FOR IMMEDIATE RELEASE

North Suburban Human Rights Authority
Report of Findings
Rush-Copley Medical Center
HRA #09-100-9029

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.

Introduction

The North Suburban Regional Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission has completed its investigation of alleged rights violations at Rush-Copley Medical Center - RCMC. In February 2009, the HRA notified RCMC of its intent to conduct an investigation pursuant to the Guardianship and Advocacy Act (20 ILCS 3955). The complaints accepted for investigation were that while in the Emergency Department, a recipient of behavioral health services was given medication and placed in restraints without cause.

If found substantiated the allegations would violate the Mental Health and Developmental Disabilities Code (405 ILCS 5).

Background

Rush-Copley Medical Center, located in Aurora, is a provider of health services to the greater Fox Valley area. According to the web-site, the hospital treats over 60,000 patients in the emergency room every year.

Investigative Methodology

The HRA conducted an on-site visit in May 2009. At the visit, the HRA discussed the allegations with the Deputy General Counsel; a Registered Nurse, and Emergency Department management. The HRA requested and reviewed the clinical record of the adult whose rights were alleged violated, with written consent. Also reviewed were hospital policies specific to the allegations.

Findings

According to the clinical record, the patient was admitted to the hospital via ambulance due to a possible overdose on insulin (11/17/08 about 3 p.m.). She had written a five-page "will and testament" stating what she wanted done and she asked for forgiveness. Once at the hospital, she denied suicidal/homicidal ideations.

The chart showed that the consumer received medical attention and she was described as resting without complaints. The hospital contracts with a nearby hospital for behavioral health assessments; this hospital was contacted and an assessment was completed (about 9 p.m.). The nursing notes showed that after the behavioral health assessment (10:45 p.m.) the patient "became

violent, threatening nurses, charging at nurses and pulling IV out. Pt. refused to sit on cart, stating 'I'm leaving'." It is noted that a petition and certificate were not completed. The chart documented that initial alternatives to restraints were attempted by means of 1:1 contact, and family presence and support. The alternatives were unsuccessful; the patient was subsequently placed in restraints and she received an injection of Ativan. About an hour after the first dose of medication, a second injection of medication (Haldol) was administered; the nursing notes documented that she had "deteriorated". The chart did not indicate that the patient was given the option of refusing the medication. The chart contained physician orders for the restraints (indicating aggressive behavior that was a danger to the patient and others and that she had suicidal ideation/intent with elopement risk) and medication, and a completed fifteen minute observation restraint flow sheet. The patient was in restraints a little over an hour. She was subsequently transferred to a nearby hospital for behavioral health services.

At the site visit, it was stated that although the hospital does not have a behavioral health program, they receive many patients requiring behavioral health services. The security personnel are trained in CPI (Crisis Prevention Institute) Nonviolent Crisis Intervention Training. According to the restraint policy, all clinical staff have restraint training at the time of employment orientation and annual training. It was speculated (by the RN who was caring for the patient during this time) that the patient became violent when she learned that she was being transported to another hospital for behavioral health services. When the HRA inquired about why the patient needed the second dose of medication, the RN referred to her charting notes and replied that the patient had deteriorated. The RN could not recall any further details (nor would the HRA expect her to given the time that has elapsed).

The hospital's restraint policy states (in part) that RCMC is committed to preventing and reducing restraint and seclusion use, as well as striving to eliminate use. Non-physical interventions should be considered before restraints or seclusion is used. Behavior management restraint is limited to emergencies in which there is imminent risk of harm to self and/or others. A physician order must be obtained and PRN (as needed) must never be written for restraints. The order can be written for up to 4 hours for adults and the physician must see the patient face to face and evaluate the need for restraint within one hour after the initiation of the intervention. The hospital does not have a policy for emergency medication.

Conclusion

Pursuant to the Mental Health and Developmental Disabilities Code Section 2-107, "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. 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. 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."

Pursuant to the Mental Health and Developmental Disabilities Code, Section 2-108, "Restraint may be used only as a therapeutic measure to prevent a recipient from causing physical harm to himself or physical abuse to others. Restraint may only be applied by a person who has been trained in the application of the particular type of restraint to be utilized. In no event shall restraint be utilized to punish or discipline a recipient, nor is restraint to be used as a convenience for the staff…The order shall state the events leading up to the need for restraint and the purposes for which restraint is employed."

It is concluded that restraints and the first dose of medication were used in accordance to the mandates set by the Mental Health Code; rights were not violated. Although the medical/nursing team might have seen a need for the second administration of medication, the word "deterioration" does not translate to the need to prevent serious and imminent physical harm to the patient or others, and the patient was not given the option of refusing the medication; rights were violated.

Recommendation:

- Hospital personnel must ensure that documentation supports the need for emergency medication as mandated by Section 5/2-107 of the Mental Health Code, in that the patient must be given the opportunity to refuse the medication, and if refused, only given to prevent serious and imminent physical harm to the patient and/or others.

Suggestion:

- The ED must understand that mental health patients are not automatically rendered incapable of making treatment decisions and that they still drive their treatment course based upon informed consent, unless it is determined that there is an emergency and the person lacks decisional capacity. Documentation must state the same.
- The hospital must ensure that when rights are restricted, that a Restriction of Rights Notice is completed.
- The hospital should address the guidelines for emergency medications in policy form.

Pursuant to Section 3-601 of the Mental Health and Developmental Disabilities Code, "When a person is asserted to be subject to involuntary admission and in such a condition that immediate hospitalization is necessary for the protection of such person or others from physical harm, any person 18 years of age or older may present a petition to the facility director of a mental health facility in the county where the respondent resides or is present. The petition may be prepared by the facility director of the facility." Section 3-608 of the Code states that "Upon completion of one certificate, the facility may begin treatment of the respondent. However, the respondent shall be informed of his right to refuse medication and if he refuses, medication shall not be given unless it is necessary to prevent the respondent from causing serious harm to himself or others. The facility shall record what treatment is given to the respondent together with the reasons therefor."

When the patient made the statement that she wanted to leave and it was determined that she required the hospitalization for her protection, the involuntary admission process should have been initiated, thus ensuring that all subsequent treatment was rendered pursuant to the Mental Health Code.

RESPONSE

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

Rush-Copley Medical Center
2000 Ogden Avenue, Aurora, IL 60504

June 30, 2009

Guardianship & Advocacy Commission
9511 Harrison Street
W-300
Des Plaines, IL 60016-1565
Attn: Don Haligas – Chairperson
North Suburban Regional Human Rights Authority

RE: HRA #09-100-9029

Dear Mr. Haligas:

Thank you for your letter of June 3, 2009 notifying Rush-Copley Medical Center of the findings and recommendations of the investigation per the above HRA number. We appreciate the opportunity to respond.

As noted in the HRA report, the patient was brought to Rush-Copley's Emergency Department (ED) at 3:22 pm on November 17, 2008 via ambulance with a possible insulin overdose. She had also made previous statements regarding killing herself and had written a five page will and testament. The patient was medically stabilized and evaluated in the ED. Rush-Copley's contracted behavioral health provider was contacted and came to assess the patient in the ED. (Because Rush-Copley does not have dedicated behavioral health services, it contracts with a facility that provides assessments and certain services when patients present to Rush-Copley's ED who may require them. These patients are assessed in the ED by a provider from the contracted facility and transferred to a mental health facility for behavioral/mental health treatment or services, if needed.) At 9:55 p.m., this contracted behavioral health provider signed a certificate and petition to involuntarily admit the patient to a mental health facility. According to the petition, the patient was "a person with mental illness . . . 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," and she was "in need of immediate hospitalization for the prevention of such harm." At 10:45pm, the patient was described in the nurses' notes as "violent, threaten(ing) nurses, charging at nurses and pulling IV out. Pt refuses to sit on cart, stating 'I'm leaving.'" Also at 10:45 p.m., physician orders for Restraint/Seclusion were entered and Ativan (the first dose of medication) was ordered and administered. At 10:50 p.m., the Informed Consent for Transfer form was prepared and signed for "involuntary admission to Psych facility." At 11 p.m., the nurse charted "attempted to orient the patient with one to one contact. Sitter." She also wrote that the patient's condition had "deteriorated." At the site visit by HRA, the nurse

described the patient as being agitated at this time. At approximately 11:35, the nurse noted "no change" (from the deteriorated, agitated status). At approximately 11:40 – 11:50 p.m., the second dose of medication (Haldol) was given. At 11:48, the patient continued to be verbally abusive. At 12:15 a.m., she was "improved." At 12:19, she was transferred to a mental health facility.

First, we wish to correct a factual statement in the report regarding petition and certification. Within the findings section of the HRA report it is noted that a petition and certificate were not completed; however, as noted above, a "Petition for Involuntary/Judicial Admission" was signed at 9:55 pm by the counselor from the contracted behavioral health services provider who evaluated the patient in Rush-Copley's ED. A copy of the Petition and Certification is enclosed.

The report includes one recommendation – that hospital documentation support the need for emergency medication as mandated by the Mental Health Code, in that the patient must be given the opportunity to refuse the medication, and, if refused, only given to prevent serious and imminent physical harm to the patient and/or others. We appreciate this recommendation and have reinforced with the ED nursing and medical staff the need for specific documentation to support the administration of all medications including those that are used in emergency situations to prevent serious and imminent physical harm to the patient and/or others.

Next, the report offers three suggestions. One was a suggestion that Rush-Copley have a policy with guidelines for use of emergency medication. Rush-Copley does have a policy that addresses the use of emergency medication in the type of circumstances that existed for this patient and it was in effect at the time the patient presented to the ED. The policy, entitled "Restraint and Seclusion" was supplied to the Commission during the site visit. Per the recommendation of HRA, the policy will be enhanced to include instruction to staff regarding necessary supportive documentation for emergency medication.

Another HRA suggestion involved the reminder that decisional capacity is not necessarily affected by mental illness requiring informed consent for procedures and treatments that require it unless an emergency exists and documentation of same. Rush-Copley has reminded the ED staff of the ability of a mental health patient to continue to make decisions regarding their care following the certification process as long as decisional capacity exists and the need for proper supporting documentation in the chart.

The third HRA suggestion was that the hospital use the State form for Mental Health Facilities called "Restriction of Rights Notice." We have reminded the ED staff of the need for supporting documentation in the medical record for all interventions and particularly with regard to the application of restraints or the use of emergency medication. We have made the ED staff aware of this form for use in the appropriate circumstances.

Again, thank you for your advocacy for this patient and for giving us the opportunity to respond. Please contact me with any further questions or requests. I look forward to discussing the case with your department. I can be reached directly at [redacted]

Sincerely,

Stacey Ries /akf

Stacey Ries, RN, JD
Deputy General Counsel
Corporate Integrity Officer
Rush- Copley Medical Center