FOR IMMEDIATE RELEASE

North Suburban Human Rights Authority
Report of Findings
Elmhurst Memorial Healthcare
HRA #09-100-9035

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 Elmhurst Memorial Healthcare. On May 20, 2009, the HRA notified Elmhurst Memorial Healthcare of its intent to conduct an investigation, pursuant to the Guardianship and Advocacy Act (20 ILCS 3955). The complaint investigated was that consumer rights were violated in the following manner: A consumer was given emergency medication without cause; the nurse administering the medication did not inform the consumer of the name of the medication or its side effects. It was also alleged that unbeknownst to the consumer, multiple administrations of medications were given.

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

Provider Background

Elmhurst Memorial Healthcare is an independent not-for-profit hospital, governed by a volunteer board of trustees. Its mission has remained the same for more than 80 years: "To enhance the health of the communities and customers we serve." Elmhurst Memorial Healthcare offers a range of programs and services designed to meet the needs of men, women, children and families. The hospital is accredited by the Joint Commission. The focus of this investigation will center on the 18-bed behavioral health program located within the hospital.

Method of Investigation

The HRA conducted an on-site visit in July 2009. While at Elmhurst Memorial Healthcare the HRA discussed the allegations with the program's Director and the Vice President of Patient Care Services. The complainant was interviewed by telephone. The HRA requested and reviewed the clinical record of a consumer of services with consent, and hospital policy relevant to the allegations.

Findings

The clinical record revealed data on a female consumer who was voluntarily admitted to the hospital on October 8, 2008; she was discharged October 13, 2008. She was diagnosed with bipolar manic type. At the time of admission, she reported that she was under the care of a

physician and had been prescribed mental health medications, which she reported she took only when needed.

According to the record, the day after admission a psycho/social assessment was attempted; it was documented that the consumer was too paranoid and psychotic to be able to manage the assessment. About an hour later, it was documented that the consumer was "agitated, yelling, screaming, and demanding to be discharged, unable to follow redirections, totally out of control." The consumer was subsequently given an injection of Haldol, Cogentin and Ativan. The note did not state that the consumer was given the opportunity to refuse the medication. The Restriction of Rights Notice (ROR) mirrored the progress note documentation regarding the reason for the restriction. The Notice documented that the consumer wished that no one be notified of the restriction. It was noted that the form did not contain a section regarding emergency intervention preference. It was also noted that the consumer's treatment plan did not indicate her emergency treatment preference. The Medication Administration Records (MAR) showed that the consumer received the above noted one time dose of involuntary emergency medications. The MAR showed that no other intramuscular medications were administered during the hospitalization. There was no documentation indicating that the consumer was educated orally and in writing about the emergency medications benefits and side effects. It was noted that one goal on the consumer's treatment plan was to be educated on medications and their side effects; she attended two medication education groups during her stay.

At the site visit, hospital personnel stated that emergency medications are given only when the consumer is a danger to self or others. It was stated that RORs are reviewed by management to ensure that restrictions are employed pursuant to the Mental Health Code and hospital policy. Regarding the claim that staff did not explain the medication to the consumer before it was given, it was stated that staff members are to identify and explain the medication, but during an emergency this is not always possible. It was further stated that upon receipt of this investigation, the Program Manager interviewed program staff to see if anyone recalled this consumer and the incident in question. The Manager stated that no one was able to recall her, only that she seemed to stay in her room a lot. When given a tour of the unit, the Manager did point-out the area where the incident occurred (by the locked entrance/exit door to the unit), saying that she was trying to leave the unit. The Manager also stated that she "trusts" this nurse, saying that the nurse would not give medications without justification.

Hospital policy states that the administering of medications against a patient's will can only be done per MD order when the patient is posing a serious physical threat to him/herself or others (inpatient unit only). When any restriction occurs, the patient has the right to request that staff notify designated persons of the restriction.

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, they can only be given in an emergency situation to prevent serious and imminent physical harm to the recipient or others when no less restrictive alternative is available. Pursuant to hospital policy, emergency medication is to be given only when the behavior potentially causes serious and imminent physical harm to the consumer and/or others.

Pursuant to Section 5/2-102 of the Mental Health Code, "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….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."

It is concluded that the emergency medication was not used in accordance to the mandates set by the Mental Health Code; rights were violated. There are specific mandates as to when emergency medication is warranted, documentation should clearly, and in considerable detail, support that emergency medication was given in an effort to prevent serious and imminent physical harm to the patient and or others. When a patient's rights are over-ridden by the clinician's judgment, it is required that the patient's stated preferred intervention noted on his treatment plan be considered and it is incumbent upon that clinician to provide thorough documentation of all attempts at utilizing a less restrictive approach to treatment (in this case, identify the "redirections" that were issued). The MARs dispute the assertion that the consumer received numerous injections of medication; the allegation is unsubstantiated. The HRA realizes that in an emergency situation, there would be no time to discuss all medication benefits and side effects, but the medication must be identified to the consumer and the consumer must be given a description of the medications intent.

Recommendations

1. 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 recipient 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 when no less restrictive alternative is available.
2. The hospital must ensure that 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, to the extent such advice is consistent with the recipient's ability to understand the information communicated.
3. The hospital must ensure that any designated emergency treatment preference per 5/2-200d of the Mental Health Code is noted on respective treatment plans per 5/2-102.

Comment

The charting in this clinical record was based mainly on answering questions from a computerized checklist. The HRA recognizes the philosophy of "less is more", however, an outsider reading the chart is unable to get a feel for what the patient experienced while hospitalized. Although the chart showed that the patient attended therapy groups, it was difficult to see how her mental health symptoms were managed based on her specific needs.

RESPONSE

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

Elmhurst Memorial Healthcare

200 Berteau Avenue
Elmhurst, Illinois 60126 ph 630.833.1400

October 27, 2009

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

RE: HRA #09-100-9035

Dear Mr. Haligas,

This letter is to document the responses of Elmhurst Memorial Healthcare to the findings of the North Suburban Regional Human Rights Authority (NSRHRA) investigation of July, 2009.

In that investigation, the NSRHRA found insufficient documentation that the patient had been advised in writing of the risks, benefits, and side effects of the medication given. The Mental Health Code (Section 5/2-102) includes that such education must be given "to the extent such advice is consistent with the recipient's ability to understand the information communicated." In fact, the patient's medical record documents that on two occasions the patient was offered medication-education but that she was too distracted by her own impulses or too disinterested to receive it (see attachments 1 and 2).

In the investigation, the NSRHRA also found that the patient's treatment plan did not include an "emergency treatment preference." The attached documents demonstrate that, on admission, the nurse developed, with the patient's input, strategies for preventing the need for restraints; this strategy was included in the patient's individualized treatment plan (see attachments 3 and 4b). The "plan to prevent the need for restraints" is, essentially, an "emergency treatment preference" and is used by staff to respond to any form of patient escalation.

Lastly, the investigators found that EMHC staff failed to sufficiently document that the patient's behavior posed imminent risk of harm and the failure of less-restrictive, patient-preferred, methods of de-escalation that were attempted. In response to this finding, the behavioral health staff of EMHC will begin instituting a "time-out" prior to the administration of emergency medication or the use of restraints. This time-out, not unlike the time-outs implemented prior to surgical procedures in the surgical suites, will provide opportunity for staff to form consensus that all less-restrictive and patient-preferred measures have been exhausted and whether imminent risk does, in fact, exist. The findings regarding attempted interventions and imminent risk will be documented in the patients' records following such time-outs. Please see the attached time-out protocol for details (attachment 5). This protocol will go into effect on November 8, 2009; staff will be trained regarding the protocol between now and that time.

Thank you for this opportunity to improve the quality of care provided to our patients.

Respectfully,

Nancy Monroe, MA, RN-BC
Manager, Inpatient Program and Development

Pamela Arnold RN MS MBA CENP

Pamela Arnold, MS, MBA, CENP
Vice President, Patient Care Services