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HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 11-030-9007

**Northwestern Memorial Hospital**

Case Summary: The HRA did not substantiate the complaint that the hospital did not follow Code procedures when it placed a recipient in restraints and administered forced psychotropic medication absent an emergency. Additionally, the HRA did not substantiate that that the recipient's physician used profanities in individual counseling sessions.

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 Northwestern Memorial Hospital (Northwestern). It was alleged that the hospital did not follow Code procedures when it placed a recipient in restraints and administered forced psychotropic medication absent an emergency. Additionally, the complaint alleges that a recipient's physician used profanities in individual counseling sessions. If substantiated, these allegations would be violations of the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.).

Northwestern is an academic medical center that provides comprehensive care in nearly every discipline. The Norman and Ida Stone Institute of Psychiatry offers inpatient and outpatient services for adults and older adults with mental health and substance abuse issues and its inpatient facility has 55 beds.

To review these complaints, the HRA conducted a site visit and interviewed the Department of Psychiatry Manager, the Primary Nurse Coordinator, the Clinical Coordinator, and the Associate General Counsel. Hospital policies were reviewed, and the adult recipient's clinical records were reviewed with written consent.

COMPLAINT SUMMARY

The complaint alleges that the recipient was speaking with a staff member when another staff person interrupted. An argument ensued and when the recipient began to escalate, security was called and the recipient was held down by security, placed in restraints, and given forced

psychotropic medication. Additionally, the complaint alleges that the recipient's physician used profanity in their individual counseling sessions.

## FINDINGS

The record indicates that the recipient was admitted voluntarily to the Stone Institute on 9/20/10. The Psychological Testing Report states, in the Reason for Referral section "... [Recipient] was hospitalized after he presented to the ED requesting ECT (electroconvulsive therapy) for treatment of persisting psychotic symptoms, including a variety of AH's [audio hallucinations], many of which he notes have a 'sever of my body' theme, involving his genitals, tongue and bowels. In addition, denigrating AH are present, with voices telling him he is 'shit'. Alcohol abuse is also part of the clinical picture, as is spotty treatment compliance with medications. "I want ECT. I am not coping well with a lot of things.' He has been followed by Dr...on an outpatient basis. His most recent hospitalization was in September 2010 here at Stone with a similar symptom presentation. At that time he rejected ECT and it was thought that he was having problems accepting his psychiatric disability, which has been diagnosed as chronic schizoaffective disorder. As to recent stressors, [recipient] cited medical problems ('clots on my lungs') and living with his mother: 'She is great but I want my own place to live.' He said he completed 'bartending school' over the summer of 2010 and he is looking for a job: 'I should get one because I drink a lot.' "

The record contains a physician order for seclusion and psychiatric medication (the record shows no indication of the recipient being placed in restraints). On 9/28/10 Narrative Notes state, "Pt standing by nurses station when this writer asked him if he needed help pt ignored this writer. This writer closed the door to the nurses station and left out. Pt again standing at the nurses station on the other side when this writer approached. Pt was asked to step away pt refused saying 'Fuck you bitch I don't have to do what you say.' Pt was asked to take a time out pt refused stating 'i'm not taking anything you take a time out.' Pt refused PO [oral] or IM [intramuscular] medication. Security was called pt standing with fist clenched and menacing stating 'call security I'm going to hand them some.' Continued to escalate and was given Ativan 2mg IM and Zyprexa 10mg IM. Pt attempted [sic] hit staff and security guards in the process, no one was injured. Pt placed in locked seclusion...." The record (seclusion flow sheet) reflects that the recipient was in seclusion for 45 minutes and monitored continuously throughout this time.

The record contains a Restriction of Rights notice. It indicates that the recipient was placed in seclusion and administered emergency forced medication for the following reason: "Pt extremely agitated refusing time out refusing po/im medication threatening bodily harm with fist clenched. Hit 2 security guards during take down process." The document states that the interventions preferred by the individual were not used due to "pt. extremely agitated unable to follow staff direction and physically/verbally aggressive." The notice indicates that the recipient did not wish for anyone to be notified. Also, the record contains the recipient's preference for emergency intervention which was listed as music.

The record indicates that the recipient had many psychiatric hospitalizations beginning in 2003 and was followed by his outpatient psychiatrist when treated at Northwestern. The record

contains a written statement of decisional capacity for the recipient along with his informed consent for his medication (warfarin 10 mg po daily and Novane 10 mg po daily) and treatment. The record shows that the recipient was non-compliant with his medication and he received several ECT treatments while at Northwestern for treatment of his hallucinations.

Staff on duty at the time of the incident reported that the recipient had been very angry for a period of time and when he escalated on this date staff felt very threatened. Hospital representatives reported that it is the nursing staff who is in charge of these events and not security and security guards are called only for backup. Also, staff reported that nurses are trained in take down protocol and they would not kneel on patients in order to subdue them and did not kneel on this recipient. Staff were asked about the complaint that the recipient's physician used profanities during counseling sessions and they stated that there has never been a complaint or an awareness of any use of profanities by the physician, who has been the recipient's physician for many years.

### STATUTORY RIGHTS

The Mental Health Code guarantees the recipient the right to refuse generally accepted mental health services and if so, these services must not be given unless they are necessary to prevent the recipient from causing serious and imminent physical harm to themselves or others and no less restrictive alternative is available (405 ILCS 5/2-107) . Additionally, the Code states that whenever any rights of the recipient of services are restricted, notice must be given to the recipient, a designee, the facility director or a designated agency, and it must be recorded in the recipient's record (405 ILCS 5/2-201).

The Mental Health Code states that seclusion may be used only as a therapeutic measure "to prevent a recipient from causing physical harm to himself or physical abuse to others." Seclusion may be used only upon the order of a physician, clinical social worker, or registered nurse with supervisory responsibilities, after personally observing and examining the recipient. Seclusion cannot continue for longer than 2 hours unless within that time a physician or nurse with supervisory responsibilities confirms in writing that the seclusion does not pose an undue risk to the recipient's health in light of their physical or medical condition. Additionally, the order must state the events leading up to the seclusion and the purposes for which it was used. The order must also state the length of time the seclusion is to be employed and the clinical justification for that length of time (405 ILCS 5/2-109).

The Mental Health Code states that a recipient of services shall be provided with adequate and humane care in the least restrictive environment (5/2-102 a). The Code defines adequate and humane care and services as:

*...services reasonably calculated to result in a significant improvement of the condition of a recipient of services confined in an inpatient mental health facility so that he or she may be released or services reasonably calculated to prevent further decline in the clinical condition of a recipient of services so that he or she does not present an imminent danger to self or others.*  
(5/1-101.2).

## HOSPITAL POLICY

Northwestern policy (#4.0) allows patients the right to refuse services, including medication. The policy states, "The psychiatrist shall inform you, your guardian, or substitute decision maker, if any, who refuses such services or alternate services available and the risks of such alternate services, as well as the possible consequences to the recipient of refusal of such services." It also states that whenever a patient's rights are restricted, "it is recorded in the patient's Progress Notes and a completed copy of ....the Notice Regarding Restricted Rights of Individual is forwarded to the patient...."

Northwestern has developed extensive policy and procedure regarding the use of restraint and seclusion (#5.43 Therapeutic Protective Measures: Restraint or Seclusion of a Patient) which comport with the Mental Health Code requirements. The policy directs the use of restraints/seclusion for violent or self-destructive behavior, or for acute medical and post-surgical care and the goal is to limit the use of these interventions. Policy states, "The culture promoted by clinical leadership is one of calmness, structure, negotiation, and collaboration rather than control in order to decrease reliance on these interventions." It states, "Restraints/seclusion shall only be used in a therapeutic manner to prevent harm or injury to the patient and/or others" and "used in conjunction with or after exploring alternatives." With regard to chemical restraint, the policy states, "Chemical restraint refers to the administration of pharmacological agents for the sole purpose of physically incapacitating an individual. NMH does not support the use of psychotropic medications in this manner. Psychotropic medications are used in the 'treatment' of delirium resulting from a serious underlying medical condition."

## CONCLUSION

The record indicates that the recipient was not restrained, but placed in seclusion and given emergency medication on 9/28/10. The record contains the Code mandated documentation and clinical justification for the seclusion and medication, indicating a threat of imminent physical harm which was addressed through progressively restrictive interventions (the offer of a time out in his room and then oral medication). The HRA does not substantiate the complaint that the hospital did not follow Code procedures when it placed a recipient in restraints and administered forced psychotropic medication absent an emergency.

The record shows that the recipient continued a longstanding professional relationship with his physician and the recipient did not report any problem with his physician's language. The HRA does not have adequate evidence to substantiate that the physician used profanities in individual counseling sessions.