



FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT #11-030-9015

RIVEREDGE HOSPITAL

Case Summary: The HRA substantiated the complaint that the facility did not follow Confidentiality Act procedures when it allowed police officers to question a recipient, however it does not substantiate the complaint that the recipient was told that she had to utilize the hospital's patient advocate.

INTRODUCTION

The Human Rights Authority of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving a complaint of possible rights violations at Riveredge Hospital. It was alleged that the facility did not follow Code procedure when it allowed police officers to question a recipient and when the recipient requested outside advocacy the agency told her that she had to utilize the hospital's patient advocate. If substantiated, this would violate the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-100 et. seq.) and the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110 et seq.).

Riveredge is a private psychiatric hospital located in Chicago. The hospital has 210 beds, 36 of which are located in the Adolescent Girls' Unit.

To review this complaint, the HRA conducted a site visit and interviewed the Risk Manager, the Director of Social Services, and the attending physician. Relevant program policies were reviewed as were sections of an adolescent recipient's record upon written consent from her guardian of the person.

COMPLAINT SUMMARY

The complaint states that Riveredge allowed 2 police officers access to the recipient to question her about the theft of her boyfriend's car. The complaint alleges that the recipient's physician told the recipient that she could be sent to a juvenile justice facility if she didn't speak

with the officers, and that the recipient's case worker told the recipient's mother that it would be OK for the youth to be interviewed by the police. The complaint alleges that the recipient was then brought into a meeting room where she felt scared and intimidated and she asked that one of her parents be present. A police officer offered to reach a parent on the phone via conference call however the recipient allegedly asked for a parent to be physically present. Allegedly the police stated, "Just tell us where the car is and you won't be in any trouble." When the recipient then allegedly told them that she didn't know what they were talking about and that she was very uncomfortable, the officers left. The police had no warrant.

The complaint also alleges that the recipient requested to call an outside agency regarding her rights but was told that she had to deal with the hospital's patient advocate.

FINDINGS

The hospital record (Psychiatric Evaluation) indicates that the recipient (age 16) was admitted on 2/27/11. The notes indicate that the recipient had been aggressive with peers at school, and then became aggressive with her mother: "The patient has been aggressive with her mother as recent as two weeks ago and the police were contacted. Mother stated that the patient was admitted to [a group home] two weeks ago. In the last week, the patient threatened to pound a staff member at the facility. Mother reports the patient was picked up from school on 2/25/11 by her ex-boyfriend and went to her mother's home. Mother reports the patient has been ordered by DCFS to not be at mother's home and mother has an order of protection on patient's ex-boyfriend. Mother reports the police were called and the patient's ex-boyfriend was arrested. Mother stated the patient took off with her ex-boyfriend's car and was missing for 24 hours and has not had any medications. Mother reports she has spoke (sic) with Dr... today, who recommended for patient to have been screened at the facility...."

Progress Notes on 3/7/11 state: "When order is written for discharge please notify Investigator... at ...Police Department." The officer's business card is copied into the Progress Notes, however there is no other mention in the record of the officer's visit to the facility.

Staff were interviewed regarding the police access to a patient. They stated that police are frequently at the facility and when they arrive the staff first decide whether it is clinically appropriate for the recipient to be interviewed. They make a clinical decision based on the recipient's needs and in fact sometimes it is beneficial for a recipient to be issued divorce papers, complete victims' statements, or receive other legal notification while they have the support of the clinical staff. Only after they have decided that it is clinically appropriate and indicated do staff then ask the recipient if they are willing to speak with police. If the recipient indicates that they do not wish to speak with police then the matter is dropped. Staff stated that this case was very complex due to custody issues which were being addressed between the parents while the recipient was in treatment. However, it was clear that the recipient's mother had given the police the knowledge that the recipient may have information regarding the loss of her boyfriend's car, and she had allowed the police to interview her daughter. Staff were asked if they had told the recipient that she could be sent to a juvenile facility if she did not cooperate with the police and they did not remember making this statement and they did not recall telling the mother that it

would be OK for the recipient to be interviewed by the police. Staff also stated that if the recipient objected to speaking with a police officer then the facility would not have given them access.

Staff were asked about the recipient's access to advocacy outside of the agency patient advocate. They stated that staff are all trained to respond to a recipient's request for advocacy by providing the contact information that is part of all admissions and posted on each unit. They stated that the recipient had legal representation through the Legal Advocacy Service because the recipient was assigned an attorney to represent her on a petition for review of a minor's admission initiated by her father. Also, the HRA noticed the posted Guardianship and Advocacy Commission sign and staff report it is present on the unit at all times. Additionally, the recipient never had a restriction on her phone calls.

STATUTORY BASIS

The Mental Health and Developmental Disabilities Confidentiality Act states, "Upon the request of a peace officer or prosecuting authority who is conducting a bona fide investigation of a criminal offense, or attempting to apprehend a fugitive from justice, a facility director may disclose whether a person is present at a facility. Upon request of a peace officer or prosecuting authority who has a valid forcible felony warrant issued, a facility director shall disclose: (1) whether the person who is the subject of the warrant is present at the facility and (2) the date of that person's discharge or future discharge from the facility. The requesting peace officer or prosecuting authority must furnish a case number and the purpose of the investigation or an outstanding arrest warrant at the time of the request. Any person, institution, or agency participating in good faith in disclosing such information in accordance with this subsection (d) is immune from any liability, civil, criminal or otherwise, that might result by reason of the action (740 ILCS 110/12 d).

The Mental Health and Developmental Disabilities Code states that "Every facility shall also post conspicuously in public areas a summary of the rights which are relevant to the services delivered by that facility" (405 ILCS 5/2-200). Also, it states, "Whenever a person is admitted, is denied admission, or objects to admission to a facility and whenever a client is notified that he is to be transferred or discharged or that his legal status is to be changed, the facility director of the facility shall provide the persons specified in Section 4-206 with the address and phone number of the Guardianship and Advocacy Commission. If any person so notified requests, the facility director shall assist him in contacting the Commission." The Mental Health Code also states that recipients "...shall be permitted unimpeded, private, and uncensored communication with persons of his choice by mail, telephone, and visitation." (5/2-103).

HOSPITAL POLICY

Riveredge Hospital policy #702.18 Confidentiality of Phone Calls/Visitors states that the facility abides by the Confidentiality Act guidelines. It states, "In order to accomplish this, personnel are not allowed to acknowledge that an individual is, or has been, a patient at the hospital. Only the patient can determine to whom he/she chooses to reveal any information regarding his/her condition/illness and/or hospital stay. A patient has the right to refuse contact

with visitors or persons connected with the hospital that are not directly involved with his/her hospital care. A patient also has the right to have any discussion or consultation involving his/her care to be conducted in privacy. Individuals not directly involved in the patient's care will not be present without the patient's permission." The hospital does not have policy directly addressing the visitation of patients by police officers.

Riveredge Hospital policy #702.08 Patient Legal Rights and Responsibilities states that: "All patients admitted to Riveredge Hospital are guaranteed certain legal rights as specified in the State of Illinois Mental Health Code. Patients also have responsibilities to assist in the provision of healthcare. These rights and responsibilities will be given verbally and in writing at the time of admission. These rights and responsibilities will be posted and clearly visible on each unit. Patient rights can be restricted only if therapeutically indicated pursuant to an individual services plan, for the protection of the patient accompanying clinical justifications. Adolescents who become 18 years old while hospitalized will be informed of adult status." The policy states that the Rights and Responsibilities information will be reviewed with a family member as well as the patient at the time of admission, and if a family member is not available, the Program Therapist will contact the Illinois Guardianship and Advocacy Commission and request that they oversee the process to confirm that the rights and responsibilities were appropriately reviewed with the patient.

CONCLUSION

The Mental Health and Developmental Disabilities Confidentiality Act provides that a facility can disclose only two pieces of information to police and this is only when they have a warrant: whether the person who is the subject of the warrant is present at the facility and the date of that person's discharge. Again that is with a warrant. The facility feels that because recipients are given the option to speak with police or refuse if they choose, that police investigation can be clinically appropriate or even clinically indicated during the course of treatment. The Confidentiality Act, however, respects the recipient's treatment episode as a private and confidential period of recovery. Given the disparity of authority between the recipient and police officers, recipients may misunderstand their ability to refuse a police request, or they may not have adequate advocacy or legal counsel, and the ramifications of their responses may cloud their objectivity, all good reasons to withhold investigation. Most importantly, the treatment episode is generally a response to an incident or period of crisis for the recipient, and they deserve a focus on their treatment issues without the introduction of added concerns. If staff feel that the recipient will require clinical support for their impending legal issues, this should be added to the recipient's discharge plan as a goal for outpatient counseling.

The record does not support the allegation that the recipient was not able to seek outside advocacy. The contact information for advocacy is posted on the unit, the recipient had no restriction on her phone usage, and she was represented by a legal advocacy attorney at the time.

The HRA substantiates the complaint that the facility did not follow Confidentiality Act procedures when it allowed police officers to question a recipient, however it does not

substantiate the complaint that the recipient was told that she had to utilize the hospital's patient advocate.

RECOMMENDATIONS

1. Review with staff the hospital policy for police visits and ensure that it complies with the Mental Health and Developmental Disabilities Confidentiality Act.

RESPONSE

Notice: The following page(s) contain the provider response. Due to technical requirements, some provider responses appear verbatim in retyped format.



Riveredge Hospital

January 4, 2012

Jill Quinto, HRA Chairperson
Guardianship and Advocacy Commission
1200 S. 1st Ave. Box 7009
Hines, IL 60141

Re: #11-030-9015

Dear Ms. Quinto:

This letter is in response to the report received regarding the above referenced complaint.

As stated in the Report Conclusion, our current practice is to review each request on a case-by-case basis. After consultation with the treatment team, if the patient is deemed clinically appropriate, the patient is notified that there is a request by law enforcement. The patient is given the option to meet with law enforcement personnel or to decline. One step that will be newly implemented in our process is to have the patient sign a Release of Information form if they agree to meet with law enforcement personnel. Our staff will be trained on the procedure and information to be released if the law enforcement personnel present with a valid forcible felony warrant. All of this information will be communicated to our staff via memo and Communication Logs located on each unit.

Riveredge Hospital takes very seriously any potential violation of rights concern. We have thoroughly reviewed the report and recommendation submitted. We agree that it is imperative that patient's rights be protected by following the Mental Health and Developmental Disabilities Code and the Mental Health and Developmental Disabilities Confidentiality Act. The Confidentiality Act allows for a recipient to consent for release of information. Therefore, after consultation with our Medical Staff, we will continue with our current practice related to law enforcement interactions recognizing the importance of reviewing each patient's clinical presentation prior to allowing any law enforcement interaction.

Thank you for the opportunity to respond to the concerns raised. Please feel free to contact me at (708)209-4185 if you have any questions.

Sincerely,
Sheila M. Orr, RN, BSN, JD
Chief Regulatory Officer
Riveredge Hospital

CHICAGO REGIONAL HUMAN RIGHTS AUTHORITY

HRA CASE NO. 11-030-9015

Riveredge Hospital

Pursuant to Section 23 of the Guardianship and Advocacy Act (20 ILCS 3955/1 *et seq.*), we have received the Human Rights Authority report of findings.

IMPORTANT NOTE

Human Rights Authority reports may be made a part of the public record. Reports voted public, along with any response you have provided and indicated you wish to be included in a public document, will be posted on the Illinois Guardianship and Advocacy Commission Web Site. (Due to technical requirements, your response may be in a verbatim retyped format.) Reports are also provided to complainants and may be forwarded to regulatory agencies for their review.

We ask that the following action be taken:

We request that our response to any recommendation/s, plus any comments and/or objections be included as part of the public record.

We do not wish to include our response in the public record.

No response is included.

Shel M. On
NAME

Chief Compliance Officer
TITLE

1/4/12
DATE