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HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT #10-030-9018
Kindred 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 Kindred Hospital. It was alleged that a recipient's physician ordered medication for him that he was allergic to and when the recipient refused to take it the doctor discontinued all medications, needlessly causing the recipient to suffer withdrawal symptoms. It was also alleged that the recipient was placed in restraints for no adequate reason and denied communication with his family. If substantiated, this would violate the Mental Health and Developmental Disabilities Code (405 ILCS 5).

Kindred is a long-term acute care hospital in Chicago which houses a 30-bed behavioral health unit.

To review this complaint, the HRA conducted a site visit and interviewed the Director of Risk Management, two registered nurses from the behavioral health unit, and received a written statement from the attending physician. The HRA obtained the recipient's record with written consent. The recipient is an adult who maintains his legal rights.

COMPLAINT SUMMARY

The complaint states that the recipient was residing in another facility where he was assigned to a physician whom he fired. He was then referred to Kindred and again assigned the same physician. The complaint alleges that the facility attempted to administer medication that the recipient was allergic to (Thorazine), and when he refused, the physician discontinued his longstanding medication (Xanax and Dilaudid) for 50 hours, causing the recipient to experience serious detoxification symptoms such as pacing, vomiting, sleeplessness and restlessness. The complaint alleges that the recipient had to be placed in restraints even though he had never been aggressive previously. The complaint also alleges that the recipient was not allowed to speak with his father and that his physician would not call his father, making the recipient feel that, according to the complaint, he was being "tormented."

FINDINGS

The Kindred Hospital Admission Face Sheet shows that the recipient was admitted on 1/28/10 at 2:30 p.m. The recipient's Transfer Form states that he is allergic to "Geodon, Morphine, Soma, Zyprexa, Prolixin, and Depakote", and these are again mentioned in the recipient's History and Physical as well as Discharge documents. The History and Physical indicates that the recipient was transferred from a nursing home, "since he was somewhat agitated, noncompliant, so transferred for psych evaluation." The review of Systems section indicates that the recipient has "chronic back pain as well as anxiety." The Assessment and Plan section states the recipient is Bipolar Schizoaffective with a history of back pain and back surgery. It states, "Continue current medication as per transfer note."

The record contains a Medication Reconciliation document which indicates the following medications were prescribed at the referring nursing home and continued at Kindred Hospital per physician order on 1/28/10:

Trazodone, 200 mg PO (orally) nightly
Benztropine (Cogentin) 2 mg PO prn (per request)
Pristiq, 50 mg PO one tab daily
Naproxen sodium 550 mg PO tab every 12 hours

Also on the list are medications prescribed at the referring nursing home that this form indicates were not continued at Kindred per physician order on 1/28/10:

Alprazolam (Xanax) 1 mg PO three times daily
Haloperidol, 5 mg PO tab every 2 hours prn
Haldol 5 mg PO tab every 2 hours prn
Pristiq, 30 mg PO nightly
Hydromorphone (Dilaudid), 2 mg tab 4 times daily prn

The record contains Physicians' Orders for 1/28/10 for the following medication:

Trazadone 200 mg PO
Thorazine 50 mg PO four times daily
Pristiq 50 mg PO every morning
Naproxen 550 mg PO every 12 hours
Thorazine 50 mg PO /IM (intramuscularly) every 2 hours prn
Cogentin 2 mg PO two times daily prn
Hydromorphone (Dilaudid) 2 mg PO four times daily prn

Records from the next day, 1/29/10, show a Physician's Order indicating a discontinuation of Pristiq and Dilaudid and states, "No pain medication other than Tylenol without my exam." An increase in Thorazine to 100 mg is included. Another Physician's Order is included in the record issued 1/30/10 for an evaluation for release, and it includes an order for Restoril 30 mg for sleep and Klonopin 1 mg. A final Physician's Order written 2/02/10

discontinues Thorazine, orders Haldol 5 mg every four hours prn, and changes the Klonopin to 1 mg three times daily. The record contains a Medication Statement Sheet indicating that the recipient was given information regarding benefits, risks and alternatives for Thorazine on 1/28/10 and for Desyrel on 1/28/10. There is no physician's statement of decisional capacity in the record.

The Medication Administration Record shows that the recipient was not continued on Xanax when he transferred to Kindred on 1/28/10. Staff interviews revealed that the recipient would have been given Klonopin instead of Xanax to reduce the risk of addiction (this rationale is not documented) and this was initiated on 1/30/10 at 5:39 p.m. The Medication Administration record indicates that the recipient received Hydromorphone (Dilaudid), 2 mg PO at 9:45 p.m. on 1/28/10, again at 5:39 a.m. on 1/29/10, again at 9:59 a.m. on 1/29/10, again at 2:33 p.m. on 1/29/10, and finally at 8:42 p.m. on 1/29/10, when the record indicates it is not renewable. The Medication Administration record shows that the recipient was offered Thorazine 50 mg PO four times daily and it was refused by the recipient approximately 15 times during his treatment episode.

Progress Notes from 10:30 p.m. on 1/28/10 indicate that the recipient was requesting medication: "Pt. was demanding and needy. Pt. was demanding for Xanax and stated 'If I don't get my Xanax I'm going to have seizures right now.' Pt. requested and was given Dilaudid 2 mg po for back pains at 2145 [9:45 p.m.] with good results." On 1/29/10 a Mental Status Exam shows the recipient's thought content centered on his medication: "I need my Xanax, why doctor does not care." Again, on 1/30/10 the Mental Status Exam states, "Intrusive, preoccupied with his medications and side effects, needy for medication, impulsive. Visible in the milieu, social with staff, refused Thorazine. 'I used to take Xanax and Dilaudid. I'm going cold turkey. I cannot take Thorazine'." Progress Notes from 1/30/10 state: "Pt. visible on the unit pacing unit and complaining about withdrawal symptoms. Pt. labile and delusional refuses group. Pt.'s apatite [sic] is good and grooming is fair." Again on 1/31/10 an entry in the progress Notes states, "Pt. labile in mood and anxious. Complained of withdrawal symptoms. Delusional and expressed a fear that staff are plotting against him…." On 2/01/10 the Notes again indicate that the recipient "Got up early pacing in the hallway, needy, hard to redirect…."

Information from the U.S. National Library of Medicine website, *Medline*, indicates that Alprazolam (Xanax), is in a class of medications called benzodiazepines. It is used to treat anxiety disorders, panic disorder, and sometimes depression and other uses. It states, "If you suddenly stop taking Alprazolam you may experience withdrawal symptoms such as seizures; shaking of a part of your body that you cannot control; headache; blurred vision; increased sensitivity to noise or light; change in sense of smell; sweating; difficulty falling asleep or staying asleep; difficulty concentrating; nervousness; depression; irritability; aggressive behavior; muscle twitching or cramps; diarrhea; vomiting; pain; burning; numbness; or tingling in the hands or feet; a decrease in apatite; or weight loss." The same website identifies Clonazepam (Klonopin), as a benzodiazepine used alone or in combination with other medications to control seizures and relieve panic attacks, among other uses. Hydromorphone (Dilaudid), is used to treat moderate to severe pain and other uses. Naproxen is used to treat pain, tenderness, swelling, and stiffness, as well as other uses.

Hospital staff were interviewed about the complaint. The recipient's physician, who was unable to be present for the site visit, presented the following statement:

"[Recipient] was admitted on January 28, 20110 with presenting symptoms of noted to be increasingly agitated, verbally aggressive towards staff with swearing and threatening behavior, frequently intrusive with poor boundaries despite firm limit setting. He was disruptive to groups, looks at staff in menacing manner, has unpredictable behavior and labile mood. He is easily agitated and restless, paranoid and delusional and thinks that people are talking about him. The clinical decision was to increase his Thorazine, in an attempt to control the agitation and promote calm. Per the documentation received from [his former placement], patient presented with a history of an excessive amount of highly addictive medications, including benzodiazapines, opiate based narcotics and steroids. Patient was requesting Klonopin as he felt his anxiety increasing during the hospitalization and felt Klonopin would address his anxiety. Per clinical observation, patient did not present with withdrawal symptoms, which include seizures, jitteriness, anxiety, insomnia, and loss of appetite. None of this was observed in the patient. As documented, patient reports his pain to be severe in an attempt to receive narcotic medications."

There is no physician's order or documentation in the record to indicate that the recipient was ever placed in restraints during this treatment episode.

The record (Psychosocial Assessment) documents a request made by a family member that certain calls made by the recipient be restricted. There is no physician's order restricting communication and no Restriction of Rights Notice in the record nor is there an indication that the recipient was ever told of the family member's request. There was no other restriction of the recipient's communication rights.

STATUTORY BASIS

The Mental Health Code guarantees all recipients adequate and humane care in the least restrictive environment. As a means to this end, it calls for the inclusion of the recipient in the formulation and periodic review of the individual services plan and mandates that facilities consider the views of the recipient concerning the treatment being provided (405 ILCS 5/2-102).

If the services include the administration of psychotropic medication, the physician must advise the recipient, in writing, of the side effects, risks, and benefits of the treatment, as well as alternatives to the proposed treatment. The physician must also determine whether the recipient has the capacity to make reasoned decisions about his treatment, and this written statement must be included in the record (405 ILCS 5/2-102). Should the recipient refuse treatment, the Mental Health Code guarantees this right unless the services are necessary to prevent the recipient from causing serious and imminent physical harm and no less restrictive measure is available (405 ILCS 5/2-107). Additionally, whenever the rights of a recipient are restricted, notice must be given to the recipient and their designee and it must be recorded in the recipient's record (405 ILCS 5/2-201).

Restraint is a therapeutic tool that the Mental Health Code carefully regulates. Restraint may be used only to prevent harm to the recipient or others. It can only be used upon the written order of a physician, clinical psychologist, clinical social worker or registered nurse who has personally observed and examined the recipient and is justified that it is necessary to prevent harm (405 ILCS 5/2-108).

The Mental Health Code mandates that providers adopt policies and procedures that support the implementation of the recipient rights guaranteed by the Code (405 ILCS 5/2-202).

The Mental Health Code mandates that a recipient shall be permitted unimpeded, private and uncensored communications "with persons of his choice by mail, telephone and visitation." This right may only be restricted by the facility to protect the recipient or others from harm, harassment or intimidation provided that notice of this restriction is given to all recipients upon admission. When these rights are restricted the recipient has the right to require the facility to notify the affected parties of the restriction, and alert them when it is no longer in effect (405 ILCS 5/2-103).

HOSPITAL POLICY

Kindred Hospital policy on Patient Rights and Advocacy (MH-0100) states that all recipients have the right to adequate and humane care provided by qualified staff and developed around individualized treatment plans. The hospital policy on Informed Consent (MH-0100) states that "Civilly committed clients are presumed competent to give informed consent, or conversely to refuse treatment unless there is a judicial determination that the client is incapable of making decisions." Patients have the right to "A fair explanation of the procedures to be followed, together with their purposes, including identification of any procedure that is experimental." Patients also have the right to a description of any risks, benefits, or discomforts of proposed treatment. Additionally, all clients are instructed that they are free to withhold or withdraw consent and may discontinue participation at any time. Policy also states that without a patient's informed consent the hospital may not use involuntary seclusion, mechanical restraint, or forced psychotropic medication, except in an emergency situation to protect the safety of the recipient or others.

Kindred Hospital policy (MH 0106) states that all patients are permitted the use of a telephone, and this right may only be temporarily restricted (cannot exceed 12 hours) by the attending physician to protect the recipient or others from harm, harassment or intimidation. The physician writes the order restricting telephone usage and the reasons for it in the patient's clinical record within 24 hours of the order.

CONCLUSION

The complaint states that the recipient was prescribed Thorazine, which he was allergic to, and when he refused it, his regularly prescribed medication, Xanax, was discontinued, causing him to suffer withdrawal symptoms. The record shows that the recipient stated on 1/30/10 that he could not take Thorazine, however nowhere in the record does it mention that the recipient was allergic to Thorazine, even though the medications he was allergic to were listed several times. Additionally, the record contains an informed consent form for Thorazine, so clearly no one was informed if the recipient was allergic to it.

The record shows that the recipient was prescribed and administered Xanax for anxiety at the nursing home he was residing in previous to his hospitalization. This medication was then discontinued at Kindred Hospital (1/28/10 at 2:30 p.m) and per staff, replaced with Klonopin, a similar medication. The Klonopin, however was not administered until 5:39 p.m. on 1/30/10,

thus, as the record shows repeatedly, the recipient complained of withdrawal symptoms and discomfort for two days. The complaint also alleges that the physician discontinued Dilaudid, and the Medication Administration record shows that the recipient received Dilaudid both as a scheduled medication and per his own request from his entry onto the unit until 8:42 p.m. on 1/29/10 when it was discontinued. The clinical documentation does not offer an explanation for why the Xanax and Dilaudid were discontinued and more importantly the rationale does not appear to have been communicated to the recipient, who was convinced that he was suffering withdrawal symptoms. There is no indication in the record that that the physician or nurses considered the views of the recipient regarding his perceived withdrawal symptoms, denying him the opportunity to be included in his treatment planning. Given that the Notes focus so often on the recipient's discomfort regarding his medication, it seems warranted and humane to schedule a review of the medication regimen and explain its benefits to the recipient, upon whose informed consent all medication administration is based. Additionally, the record is missing two other Code requirements for medication and these are a physician's written statement of decisional capacity, and informed consent for the Klonopin, Haldol, Trazodone, and Pristiq. The HRA does not substantiate that the physician ordered medication that the recipient was allergic to, however it does substantiate that the recipient's previously ordered medication regimen was discontinued for no stated reason and without the recipient's input, denying the recipient the opportunity to take part in his treatment and causing the recipient to suffer what he perceived as withdrawal symptoms.

The HRA does not substantiate that the recipient was placed in restraints for no adequate reason.

The record shows and staff confirmed, that a family member had asked the staff to restrict the recipient's phone rights. There is no indication in the record that the recipient had been harmful, harassing, or intimidating in his phone usage during his hospital stay. If the hospital had a clinical justification for this restriction it was not recorded in the clinical record and it was not communicated to the recipient at the family member's request. Per the Mental Health Code, a recipient must be given notice when his rights are restricted, and in this case the rights of the family member prevailed over the rights of the recipient, who was entitled to notice but received none. The HRA substantiates the complaint that the recipient was denied his right to communicate with his family.

RECOMMENDATIONS

1. Ensure the inclusion of the recipient in the formulation and periodic review of the individual services plan and consider the views of the recipient concerning the treatment being provided (405 ILCS 5/2-102).

2. Ensure that recipients' rights to unimpeded, private and uncensored communication are restricted by the facility only to protect the recipient or others from harm, harassment or intimidation, and provide that a notice of rights restriction is issued whenever the rights of recipients are restricted. (405 ILCS 5/2-103 and 5/2-201).

SUGGESTIONS

1. The record was missing a physician's statement of decisional capacity and informed consent for several of the medications ordered for the recipient. Ensure that physicians secure informed consent after reviewing the side effects, risks and benefits of the medication along with alternatives and include a physician's written statement of decisional capacity in the record (405 ILCS 5/2-102).

2. The Mental Health Code mandates that facilities develop policies and procedures to implement the rights guaranteed therein and these polices and procedures serve to guide all hospital staff in the delivery of services, including a statement in the Informed Consent policy requiring decisional capacity statements for recipients of mental health treatment. In this case the hospital struggled to produce the policy that directs patient care, specifically the medication policy. The HRA suggests that Kindred Hospital review and update their policy and train staff in the underlying principles that these policies address.