investigate the situation, and she was informed that her daughter had been given Risperdal. When she asked the nurse why her daughter had been given a psychotropic medication, she was told to ask the psychiatrist. At this time the psychiatrist was not available, and the mother requested a visit with the GMF attending physician. The written statement of the recipient's mother states, "Dr…..came into …..room. He said that medically [her daughter's] glucose level was fine, that her urinary tract infection had been addressed as well as her hypertension but her mental capacity was what was being treated and that she could not go home. I asked what warranted such a diagnosis and he replied she pulled out her IV and catheter." The mother states that she was never able to speak with the psychiatrist after several attempts.

The mother reports that she became concerned for her daughter's safety and told her to get dressed because they were leaving to get treatment at the hospital that her daughter usually visits for medical needs. The mother also called the police. When the recipient and her mother arrived in the lobby the police were there and they encouraged the family to return to the GMF, which they did. The recipient was then told that she could not have any further visitation that day. The recipient's mother spoke with a social worker after she said goodbye to her daughter and the social worker told her then that the recipient was going to be transferred to the behavioral health unit. The mother called her daughter and advised her not to take any medication other than what she regularly took for her diabetes and hypertension. At 7:00 p.m. the mother called again and was told that the phones were shut off for the night.

Hospital representatives from the psychiatry unit were interviewed regarding the recipient's restriction of her phone and visitation rights. They stated that a Restriction of Rights form should be completed any time a recipient's rights are restricted. Although there was an order in the record for the visitation restriction, the hospital representatives did not find a notice of rights restriction for this restriction, and they were unaware of any other restrictions of the recipient's communication rights.

The record indicates that a petition for involuntary admission was completed for the recipient at 9:45 p.m. on 10/4/08 on the GMF. The assertion that states, "A person with mental illness and who because of his or her illness is reasonably expected to engage in dangerous conduct which may include threatening behavior or conduct that places that person or another individual in reasonable expectation of being harmed" is checked. The statement supporting the assertion states, "pt. noted to be easily agitated, refusing procedures ordered by MD, very uncooperative, guarded, suspicious. Attempted to get out of the hospital, unable to care for self." The box indicating that the recipient is in need of immediate hospitalization for the prevention of harm is not checked. The area addressing family, friends, and others to contact states, "no collateral". The Rights of Admittee form is not signed. There is no certificate in the record.

Hospital staff were interviewed regarding the incomplete application information and they stated that they felt at that time that the recipient would be asked on the Adult Crisis Stabilization Unit to sign a voluntary and thus the involuntary information would not be needed. The Patient Notes indicate that the recipient was admitted to the Adult Crisis Stabilization Unit on 10/04/08 at 8:32 p.m.

Nursing Notes written on the Adult Crisis Stabilization Unit on 10/04/08 at 10:57 p.m. state, "Patient certified and petitioned for 2West admission. To the unit per wheelchair, AAO X3. Affect flat to blunted, mood labile and guarded. Patient at first refusing to come up to 2West, noted to act paranoid and suspicious during the Intake process. Observed fidgeting in her seat and unable to establish eye contact during Intake. Observed to have poor insight into illness and thought blocking when asked as to the reason in psychiatric unit. Per patient, 'I am fine. I don't know what you are talking about. I did not talk to anybody yesterday. In fact, I don't remember anything from yesterday'. Patient claims, 'I was incoherent down there but I know I am fine. I know I was sleeping most the days but I am fine, there is nothing wrong with me.' …..States 'they gave me something down there that made me this way.'" A certificate was not found in the record.

The attending physician on the Adult Crisis Stabilization Unit completed a Psychiatric Exam/Admission Note and Preliminary Treatment Plan for the recipient (no date or time given). The indications for hospitalization state, "26 year old black female initially admitted to the medical floor due to Diabetes mellitus and Hypertension. She was referred to me for evaluation due to confusion, paranoia, and delusional thinking." In the mental status section the physician states, "Alert, uncooperative, guarded, speech normal, affect restricted, mood suspicious, guarded….unable to evaluate….uncooperative…..guarded." The record contains a Psychotropic Medication Consent Form for Risperdal and Trazadone, which was signed by the recipient on 10/06/08 (she had received Risperdal on 10/03/08 and 10/04/08). This form indicates that the recipient agreed to the medication and the form contains a statement of decisional capacity or lack of capacity, neither of which was selected, and there is no separate statement of the recipient's decisional capacity anywhere in the record.

The record contains an application for voluntary admission completed by the recipient on 10/04/08 at 10:00 p.m. She also signed the Rights of Individuals Receiving Mental Health and Developmental Disabilities Services Form, along with a Release of Information for her parents. The Voluntary application is missing the second page where the recipient is informed of the right to request discharge from the facility and that once she makes the written request she must be discharged at the earliest appropriate time not to exceed 5 days, however hospital representatives stated that this was accidentally deleted from the two sided copy in the process of copying the form.

Mental Health Worker Notes were made on 10/05/08 at 9:53 a.m. and state that the recipient was socially withdrawn and depressed: "Pt. at this time stated to writer in a soft tone of voice 'I don't remember seeing the doctor. One day I was incoherent and didn't know what was going on. They gave me some kind of psychiatric medication without me knowing it the day before yesterday. They didn't give it to me yesterday or today. I'm just confused and don't understand why. I came here for my diabetes and hypertension and they brought me up here.

I'm not usually in the hospital that long. I usually go to …. They gave me pills and stated that it would help me relax. When I first came here my sugar was 33. Right now I'm just a little upset right now and I need to talk to see the doctor. (patient shakes her head slowly as if she's in distress)."

The record from the Adult Crisis Stabilization Unit on 10/06/08 at 10:41 a.m. includes notes from Social Services. These notes indicate that the recipient received some medication upon her admission to 2West: "….'They said they were giving it to me to help me relax. I don't know what it was.' Per MAR from admission to 2West, patient received morphine. Pt. says she does not recall speaking with anyone and does not know why she was transferred to the psychiatric unit. She denies feeling depressed, denies sleep or appetite changes, denies hallucinations, denies suicidal or homicidal ideation. Patient reports she was on Zoloft for two weeks in 2006 for tx of post partum depression in 2206 after the birth of her daughter…."

Patient Notes from 10/06/08 indicate that the recipient's parents arrived at the hospital to meet with the psychiatrist between 4 and 5 p.m. Arriving early, they learned that the nurse and social worker had met with the recipient and were recommending to the doctor that she be discharged. Before the parents could meet with the psychiatrist they were informed that their daughter had been discharged. The record contains a Release from Responsibility for Leaving Hospital Against Medical Advice (AMA) form signed by the recipient. There is no Request for Discharge form in the record. The recipient was discharged on 10/06/08 by the attending internist.

STATUTORY RIGHTS

The Mental Health Code describes a "mental health facility" as "…any licensed private hospital, institution, or facility or section thereof, and any facility, or section thereof, operated by the State or a political subdivision thereof for the treatment of persons with mental illness and includes all hospitals, institutions, clinics, evaluation facilities, and mental health centers which provide treatment for such persons" (405 ILCS 5/1-114).

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 petition is to be accompanied by the certificate of a qualified examiner stating that the recipient is in need of immediate hospitalization. It must also contain the examiner's clinical observations and other factual information that was relied upon in reaching a diagnosis, along with a statement that the recipient was advised of his rights (3-602). Upon completion of one certificate, the facility may begin treatment, however at this time the recipient must be informed of his right to refuse medication (3-608).

> The Mental Health Code also allows any person 16 years of age and older to be admitted to a mental health facility as a voluntary recipient upon filing of an application with the director of the facility if the facility director deems such person clinically suitable for admission. (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 [an emergency], or 2-107.1 [a court order]...(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 himself 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, a designee, the facility director or a designated agency, and it must be recorded in the recipient's record (ILCS 405 5/2-201).

HOSPITAL POLICY

St. Bernard Hospital Admissions policy states that adults evaluated to be in need of "active" treatment and who can reasonably be expected to improve their condition, can be accepted to the Psychiatric Unit: "All adult patients who are referred for admission to the psychiatric unit shall be evaluated prior to the admission by an attending psychiatrist with privileges at the hospital to ensure that the patient meets admission criteria and that the hospital is the least restrictive treatment alternative. Referrals or transfers will be accepted following psychiatric consultation and recommendation, provided these patients do not require acute or extensive medical/surgical care."

St. Bernard Hospital Admissions policy defines the psychiatric unit admission criteria:

> "1. The patient poses an actual or imminent danger to self or others because of their psychiatric disorder.
> 2. Acute disabling symptoms (such as impaired reality testing, disordered/bizarre behavior, confusion, irrational thinking leading to bizarre ideation/behavior) of sufficient severity to require 24 hours per day supervision in an inpatient setting.
> 3. Acute decompensation/exacerbation of symptoms which has not been sufficiently ameliorated by an appropriate trial of outpatient treatment less restrictive than that of a hospital or psychopathology of a degree such that treatment is necessary and the patient has consistently refused outpatient treatment.
> 4. The patient manifests a severely disabling mood or anxiety disorder to require 24 hour per day supervision and treatment in a hospital-based psychotherapeutic program.
> 5. A regression of family, social, or occupational capacities, induced by psychiatric factors, causing a breakdown in the patient's ability to function in any of these spheres in a fashion which minimal standards or values established by the patient's environment.
> 6. Psychopathology which requires psychoactive medications, which have potentially dangerous side effects or where the patient him/herself is a high-risk patient, which must be administered and managed within a 24 hour per day, hospital-based program.
> 7. The patient's psychopathology is of a degree that requires a psychiatric and medical evaluation which can only be provided in an acute hospital setting providing continuous skilled psychiatric observation.
> 8. A regression in level of functioning, induced by psychiatric factors, to the point such that the patient is unable to care for

> his/her physical needs or to protect him/herself because of a psychiatric disorder."

St. Bernard's Hospital provided policy and procedure for the involuntary admission of recipients which comports with the requirements of the Mental Health Code. With regard to voluntary admission the policy states, "If upon admission to Psychiatric services, the attending psychiatrist determines that the individual requires treatment, he/she may also determine if the individual is clinically suitable for voluntary hospitalization. If this determination is affirmative, the patient may immediately be offered the opportunity to apply for hospitalization as a voluntary patient. If the individual declines voluntary application, the examiner/attending physician must determine if the individual meets the Illinois Mental Health Code requirements for Involuntary Status."

St. Bernard's Hospital policy #0066040 states that an adult patient or legal guardian may refuse treatment, including medication. It states, "If treatment is refused, it may not be given unless it is necessary to prevent the patient from causing serious harm to himself or others. Every effort should be made to encourage patients to accept needed treatment, however, unit personnel may not threaten, intimidate, or coerce patients." Also, "If the patient refuses [medication] the attending psychiatrist, or nursing personnel, shall advise the patient of any available alternatives, risks, and benefits of those alternatives, as well as any consequences, if any, of the refusal. If medication is required to prevent the patient from causing serious harm to himself or others, it may be given over the patient's objection. Any such incident must be charted, including the reason for the staff action. If a patient consistently refuses treatment, alternatives to be considered are: discharge, transfer, possibility of guardianship with guardian having power to consent to treatment."

<u>CONCLUSION</u>

The recipient in this case was taken to St. Bernard's Hospital on 9/29/08 because she was experiencing dizziness and abdominal pain. The recipient was already prescribed a medication regimen for her diabetes and hypertension but she feared that her blood pressure was causing her illness. Her mother called an ambulance for her and she was taken to St. Bernard's Hospital where she was immediately transferred onto the GMF for treatment of her various conditions. Her admission was described as routine and the recipient underwent testing and medication adjustment. The recipient had been on the GMF for three days without incident when on 10/02/08 she began refusing treatment. The record does not indicate the reason for her treatment refusal, but it is well documented that she continued to be confused and fearful about her treatment, particularly her medication, throughout her hospitalization.

The Patient Notes indicate that when the recipient refused her IV insertion on 10/02/08, her attending physician requested a psychiatric evaluation. The following day the consult was completed and notes from this session state that "Pt. is not obeying commands….Refused blood draws. Foley's refused so no 24 hour urine. Will do follow up once pt. is more docile." The report also states that the recipient was ordered psychotropic medication, and the MAR shows that she was administered Risperdal, on 10/03/08 and 10/04/08. There is no physician's statement of decisional capacity in the record and the record shows that informed consent for this

medication was not given until 10/06/08, all of which supports the recipient's statements that she did not know what medication she had been given.

On 10/04/08 at 9:45 p.m., after her mother attempted to remove the recipient from the hospital, the recipient was petitioned for involuntary admission. The petition itself is incomplete and the assertion does not match the description of signs and symptoms, additionally there are no family or friends named, even though these individuals had been at the hospital earlier in the afternoon. The statement to describe the signs and symptoms of mental illness describe the recipient as "easily agitated, refusing procedures ordered by MD, uncooperative, guarded, suspicious, attempted to get out of hospital, unable to care for self." There is no certificate, as hospital staff felt that she would later sign a voluntary. However, the Rights of Admittee form was not signed and there is no indication that the recipient was ever given her rights information, including information on her right to refuse treatment and for contacting the Guardianship and Advocacy Commission.

The record indicates that fifteen minutes after the recipient was petitioned for involuntary admission, she completed a voluntary application for admission on the Adult Crisis Stabilization Unit, even though the Patient Notes written at 10:57 p.m. reported that she had initially resisted being transferred there. Although the recipient signed the Rights of Individuals Receiving Mental Health and Developmental Disabilities Services form, the application is missing the second page that contains the voluntary recipient's rights, although hospital representatives stated that this page was inadvertently missed in the copying process.

The Human Rights Authority substantiates the complaint that St. Bernard's Hospital detained and treated a recipient in violation of the Mental Health Code.

RECOMMENDATIONS

1. Adhere to Mental Health Code (405 ILCS 5/2-200 et seq. and 5/3-600 et. seq.) for completion of petitions as well as all admission requirements for recipients who are detained involuntarily. These requirements would include information on the right to designate a person or agency to receive notice, oral and written information regarding guaranteed rights under the Mental Health Code, information regarding the contact of family, friends or an agency including an advocate of the Guardianship and Advocacy Commission, information regarding the circumstances under which the law permits the use of emergency forced medication, and notation of the recipient's preferences for emergency forced medication.

2. Ensure that if recipients are given psychotropic medication that, at the time they are proposed, they receive written information regarding the side effects, risks and benefits as well as alternatives to the prescribed treatment and that a physician's written capacity statement is included in the record (405 ILCS 5/2-102 (a-5).

3. Ensure that recipients are informed orally and in writing of their right to refuse treatment (405 ILCS 5/2-107 and 2-107 a) and that if forced treatment is given it is necessary to prevent the recipient from causing serious and imminent physical harm to the recipient or others and no less restrictive alternative is available.

4. Ensure that whenever any rights of a recipient are restricted a notice of such restriction is completed (405 ILCS 5/2-201 a) and recorded in the recipient's record.

SUGGESTIONS

1. The HRA reminds the hospital that to be admitted as a voluntary recipient the facility director must deem the person clinically suitable- the voluntary should not be the default admission for all involuntary admittees once they are on the Adult Crisis Stabilization Unit.

2. The HRA suggests that the psychiatric staff inform the GMF that the recipient was detained and treated as a mental health recipient on the GMF and thus the Mental Health Code applies.

3. Restriction notices are also required whenever a mental health patient's right to visitation is impeded.

4. Policy #0066040 on refusing treatment states that if a patient consistently refuses then seeking guardianship to get treatment consent is a possibility. We caution St. Bernard Hospital that according to the Mental Health Code and the Illinois Probate Act of 1975, guardianship appointment is based on legal determination of competence, not because someone exercised his or her right to refuse treatment.

RESPONSE

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

St. BERNARD HOSPITAL
AND HEALTH CARE CENTER

EXECUTIVE OFFICE
326 WEST 64TH STREET, CHICAGO, ILLINOIS 60621
TELEPHONE 773.962.4100 FACSIMILE 773.602.3849

June 25, 2009

Ray Hemphill, HRA Chairperson
Illinois Guardianship and Advocacy Commission
1200 S. 1st Ave. Box 7009
Hines, Illinois 60141

Re: #09-030-9011

Dear Mr. Hemphill:

We are in receipt of your letter dated May 27, 2009. We have thoroughly reviewed the findings of your investigation and recognize that there are opportunities for improvement. A multidisciplinary team has been assigned to review the details of the recipient's complaint and to develop a plan to prevent the likelihood of re-occurrence.

The plan that is listed below essentially focuses on three components: Staff training and education, human resources and compliance monitoring.

1. **Education and Training Topics**:
   a) Illinois Mental Health Code: In-services will be provided to all of the nursing staff regarding the Illinois Mental Health Code including, but not limited to, the proper completion of the Involuntary Petition for Admission, recipient rights and psychotropic medications.

   b) Right to Refuse Treatment: This will focus on the notification of restriction of rights as mandated by the Illinois Mental Health Code. Recipients will be informed orally and in writing of their right to refuse treatment. If treatment is provided against the recipient's wishes and/or the recipient lacks decisional capacity to prevent the recipient from causing serious and imminent physical harm to themselves or others, then the Restrictions of Rights Notice will be provided to the recipient (and a copy for the medical record).

   c) Psychotropic Medication Consent: The focus will be ensure that the Psychotropic Medication Consent forms are consistently utilized on the medical and mental health unit; that the recipient consent is acquired by the physician ordering the medication, and that medication teaching occurs prior to administration of any psychotropic medication. The recipient's signature on the drug monograph will evidence this requirement.

d) Notice of Restriction of Rights: The focus is to ensure that if any restriction of recipient rights occur (including visitation rights), the Restriction of Rights Notice will be provided to the recipient and anyone that the recipient designates to receive this notice and a copy will be placed in the medical record.

e) All of the Psychiatrists on staff will receive one-to-one education to emphasize the topics listed above. In addition, the Psychiatrists shall ensure that the recipients decisional capacity is documented in the psychiatric evaluation.

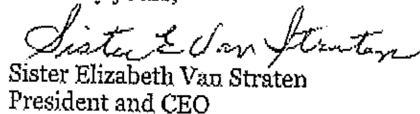
The Program Director of the Mental Health Unit will be responsible for the education and training of the nursing staff and psychiatrist training. The training should be completed by August 31, 2009.

2) Human Resources :
Personnel will be assigned responsibilities to act as consultation/liaison for the coordination of mental health services provided to the recipients at St. Bernard Hospital medical units to facilitate compliance with Illinois Mental Health Code. Qualified examiners shall be assigned to this role.

3) Monitoring and Compliance:
To ensure that compliance with the Mental Health Code requirements are met, a quality monitor will be initiated. The Program Director of the Mental Health Unit or designate will collect the data and report the findings at least quarterly to the Vice-President of Patient Care Services and the Hospital Quality Improvement Committee Meeting.

In summary, we have taken multiple steps to address the concerns. Lastly, we have enclosed a response the admitting psychiatrist involved. If you have any questions, feel free to contact Mark Tryba, Program Director for the Mental Health Unit at 773-962-4154.

Sincerely yours,



Sister Elizabeth Van Straten
President and CEO

rza

cc: Mark Tryba, Program Director of the Mental Health Unit
Ronald Campbell, Vice President, Patient Care Services