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HUMAN RIGHTS AUTHORITY-NORTHWEST REGION

REPORT 10-080-9018
SWEDISHAMERICAN HOSPITAL

Case Summary: the HRA found violations only in that consent for medication procedures were not followed on admission, otherwise there were no other findings. The facility has made necessary changes. Details follow.

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving a complaint of possible rights violations at SwedishAmerican Hospital. It was alleged that the hospital gave a patient psychotropic medications without his consent and without an emergency, denied him possession of his belongings, detained him after discharge without authority and released confidential information about him without his consent.

Substantiated findings would violate protections under the Mental Health and Developmental Disabilities Code (405 ILCS 5) and the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110).

Located in Rockford, the hospital has a psychiatric unit with twenty adult beds and twelve adolescent beds. The HRA visited the facility where representatives from the program and risk management were interviewed. Hospital policies were reviewed as were sections of the adult patient's medical record with written authorization.

COMPLAINT SUMMARY

It was stated that the patient was given medication without his informed consent and without restriction of rights notifications when he was made to take them. His property, not considered contraband like clothing and legal documents, was reportedly locked in his room and he had to wait long periods for nurses to respond whenever he wanted something. The complaint also stated that the hospital found cannabis on the patient, and after he was court-discharged he was kept at the hospital until the police arrived, revealing to the police his whereabouts in a mental health facility.

FINDINGS

According to the staff we spoke to, informed consent is always obtained when prescribing psychotropic medications. A physician discusses the medication's particulars with patients and a nurse covers that information in writing. Patients typically sign consent forms, but in this case the patient refused to sign anything. They generally do not force medications on patients unless it becomes necessary to prevent harm, in which case they complete restriction notices and ask whether anyone is to be notified. No medications were forced on this patient to the best of their recollections.

A review of the patient's file showed that Ativan and Haldol were listed on admission PRN orders but there is no documented indication as to whether informed consent was entirely secured before doses of each were given, except for one entry reflecting that teaching on the medication regime had been done on the first day. There is no documented indication of the two medicines being forced either. The psychiatric admission note from the next day stated that a trial of Risperdal was ordered. The physician noted that the risks, benefits and alternatives to Risperdal were discussed, that the patient understood the information, consented to the treatment and had the capacity to make a reasoned decision about the treatment. A corresponding progress note stated that written information about Risperdal was shared and that the patient refused to sign a consent form. Risperdal was discontinued and Abilify ordered two days later after the patient complained of adverse side effects. A physician's note and a nursing entry stated that specifics on the newly ordered Abilify were discussed, that he understood the information and had the capacity to make a decision, however the patient refused to take the medication. Medication administration records showed that no medications were given once the patient began to refuse them.

Regarding the patient's access to his belongings, the staff said that clothing items in general are not considered contraband, except for belts, strings, and shoes or garments with ties that can be used to harm, although some of that type of questionable clothing is kept in a locked cabinet in the patient's room; other items can also be kept in the unit's medicine room. There is no reason to keep legal paperwork from patients. Anything confiscated along with valuables goes to the hospital safe where they are itemized and returned upon discharge. A list of contrabands is provided in the patient handbook and given to all patients during admission. The staff said that the nurses would not make a patient wait for long periods to unlock anything from his cabinet, and, they do not recall this patient complaining about access to his property during his stay.

The program's orientation information, or handbook, informs patients that they may have two to three changes of clothing, pajamas without belts, slippers, socks, shoes without laces and radios without antennas or cords. Basic hygiene items like toothpaste are provided and that items like shampoo, make up, non-alcoholic styling gels, perfumes, electric razors, video tapes and hard candy will be locked in patient closets when not being used. Prohibited items include sharps, wire hangers, spiral notebooks, razor blades, glass, smoking materials, cell phones, drugs, ties, chains, belts, suspenders, clothing with drawstrings, weapons, etc. Staff will maintain

discretion on other prohibited items. Valuables should be taken home with family or put in the hospital's safe. The staff will assist patients who need items from their closets.

Three personal belongings logs from the patient's record list boxers, socks, t-shirts, two pairs of jeans and a sweater. A cell phone and a cigarette lighter were sent to the medicine room, and a wallet with cash and credit cards was sent to the safe. The patient and a staff member signed each log. The record provided nothing to suggest that he had troubles getting to his property.

On the issue of detaining the patient after discharge and revealing confidential information to the police, the staff said that contrary to the complaint, the police found cannabis on him before he arrived at the hospital and he was already in police custody. The hospital was to notify the police when he was being discharged. At no time during his hospitalization did the staff find anything illegal on him. If drugs are found on patients, the staff call security and they or pharmacy destroys them; patients are not turned in to the police for carrying drugs. In cases where a patient is on police hold status, a designating form is completed and entered in the record. Security contacts the police whenever a physician orders discharge. The police usually arrive quickly and there is no waiting on the unit or elsewhere in the hospital for long periods.

According to the patient's emergency department record, he arrived in law enforcement custody after threatening to burn down a house; he had been drinking and smoking marijuana, and marijuana along with paraphernalia were found on him. A police hold form was completed shortly after, and the form listed the name of a security officer who was notified of the status and the arresting officer's badge information. Although the form was not completed when the patient was discharged to include discharge time, name of responding officer, etc., a jail release form was attached that signified a physician's approval for his transfer to jail after a petition for involuntary admission was court-dismissed. The form was completed at 0955, and he was discharged at 1502 accompanied by the police.

CONCLUSION

Psychiatry unit policy on informed consent states that psychiatrists are responsible for discussing potential psychotropic medication use with patients, covering the nature, purposes, benefits, risks, side effects and alternatives. Physicians must determine and state in writing whether patients have the capacity to make reasoned decisions about proposed treatments. Nurses reinforce the information and provide written drug materials. A patient's refusal for taking medications will be honored unless it is necessary to prevent serious and imminent physical harm and no less restrictive alternatives are available (#613-III.325.3). The Mental Health Code requires the same (405 ILCS 5/2-102 a-5, 5/2-107).

In this case there is evidence of the patient's informed consent for Risperdal and Abilify, complete with a physician's determination that he had the capacity to provide consent. By documented evidence, both medications were discontinued once the patient started to refuse them. Haldol and Ativan were ordered PRN beforehand on admission and nursing entries stated that education had been given at that time. But there was no indication of a physician having

discussed information about Haldol and Ativan and determining whether the patient had the capacity to provide consent for them. None of the medications were forced on him. Complaint #1, the hospital gave medications without the patient's consent and without an emergency is a substantiated violation, only in that the Code's process for obtaining informed consent was not entirely followed when Haldol and Ativan were prescribed and administered. The same process applied to the Risperdal and Abilify in other words, was not applied to the others.

The program's policy on patient belongings states that contraband should be sent home with patient families or friends whenever possible and that any items not sent home are to be locked in patient closets. Valuables and cash will be placed in the hospital's safe and returned upon discharge. Items must be tallied on personal belongings logs. There is nothing to address a nurse's response time to a patient's request for locked items (#613-III.320.1). Under the Mental Health Code, every recipient in a mental health facility shall be permitted to possess and use personal property except when certain properties are considered dangerous (405 ILCS 5/2-104).

The staff we spoke with verified that some patient belongings are locked in cabinets and some are kept in the medicine room or the hospital's safe, all specifically provided for as stated in their policies. We view that as a safety measure, not a rights violation, as there is no documented evidence and no recollection from the staff that this patient was prevented from accessing or using his belongings while he was there. Complaint #2, that the patient was denied possession of his belongings, is not substantiated.

Policy on warrants for arresting patients calls for nurses to obtain physicians' orders before releasing anyone to police care. Only basic information may be given to the police including name, address, age and name of nearest relative. Unless the patient signs an authorization, no information on his mental health status, diagnosis, treatment, etc., will be shared unless imminent risk or threat is indicated (#613-I.117.1). A policy on requesting police assistance addresses police hold status specifically. It states that security is to be notified on admission of anyone on police hold and will be notified again when discharge is ordered. Security is to notify law enforcement of the discharge (Patient Services Manual). The Mental Health Code does not address police hold statuses, although under the Confidentiality Act a provider must alert law enforcement whenever a crime or other serious incident has occurred in the facility, in which case the patient's identity may be revealed (740 ILCS 110/12.1).

This patient's record revealed that unlike the complaint claimed, the police found cannabis on the patient, arrested him and took him to the hospital for evaluation, all under the prospect that he was to remain in police custody once discharged. The patient's petition for admission was dismissed, and the police arrived to collect him within hours. The matter was a criminal one, and therefore not a violation of his mental health recipient rights. A Code violation is not substantiated.

RECOMMENDATIONS

1. Although it is difficult to meet every component of informed consent requirements when patients are admitted during hours when physicians may not be available, the Code nonetheless

requires physician discussion and capacity determination *whenever* psychotropic medications are proposed and ordered (405 ILCS 5/2-102 a-5). The facility must instruct physicians to meet all informed consent components before medications are ordered and administered, unless preventing serious and imminent physical harm (405 ILCS 5/2-107).

SUGGESTIONS

1. Include patient preferences for emergency intervention on all treatment plans as patients designate (405 ILCS 5/2-200 d and 5/2-102 a).

2. We appreciate the program's safety measure in locking away patient belongings when staff feel its needed, but be sure to reaffirm with all appropriate staff that per the Code, patients may possess and use their properties, unless they are dangerous, which means there should be no delay in accessing their properties (405 ILCS 5/2-104).