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HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 11-030-9003
CHICAGO LAKESHORE 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 Chicago Lakeshore Hospital (Lakeshore Hospital). It was alleged that the facility admitted, restrained and administered forced psychotropic medication to a recipient in violation of the Mental Health Code. If substantiated, this would violate the Mental Health and Developmental Disabilities Code (405 ILCS 5).

Lakeshore is a 147-bed private psychiatric hospital located in Chicago.

To review this complaint, the HRA conducted a site visit and interviewed the Director of Risk Management, the Program Director for the Intensive Treatment Unit, and the Program Director for the General Adult Unit. The HRA obtained the recipient's record with written consent. The recipient is an adult who maintains his legal rights.

COMPLAINT SUMMARY

The complaint alleges that the recipient was "flagged" for being provocative when he was admitted to the hospital for treatment and he felt singled out and prejudiced against. For this reason, the complaint states, the recipient was told that he could not go to the General Adult Unit (GAU- second floor) where he had received substance abuse treatment in the past, and was placed on the Intensive treatment Unit (ITU- third floor). Also, the complaint states that the recipient was placed in restraints for no reason and given forced psychotropic medication.

FINDINGS

The recipient was voluntarily admitted to Lakeshore Hospital on 11/12/09 at 3:00 p.m. for substance abuse treatment. The record contains the patient's Intake Assessment completed the same day. The History of Present Illness section states, "42 yr old AA male and former CLH pt presenting as a walk-in seeking an inpt admission for treatment of crack cocaine and alcohol dependency. Pt. states, 'I am losing my mind and can't stop my compulsion to use crack.' Pt.

endorses daily smoking $20 -$40's of crack daily and consuming a 6pk of beer daily. The patient reports that he relapsed approximately 2 weeks following his last inpt admission to CLH back in July of 2009. Pt. also endorses that he has been feeling depressed and anxious however he denies any current thoughts of self harm. He reports sporadic use of marijuana and denies use of any other illegal drugs. He reports that his mind only focuses on using crack and he wants to be able to stop that. He is not currently on any psychotropic medications and is not attending any CA/AA meetings to deal w/his addictions. The patient is alert, oriented, and cooperative w/staff."

The recipient's Initial Psychiatric Evaluation and Treatment Plan was completed on 11/13/09 and it outlines the recipient's plan: "First we will admit him to ITU. We will put him for alcohol detox. Also, prn (as needed) for Haldol 5 mg every 4 hours prn for agitation will be ordered, close observation and assault precautions. Celexa 20 mg daily will be ordered and also nicotine patch. Regular labs and Dr… for consult. Nicotine patch is 21 mcg subcutaneous. He will attend groups. Probably, he will go downstairs to second floor and attend treatment groups, and discharge in five to seven days." In the Patient's Reaction to the Hospitalization section of the report it states, "I'm supposed to be on the second floor to get treatment from my addiction, not on the third floor." The record includes a treatment plan for the General Adult Unit (11/12/09) and an addendum to it added in the Intensive Treatment Unit (11/16/09) and both are signed by the recipient.

The recipient's hospital course was described by his physician as: "The patient was admitted to the intensive treatment unit where he was strongly encouraged to participate in all milieu activities including individual therapy, group therapy, milieu therapy, discharge planning, and other scheduled milieu activities. The patient is allergic to Haldol. He was given a general diet. He was placed on close observation for unpredictable behavior. ….Upon admission to the unit, the patient was alert and encouraged to attend groups and activities. He was evaluated for transfer to the substance abuse unit. We worked with the patient on engaging him in 12-step programming. The patient stated he did not feel comfortable around staff and he felt exposed. He was anxious and mildly irritable. He focused on his last admission. He needed a lot of support and redirection. We worked with the patient on talking about his issues and looking at alternative coping strategies. We looked at his relapse risk factors. He had an eye opening experience by watching other patients' behavior. He was grateful. He was on the 2 East unit chemical dependency track. He talked about his mixed feelings with regards to recovery. He appeared to be open and honest. He stated he really wanted to do [sic] at this time. He began to feel much more calm. We worked with the patient on 12-step programming and looked at his denial. He was able to focus on his recovery. He thought he was doing better. He did enjoy the one-to-one therapy. We worked with patient on having him make specific concrete discharge plans. He did complain of intense crack cravings and crack dreams. We focused a lot on discharge and how the patient was going to follow his discharge plans, so that he would not relapse. He did have a pass while he was in the hospital to formulate discharge plans. He complained of some hives on his left arm. He was seen and evaluated by the medical doctor. He did talk about being scared to face the future. With therapeutic services and medication management, the patient was stabilized. Discharge plans were made. The patient was discharged in good condition on 12/07/09."

Progress Notes entered on 11/12/09 indicate, "....[recipient] seeking treatment for SA. Discontent with being placed on ITU instead of GAU…. Oriented to unit; explained process of eval for GAU" Two days later the Notes show that the recipient is still concerned about his placement: "….Frequent complaint of not being allowed to go to GAU; despite being informed that he need to be evaluated by … on Monday…." Psychiatry Notes entered on 11/15/09 then indicate that the recipient was evaluated for transfer to the second floor and a transfer form included in the record confirmed his move to the substance abuse program on 11/16, stating, "Recommend: Transfer to 2E. Strong confrontational style with no room for 'games'."

Progress Notes entered on 11/17/09 mention the recipient's concern with staff perceptions regarding his behavior: "'What do they mean when they say I'm provocative?' Pt. was clearly preoccupied with this and was then encouraged to address these residual issues with the staff in question since pt. appears distressed by it. When writer encouraged pt. to be proactive he minimized the impact, but keeps going back to it. Pt. said 'he's not going to do anything about it.'"

The Progress Notes indicate that the recipient was compliant with treatment and his informed consent is included in the record. He was successful enough to receive several passes; the record contains physician orders for passes on 11/26/09, 11/30/09, 12/03/09, and 12/02/09. The record contains no indication of a restraint episode and no forced psychotropic medication. The recipient was discharged on 12/07/09.

Staff were interviewed regarding the complaint. They stated that the recipient has a history of serious substance abuse along with serious medical problems and had relapsed two weeks after his last treatment episode at Lakeshore Hospital. The Program Director of the General Adult Unit which houses the substance abuse program, consulted with the Program Director of ITU and the recipient's physician, and together they planned a proactive strategy for the recipient, should he present for treatment. They constructed a customized treatment approach which would address the recipient's detoxification needs in ITU first, stabilize him medically, and then transfer him into the substance abuse program after he was adjusted to recovery. This treatment team "flagged" the recipient for this protocol so that if he presented to the hospital in crisis, staff would know the direction his treatment episode would take. Additionally, the recipient had experienced problems with inappropriate sexual comments in his previous hospitalizations and staff were prepared to confront him about this issue so that it would not stand in the way of his efforts to build a strong relapse prevention strategy.

For the admission addressed in this report the recipient presented to the hospital with a daily polysubstance abuse pattern for which he stated he had no control. He was assessed and his plan was developed and put in place, which he resisted due to his desire to be back on the same substance abuse floor where he had been treated previously (and felt more comfortable). Since he was placed in a more restrictive environment, he heard the use of terms such as "tagged" and "provocative" and thought that staff was prejudiced against him for issues from the past hospitalizations. In fact, the plan was to address these issues that had been obstacles in the past so that the true focus could become the relapse prevention. Staff were very pleased that the protocol worked and the recipient had a very successful treatment episode, even enabling him to leave for several passes into the community. Staff present at the site visit worked closely with

the recipient on a daily basis and they confirmed that he was never placed in restraints or given forced psychotropic medication.

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 and Developmental Disability Code states that any person 16 or older may be admitted to a mental health facility as a voluntary recipient for treatment of a mental illness "upon the filing of an application with the facility director of the facility if the facility director determines and documents in the recipient's medical record that the person (1) is clinically suitable for admission as a voluntary recipient and (2) has the capacity to consent to voluntary admission." (405 ILCS 5/3-400).

HOSPITAL POLICY

The Lakeshore Admission Policy (NS-01) mandates that each patient will be assessed and oriented to their specific unit upon admission. To achieve this, the Intake Personnel complete a Psychiatric Assessment and Initial Medical Screening, and the recipient is then accompanied to the unit. The Registered Nurse completes the Nursing Assessment and initiates the treatment plan.

Hospital policy NS-43-A Administration of Medication states that "Every patient has the right to refuse any medication, including PRN's. Documentation of refusal is made in the progress notes by using the refusal stamp. If a patient refuses medication it will not be given, unless deemed necessary to prevent the patient from causing harm to himself or others; in which case the attending physician is notified. If a patient refuses a 'NOW, STAT' or one time only medication, the Physician will be contacted immediately, regardless of time and documented in the progress notes. If medication is given to a patient to prevent causing serious harm to himself

or others, a restriction of rights is completed for each episode. Fully document the patient's behavior and events, which led to the decision to give the medication."

Hospital policy NS-65 outlines the policy and procedure for the use of restraints and seclusion. This extensive procedure comports with the Mental Health Code requirements and instructs staff in all aspects of restraint.

CONCLUSION

The recipient in this case voluntarily presented to the hospital with an acute polysubstance abuse problem. The staff who had worked closely with him in the past had developed a treatment approach which addressed his detoxification issues first on the Intensive Treatment Unit and then his relapse issues on the General Adult Unit. The recipient, who was accustomed to treatment on the General Adult Unit, perceived that staff had pre-judged him when he heard them refer to his being "tagged" when in fact they had developed a strategy for him to derive the greatest benefit from his treatment by detoxing him on the Intensive Treatment Unit first. The treatment plans from both units are included in the clinical record and show that the recipient took part in his treatment planning and completed a very successful substance abuse treatment program. There is no indication from the clinical record or staff report that the recipient was placed in restraints or administered forced psychotropic medication during this treatment episode.

The HRA does not substantiate that that the facility admitted, restrained and administered forced psychotropic medication to a recipient in violation of the Mental Health Code.