



FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 11-030-9008

JOHN J. MADDEN MENTAL HEALTH CENTER

Case Summary: The HRA substantiates that that a recipient was admitted into treatment in violation of Code procedures, however it does not substantiate that the recipient was administered forced psychotropic medication or prevented from signing a discharge request in violation of the Code.

INTRODUCTION

The Human Rights Authority of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving a complaint of possible rights violations at John J. Madden Mental Health Center (Madden). It was alleged that a recipient was admitted, administered forced psychotropic medication, and prevented from signing a discharge request, all in violation of the Code. If substantiated, this would be a violation of the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.).

Madden Mental Health Center is a 269-bed, Illinois Department of Human Services (DHS) facility located in Hines, Illinois.

To review these complaints, the HRA conducted a site visit and interviewed the Interim Medical Director, the Chief of Psychology, the attending psychiatrist, the Acting Director of Nursing, and a Registered Nurse. Hospital policies were reviewed, and the recipient's clinical records were reviewed with consent.

COMPLAINT SUMMARY

The complaint alleges that upon admission into the Intake Unit at Madden, the recipient was told that if he took his medication and met with a psychiatrist, he would be released. The following day, the complaint states, the recipient was told that he could not leave and at this time he completed a voluntary application for admission, which he felt he should have been offered immediately upon arrival. Also, the recipient did not receive a copy of the petition and certificate and was not offered a Request for Discharge when he stated that he wanted to be released. Also, the complaint states that the recipient was given forced psychotropic medication

and told that he did not have a choice although he allegedly told staff that he preferred seclusion and restraint to medication.

FINDINGS

The record shows that on 10/27/10 at 9:30 p.m. the recipient was transferred to Madden from an emergency department where he was petitioned and certified for involuntary admission after being reported to the police for violent and aggressive behavior. At Madden the recipient was assessed by a psychiatrist, a physician, a nurse and a social worker on the Intake Unit before being admitted to a unit at 11:00 p.m. On 10/28/10 at 3:30 p.m. the recipient completed an Application for Voluntary Admission and one hour later at 4:30 p.m. he completed a Request for Discharge. The record does not contain the petition for involuntary admission and the first certificate which were said to have been completed at the referring hospital.

The recipient's Discharge/Transfer Summary describes his hospital course: "The patient was initially admitted as an involuntary patient. Safety precautions were continued until deemed unnecessary. Group therapy, milieu therapy, and individual therapy were started. The patient eventually agreed to sign in as a voluntary patient and agreed to start taking medications. Depakote was started and optimized. The patient, however, signed a discharge request and continued to request his discharge because he felt that he needed to return to his work as soon as possible. He needed to make arrangements for payment of his bills. He was unable to understand that he was not completely stable...." The recipient was discharged on 11/04/10.

The record shows that the recipient received forced psychotropic medication on three occasions:

1. 10/28/10 at 12:15 p.m. The Restriction of Rights form states, "Pt. wanting to be discharged, became angry and threatening to break the glass window and door. Pt. continues to escalate, emergency medication given [Zyprexa 10 mg intramuscularly]." The form indicates that the recipient did not give a preference for emergency intervention and did not want anyone notified. Progress Notes state: "Pt. threatening to break the doors and glass in the nurses' station. Patient also threatening social worker and psych MD. Patient ranting and raging, pacing the milieu. Patient upsetting other peers on the milieu. Patient cursing and speaking loudly."

2. 10/29/10 at 1:50 p.m. The Restriction of Rights form states, "Pt. increasingly agitated, verbally abusive towards staff using profanity and threatening staff. Banging door, unable to redirect. Pt. poses danger to others. Pt. given emergency medication [Olanzapine 10 mg and Lorazepam 2 mg]." The form indicates that the recipient did not give a preference for emergency intervention and did not want anyone notified. Progress Notes for this event state, "Signed 5 day, approached undersigned, showed request for discharge letter, verbalized feeling angry especially if not discharged today. He became verbally abusive, and used profanity. Stated one way or another he would be discharged today. Behavior agitated with focus on Dr...for responsible of not going to court or home today, became demanding, threatening and on the edge of losing control."

3. 10/31/10 at 10:25 a.m. The Restriction of Rights form states, "Pt. extremely loud, agitated, belligerent, demanding discharge, verbally abusive, threatening staff, disruptive in the milieu, provoking peers to fight him, not responding to verbal redirection and firm limit setting. Given emergency meds..." The form indicates that the recipient did not give a preference for emergency intervention and did not want anyone notified. Progress Notes state, "Verbal redirection, counseling given. Firm limit setting, offered po [oral] mediation. Provided safe and secure environment. Encouraged to verbalize feelings and concerns rather than acting it out. Given Olanzapine 10 mg IM [intramuscularly] and Restriction of Rights with security assistance for the protection of self and others. Monitored each 15 minutes for frequent observation...pt. continues to escalate extremely loud, agitated, belligerent, demanding discharge. Verbally abusive, threatening staff, disruptive in the milieu, provoking peers to fight him and pt. is an imminent danger to others and will continue to monitor pt."

The record contains the physician's written statement of decisional capacity and the recipient's signed informed consent for medication. The recipient's Intake assessment and treatment plan indicate that he gave no preference for emergency treatment.

Representatives of Madden were interviewed regarding the complaint. They stated that they were contacted by a hospital emergency room that the recipient had been taken there by police due to aggressive behavior towards his father. The hospital had completed a petition and certificate as is usually the case and the recipient was medically cleared for transfer to Madden. Once in Intake the recipient was assessed by a psychiatrist, physician, nurse and a social worker. Staff were interviewed about the complaint allegation that the recipient was told that he could leave after taking his medication and seeing a physician. They did not feel that a staff member would have made this statement, especially since the recipient had been a mental health technician at one time and he would know that he had been involuntarily admitted. The staff felt that the recipient's judgment was impaired because of his illness at that time, and because he had received an injection at the referring hospital. Additionally, staff were asked about the recipient's discharge date and they stated that the recipient was discharged within 5 days of his request, not counting the weekend and the holiday on 11/ 2/ 2010. Staff stated that a voluntary application is offered to recipients once they are on the unit and the recipient completed one the day that he was admitted there.

The HRA requested the recipient's petition for involuntary admission and the first certificate which provide the justification for the recipient's detention and the certification that he was apprised of his rights. Staff stated that these documents would be provided, however the HRA then received a letter stating that the facility was unable to locate them.

STATUTORY RIGHTS

The Mental Health Code states that when a person is asserted to be in need of immediate hospitalization, any person 18 years of age or older may complete a petition (405 ILCS 5/3-600), which specifically lists the reasons (5/3-601). The petition is to be accompanied by the certificate of a qualified examiner stating that the recipient is in need of immediate hospitalization. It must also contain the examiner's clinical observations and other factual information that was relied upon in reaching a diagnosis, along with a statement that the recipient was advised of certain

rights (3-602), including that before the examination for certification the recipient must be informed of the purpose of the examination, that he does not have to speak with the examiner, and that any statements he makes may be disclosed at a court hearing to determine whether he is subject to involuntary admission (5/3-208). Upon completion of one certificate, the facility may begin treatment, however at this time the recipient must be informed of his right to refuse medication (3-608). As soon as possible, but no later than 24 hours after admission, the recipient must be examined by a psychiatrist or released if a certificate is not executed (5/3-610). Additionally, within 12 hours of admission the recipient must be given a copy of the petition and a statement of his right to contact Guardianship and Advocacy (5/3-609 and 5/3-206).

The Mental Health Code states that "Every mental health facility shall maintain adequate records which shall include the Section of this Chapter under which the recipient was admitted, any subsequent change in the recipient's status, and requisite documentation for such admission and status (405 ILCS 5/3-202 a)."

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). Additionally, the Code states, "The written application form shall contain in large, bold-faced type a statement in simple nontechnical terms that the voluntary recipient may be discharged from the facility at the earliest appropriate time, not to exceed 5 days, excluding Saturdays, Sundays and holidays, after giving a written notice of his desire to be discharged, unless within that time, a petition and 2 certificates are filed with the court asserting that the recipient is subject to involuntary admission. Upon admission the right to be discharged shall be communicated orally to the recipient and a copy of the application form shall be given to the recipient and to any parent, guardian, relative, attorney, or friend who accompanied the recipient to the facility." (405 ILCS 5/3-401).

The Mental Health Code guarantees all recipients adequate and humane care in the least restrictive environment. As a means to this end, it outlines how recipients are to be informed of their proposed treatments and provides for their participation in this process to the extent possible, mandating an individual services plan with a periodic review of the plan and input by the recipient. Also, the recipient's preferences for emergency interventions are to be noted in the plan. If 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, and must determine and state in writing whether the recipient has the capacity to make reasoned decisions regarding the treatment. If the recipient lacks decisional capacity the treatment may only be administered in case of an emergency or pursuant to a court order (405 ILCS 5/2-102).

Should the recipient wish to exercise the right to refuse psychotropic medication, the Mental Health Code guarantees this right unless it is necessary to prevent serious and imminent physical harm to himself or others and no less restrictive alternative is available. If the recipient

refuses this medication he must be informed of available alternate services and their risks as well as possible consequences of refusing such services (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, the facility director, and any person or agency the recipient designates, and it must be recorded in the recipient's record (ILCS 405 5/2-201).

FACILITY POLICY

Madden policy (Section 100 Patient Rights- Admission Statuses) states that all patients shall be admitted and discharged according to the Mental Health and Developmental Disabilities Act. The Madden policies are compliant with the patients' rights and facility responsibilities specific to each admission status whether voluntary, emergency, or other. The policy states, "Understanding and communicating these rights and responsibilities and all procedures relating to the admission and discharge process shall be basic to the process of accepting persons into the facility and shall be the responsibility of the staff of the Intake Services Department for new admissions." Additionally it states that patients and their guardians shall be informed orally and in writing of the rights guaranteed by the Code.

Madden policy (Section 200 Patient Rights) confirms the Mental Health Code right of patients to have informed consent for all medications along with the right to refuse such medications. Madden Mental Health Center policy (#230 Refusal of Services/Psychotropic Medication) states that adult patients are to be given the opportunity to refuse generally accepted mental health services, including but not limited to medication. If such services are refused, the policy states that they are not to be given unless such services are necessary to prevent the patient from causing serious and imminent physical harm to self or others. A physician's order for the medication must accompany an order for emergency medication. Also, the nurse shall document the circumstances leading up to the need for emergency treatment in the patient's record along with the rationale. Policy also dictates the completion of the Notice of Restricted Rights of Individuals document.

CONCLUSION

Under the Code, a facility must include requisite admission documentation in recipient records, which, in this case, Madden's record fails to do. That means there is no evidence of the facility's authority to hold the recipient involuntarily or that he was apprised of his rights under that status until he agreed to sign a voluntary admission application some seventeen hours later. A violation of Madden policy and the Code's guaranteed admission process is substantiated. The record does include the application he signed along with his subsequent request to be discharged, and, according to the documentation, he was discharged within the Code's mandated process. A rights violation is not substantiated.

The record shows that Madden complied with all aspects of the administration of forced psychotropic medication and thus the HRA does not substantiate the complaint that the recipient was administered forced psychotropic medication in violation of the Mental Health Code.

RECOMMENDATIONS

1. Ensure that the requisite documentation for any type of admission or change in the recipient's status is included in the clinical record.

SUGGESTIONS

2. Ensure that attempts are made to secure emergency treatment preferences if they are not identified at admission.