FOR IMMEDIATE RELEASE

North Suburban Human Rights Authority
Report of Findings
Resurrection Westlake Community Hospital
HRA #09-100-9024

Case Summary: the HRA substantiated part of the allegations presented. 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 Westlake Community Hospital. In January 2009, the HRA notified Westlake of its intent to conduct an investigation, pursuant to the Guardianship and Advocacy Act (20 ILCS 3955). The following complaints were accepted for investigation: staff members were rude and disrespectful and a consumer received emergency medication unjustly which made her so groggy that she felt unsafe on the unit.

If found substantiated, the allegations would violate the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-112, 5/2-102 and 5/2-107).

To pursue this investigation, a site visit was conducted at which time the allegation was discussed with the hospital's Vice President of Patient Care services and the Director of Nursing. The HRA reviewed, with written authority, the clinical record of the consumer whose rights were alleged to have been violated. Also reviewed were hospital policies relevant to the allegations.

Background

Westlake Hospital is a 282-bed facility located in Melrose Park. The hospital's Mental Health and Addiction services provide comprehensive care for children, adolescents, adults, and seniors in both inpatient and outpatient settings. The continuum of services includes: emergency/crisis care, inpatient treatment, outpatient therapy, short- and long- term residential programs and home visits.

Findings

The chart reviewed revealed data on a female consumer admitted on October 8, 2008 with complaints of severe depression. On October 12th, progress notes documented that the consumer had been "acting out" and she refused to settle down; she subsequently received an injection of Thorazine for agitation. The note did not state that less restrictive alternatives were attempted or that the consumer was given the opportunity to refuse the medication. It was noted that the consumer's treatment plan did not indicate her emergency treatment preference. The chart contained a Restriction of Rights Notice (ROR) for the emergency medication. The ROR documented that the consumer was verbally aggressive and confrontational when interacting with a Mental Health Counselor. It was noted that the form did not contain a section regarding emergency intervention preference; and documentation did not indicate whether the consumer wished that

anyone be notified of the restriction. A few days later, a Group Note documented that the consumer discussed how the weekend PRN (as needed medication) had triggered past abuse and that she (the consumer) had felt violated by the approach of the nurse giving the PRN. The HRA had requested to interview the RN that administered the medication and we were advised that he/she was "not available." The chart did not indicate that the consumer reported feeling unsafe on the unit or that staff observed her being groggy.

At the site visit, the above documentation was discussed. The HRA was advised that the writer of the ROR did not complete the progress note documentation. And, it was acknowledged that the writer of the progress note did not fully explain the need for emergency medication. The Director of Nursing stated that she spoke with writer of the ROR to see why he/she did not write a progress note that detailed the need for the emergency medication; the employee stated that he/she thought that the only required documentation was the ROR.

Regarding the allegation that staff members were being rude and disrespectful, it was stated that management had received written correspondence from a program staff member saying that there was a lot of staff conflict on the unit and it was not making for a good environment. It was stated that this was occurring during this consumer's hospitalization. Management had the Human Resources Department conduct interviews with unit staff; the hospital subsequently *cleaned house* and has since been focused on staff training, including appropriate staff/consumer interactions, emergency interventions and documentation.

The HRA interviewed three consumers. Each consumer acknowledged the right to refuse medication and no one stated that medication had been given to them in an emergency situation. When asked about staff members, two out of the three stated that they have no problems with staff and have been treated with respect and dignity. The third consumer stated that staff members on the afternoon shift sit behind the nurses' station listening to music on the computer instead of interacting with the consumers. He also sated that some on this shift have *attitudes* toward the consumers.

The hospital's Refusal of Medication and Conditions for Emergency Use of Medication states that if the consumer refuses medication, the consumer may receive the medication only if the consumer demonstrates behavior that causes serious and imminent physical harm to the consumer and or others and documentation in the medical record notes the need for emergency medication. The policy further states that the RN is responsible for documenting the refusal in the medical record and reviewing the consumer's identified preference for treatment, documents the specifics of the patient's behavior to support the presence of a serious and imminent threat to self/others, notifies the attending psychiatrist and obtains an order to administer the medication along with rationale, completed a restriction of rights notice and monitors and documents the patient's response to the intervention.

At the time of admission, consumers receive an expectations/guidelines form that helps the consumer familiarize himself/herself with unit rules. This form ends by saying that it is the hospital's expectation that members of the treatment team will treat the consumer with respect at all times.

Conclusion

Pursuant to the Mental Health and Developmental Disabilities Code, 5/2-107, a recipient shall be given the opportunity to refuse generally accepted mental health services, including but not limited to medication. If the services are refused, it can only be given in an emergency situation to prevent serious and imminent physical harm to the recipient or other when no less restrictive alternative is available. Pursuant to hospital policy, emergency medication is to be given only when the behavior causes serious and imminent physical harm to the consumer and/ or others and documentation in the medical record notes the need for emergency medication. The HRA finds that the documentation did not justify the need for the emergency medication; the allegation is substantiated.

Pursuant to Section 5/2-102 of the Code, a recipient of services shall be provided with adequate and humane care and services in the least restrictive environment. Pursuant to Section 5/2-112 of the Code, every recipient of services in a mental health facility shall be free from abuse and neglect. The HRA cannot discount the statement made by the consumer recognized in this case. And, given the admission that the staff conflicts on the unit were causing an overall unhealthy environment, it is concluded that consumer rights might have been comprised. However, since hospital administration are aware of the problems and have been aggressively addressing the matter, no recommendations are issued. It is suggested that hospital administration ensure that staff training is an on-going course of action.

Recommendation

1) Hospital Administration must instruct all hospital personnel that the record must clearly reflect the emergent need to override treatment refusals - to include the least restrictive alternative attempted - in order to prevent serious and imminent physical harm and the Mental Health Code and hospital policy must be followed in those situations.
2) The ROR form must denote whether the emergency treatment intervention was considered.

Comment

The HRA takes this opportunity to note that the consumer's emergency preference was not readily recognizable in the chart and there was no documentation about a whether the consumer wished anyone to be notified of a rights restriction. It is suggested that the hospital ensure that the emergency intervention preference is included in the treatment plan and that the chart denotes whether the consumer wishes anyone to be notified of a rights restriction pursuant to the Mental Health Code (405 ILCS 5/2-200 d; 5/2-201 and 5/2-102 a).

RESPONSE

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

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Resurrection Health Care®

Jane Stenske
Vice President
Patient Care Service

June 3, 2009

Dan Haligas
North Suburban Regional Human Rights Authority
Guardianship & Advocacy Commission
9511 Harrison Street, W-300
Des Plaines, IL 60016-1565

Re: HRA #09-100-9024

Dear Mr. Haligas,

Westlake Hospital received the report of your findings regarding the above stated case and is responding to the conclusions that were noted. We ask that our response to this case be made available to the public.

A new form entitled "The Mental Health Treatment Preference" as been developed and is attached for your review. Staff education on use of the form has been scheduled and will be complete by July 2009.

Staff education has occurred specific to the use of emergency medications upon refusal of the patient, documentation of the least restrictive alternatives attempted and the patients response to such. Education to staff has occurred specific to the appropriate completion of the ROR.

If you have any questions or desire further information, please contact Cathleen Gillen, RN, MS, Psychiatric Unit Manager at 708-938-7067. Thank you!

Sincerely,

Jane Stenske

Jane Stenske, RN, MS
Vice President Patient Care Services/Chief Nursing Officer

JS/kmf

Enclosure