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HUMAN RIGHTS AUTHORITY - NORTHWEST REGION

REPORT 11-080-9004
KATHERINE SHAW BETHEA HOSPITAL

Case Summary: the Authority did not find violations in the complaints submitted. Findings are recorded below, and the facility is not required to respond.

INTRODUCTION

The Human Rights Authority opened an investigation after receiving complaints of possible rights violations in the care provided to a mental health patient within the Emergency and Behavioral Health Departments at Katherine Shaw Bethea (KSB) Hospital. It was alleged that the patient was detained without cause, thrown onto a gurney causing him severe pain, was not provided with adequate care for the pain, was not allowed to make a phone call until just before discharge and was not allowed to file a grievance.

Substantiated findings would violate protections under the Mental Health and Developmental Disabilities Code (405 ILCS 5) and Medicare/Medicaid Conditions of Participation for Hospitals (42 C.F.R. 482).

KSB is an eighty-bed acute care facility located in Dixon; the behavioral health unit there has thirteen of those beds and is staffed with one psychiatrist. We discussed the issues with administration and representatives from both departments in question including those directly involved in this patient's care. Relevant hospital policies were reviewed as were sections of the medical record with appropriate authorization.

COMPLAINT SUMMARY

A man was taken to KSB for potential admission following an evaluation at another facility. On arrival staff allegedly asked him to check himself in and said he would be there a while as a doctor was not available until the next day. He wanted to leave when reportedly two officers arrived, twisted his arms behind his back and threw him on a gurney, which hurt severely. He was taken to the psychiatry unit within about ten minutes where the complaint states he was denied care for his back pain, a nurse having said that because he refused to sign himself in they were unable treat him. It was also reported that he was denied use of the phone to call an attorney or anyone else until just before his discharge some fifteen hours later. It was

further alleged that a hospital advocate would not let him file a grievance about his experience, explaining his concerns away instead.

FINDINGS

Interviews:

An Emergency Department nurse remembered the patient and said she was with him in the triage area; a completed petition and a certificate accompanied him. She described him as being calm and cooperative except that he refused to provide information about his medical or mental health histories. He was alert, oriented and seemed to have capacity. He was not combative at all, saying over and over that he would not leave but he also would not comply with anything, in which case no medical clearance was done. A physician discussed the situation with a psychiatrist and it was decided the patient should be admitted for further evaluation. She and a couple other staff tried escorting him to the behavioral health unit when he went limp. She said that at no time did he fall to the ground or become injured in the process.

A behavioral health nurse reiterated the same and added that she was called to meet the patient when he arrived. She explained to him why he was there and that he had to stay. She did not offer a voluntary admission application. She got a wheelchair after he went limp but he refused to get in it and the police were called for assistance, which is done when needed since the hospital has no security staff. Once the police arrived they lifted the patient under the arms but he tried throwing himself to the ground. The police were able to prevent that and they ended up putting handcuffs on him, hands behind his back. At that point they picked him up under the arms and placed him prone on the cart. Neither of the nurses we spoke to recall the patient yelling out in pain, complaining of pain or saying that he was hurt while in the Emergency Department.

The behavioral health nurse told us they were on the unit within minutes where the cuffs were removed and the patient was transferred to a bed. He explained his "story" to her and he was offered use of the phone, a phone book and Tylenol for back pain, all of which he refused. She said she discussed the admission process with him again and asked if he wanted to call his attorney. He mentioned wanting to earlier but on the unit said he did not have one. She had already covered his rights with him, including the right to contact the Guardianship and Advocacy Commission, and had given him a copy of his rights information. She did not tell him he had to check himself in to be treated.

According to a nurse on the next shift, she went over information about the patient's admission status and made the phone available as well. He complained of back pain so she offered to have a physician see him, which was also refused. The physician provided a phone order for pain treatment and the patient agreed to see him later, which he did. She too said she never told him he had to sign in to be treated.

We also interviewed the unit's psychiatrist who said he visited the patient after noon. He described the admission processes to him including the potential for completing a second certificate and the rights that go along with that. The patient was focused on how he was handled at another facility where he was initially evaluated, saying they were very rude to him. The patient talked about family history and the recent split with his girlfriend. They were able to come up with a safety plan, and the psychiatrist talked to a friend of the patient's to ensure support. He offered continued hospitalization voluntarily but the patient preferred to leave. There was not enough evidence to pursue a second certificate, so outpatient appointments were made and the patient was discharged.

Regarding the complaint about not being allowed to file a grievance, a customer relations staffer said the patient contacted her five or six days later with numerous issues including not wanting to be billed for his time at KSB. He repeatedly complained that he should not have been kept or admitted without seeing a psychiatrist; the police were rough with him and hurt his back, and he wanted to call an attorney before he went to the unit. She responded in writing within five days and presented a copy of her letter to us. In summary, it stated that his experiences in the hospital were reviewed and determined appropriate. She also met with him a week after that and helped him get a copy of his medical record.

Record review:

The Emergency Department record showed that the patient arrived just before 1 a.m. along with a completed petition and first certificate asserting his need of admission. The petition included signed verification that the behavioral health nurse discussed the patient's due process rights with him not long afterwards. He refused to have his vitals taken or answer any questions, and the emergency nurse wrote that he was at the triage desk refusing to be examined or admitted. He was quoted as saying he was tricked into going to the hospital after being told he could talk to a psychiatrist immediately and then go home. He said he did not want to be hospitalized and did not want to pay for it. At least twice the nurses explained the involuntary process and that he would have to be admitted. The attending physician was involved right away and could not get the patient to agree with a medical clearance or admission either. A psychiatrist was then paged and consulted, and he provided an admit order.

According to the attending physician's report, the patient was taken to KSB after making suicidal threats. He was evaluated elsewhere by a mental health provider who believed he was in danger, and after talking with KSB's psychiatrist, it was determined that he needed to go to the hospital. Once there he refused to cooperate and said his rights were violated and that he wanted to see an attorney. The physician discussed the case with the same psychiatrist who felt he should be admitted based on the petition and first certificate. The police were contacted; the patient still refused to be admitted, and he was "handcuffed and gently placed on a gurney" and taken to psychiatry.

Nursing accounted for what unfolded as well and documented that the police were called for assistance after the physicians agreed to proceed with admission. The notes referenced how the physician encouraged the patient to use a wheelchair and go cooperatively or be forced by the

police. He refused again; he tried throwing himself on the ground; three officers cuffed his hands behind his back; they gave him another opportunity to comply; he was laid prone on a cot and was taken to psychiatry at 1:24 a.m.

Progress notes from the admission detailed what took place from there. Once on the unit the patient was helped off the cot and onto a bed. The nurse who had been with him all along wrote that he talked about his situation again, repeating that his suicidal statements were taken out of context and that the girlfriend he broke up with just wanted to get him in trouble. He wanted a lawyer, and the nurse asked if he wanted to call someone. He then said he had no lawyer, never having been in trouble. The nurse offered him a phone book, and the patient said he would wait until tomorrow. He refused to sign any admission paperwork and complained of back pain. The nurse offered him medication but he refused to take any. Admission orders showed that Tylenol was to be permitted as needed.

The patient slept until about 7:30 that morning. The next shift nurse wrote at 8:00 a.m. that the he denied having suicidal thoughts and refused care or treatment but complained of terrific back pain. He had an opportunity to see a physician for the pain that morning but refused that too. He told the nurse that he had no money and if they would let him sign something stating they would not charge him he would do whatever they wanted. She described him as being sad and tearful, wincing in pain. At 9:10 a.m. she entered that he refused to be seen by a physician for the pain and a few minutes later he refused to allow lab draws. The next entry came at 11:20 a.m. when the patient appeared at the nurses' station and tearfully pleaded for help with his back pain. He agreed to see the physician who was called at that time for a Hydrocodone order which the patient agreed to take and had been taking at home. Medication records verified that the pain medication was given at 11:35 a.m. and again at 4:15 p.m.

At 12:30 p.m. he reported feeling more comfortable and was relaxing in his room, and by 2:00 p.m. it was noted that the psychiatrist had met with him and he was being discharged. Per the psychiatrist's report, the patient had been picked up for a safety check which was how he ended up at the hospital. He admitted to having some stressors at home but denied suicidal intentions or problems with sleeping and he was adamant about being discharged. He described the patient as alert, oriented and cooperative; his speech was regular, his mood was good and appropriate, and there were no indications of delusion or hallucination. Diagnoses included Major Depressive Disorder, Recurrent, Mild, and Chronic Lower Back Pain, which the patient said was due to numerous surgeries. The psychiatrist was able to talk with a friend of the patient's who assured him she could provide support and ultimately thought he was not harmful. Unable to find more evidence to complete a second certificate and continue with commitment, the psychiatrist approved the discharge. The patient remained at the facility until his friend picked him up just after 6:00 p.m.

CONCLUSION

KSB policies state that appropriate measures will be taken to maintain health and safety of patients and staff, including calling the police for additional assistance. The hospital has a staff psychiatrist who is on call twenty-four hours per day. A patient requiring psychiatric care will be evaluated in the Emergency Department by the ED physician. If admission is necessary,

the psychiatrist is contacted for acceptance. If the admission is involuntary, a petition must be completely filled out and signed by a witness to the behavior that prompted seeking help, and a certificate must be completed by a qualified examiner. Within twenty-four hours of admission, excluding weekends and holidays, the patient shall be examined by a psychiatrist who must complete a second certificate or release the patient. Patients newly admitted to Behavioral Healthcare Services shall be allowed to complete no less than two phone calls, and if a patient is unable to place a call psychiatric unit staff shall help if so requested. Patients otherwise have unrestricted access to the unit's telephone during posted hours unless it is necessary to prevent harm. Patients may have contact with their attorneys during normal business hours. Rights and responsibilities policies state that patients have the right to refuse treatment to the extent permitted by law. And, KSB's grievance policy states that all patients shall be informed in writing about how to register a complaint. A list of patients' rights is included in the patient handbook. The Customer Relations Department or the Performance Improvement Council will conduct a complaint investigation and respond, in writing, to the patient's concerns. Responses are to include contact persons, steps taken to investigate, the results and date of completion.

Under the Mental Health Code, a recipient of services shall be provided with adequate and humane care and be free from abuse (405 ILCS 5/2-102 and 5/2-112). Abuse is defined as physical or mental injury inflicted on a recipient of services other than by accidental means (405 ILCS 5/1-101.1). Any person eighteen or older may present a petition to a mental health facility asserting that an individual is subject to involuntary admission (405 ILCS 5/3-601). The petition shall be accompanied by a certificate completed by a qualified examiner who states that the individual requires immediate hospitalization (405 ILCS 5/3-602). As soon as possible, but no later than twenty-four hours, excluding weekends and holidays, after admission under this Article he must be examined by a psychiatrist. If he is not examined or the second examination does not produce a certificate, he shall be released (405 ILCS 5/3-610). Within twelve hours after admission he is given a copy of the petition and a statement of his right to contact the Guardianship and Advocacy Commission; assistance contacting the Commission will be provided if requested, and he shall be allowed to complete no less than two phone calls at the time of his admission to anyone he chooses (405 ILCS 5/3-609 and 3-206). If he has an attorney or advocate from the Guardianship and Advocacy Commission or another attorney representing him, the facility shall not prevent visits during normal business hours (405 ILCS 5/2-103 and 2-114). If he consents to have someone notified of the admission, the facility will immediately attempt to reach at least two designated people immediately by phone or within twenty-four hours by mail (405 ILCS 5/2-113).

Medicare/Medicaid Conditions of Participation for Hospitals require a system for patients to present complaints or grievances:

> The hospital must establish a process for prompt resolution of patient grievances and must inform each patient whom to contact to file a grievance. The hospital’s governing body must approve and be responsible for the effective operation of the grievance process and must review and resolve grievances, unless it delegates the responsibility in writing to a grievance committee. The

> grievance process must include a mechanism for timely referral of patient concerns regarding quality of care…. At a minimum:
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> (i) The hospital must establish a clearly explained procedure for the submission of a patient's written or verbal grievance to the hospital.
> (ii) The grievance process must specify time frames for review of the grievance and the provision of a response.
> (iii) In its resolution of the grievance, the hospital must provide the patient with written notice of its decision that contains the name of the hospital contact person, the steps taken on behalf of the patient to investigate the grievance, the results of the grievance process, and the date of completion. (42 C.F.R. 482.13).

In this case the patient arrived at KSB in the wee hours of the morning accompanied by a completed petition and first certificate. The hospital was therefore provided with cause for detaining him until he could be evaluated further. One of the evaluations, in this case the second one, must have been done by a psychiatrist, who, at KSB, is the lone psychiatrist on staff. He was consulted by pager immediately, agreed with the admission, and saw the patient about fifteen hours later, which was a Friday and well within the twenty-four hours he was authorized to take. The psychiatrist did not find evidence through his own examination to keep the patient who preferred to leave, so a second certificate was not completed and the patient was released, all of which was carried out within the hospital's policies and the Code's protections. Complaint #1, the patient was detained without cause, is not substantiated.

Statements from those directly involved in this patient's care and their corresponding documentations pointed to the need for police intervention when he refused to go to the behavioral health unit. The record suggested he was given a lot of encouragement and opportunities to go without help, and we understand his reluctance given the uncertainty he faced. But, none of the staff we interviewed said the police were too aggressive with the patient, none of them said he responded in pain when he was handcuffed and put on a gurney, and, the attending physician wrote in his report that the patient was placed "gently". He did however complain of back pain right after he arrived on the unit, but the medical history he provided to the psychiatrist was that he suffered with chronic back pain from numerous surgeries. The officers' handling of him or his resistance could have caused pain or further injury, but we have no factual evidence of that. He refused offers for treatment and physician attention until the pain was unbearable. KSB provided the care as he permitted. Based on the staffs' statements and the documentation, complaint #s 2 and 3, the patient was thrown onto a gurney causing him severe pain and was not provided with adequate care for the pain, are not substantiated.

The patient arrived at KSB's Emergency Department just before 1:00 a.m. and was on the psychiatry unit within thirty minutes. Moments later he was asked if he wanted to call anyone and was offered a phone book when he said he wanted an attorney. The record stated that he decided to wait until later and subsequent documentation by another nurse repeated nearly the same. The hospital's policies for using the phone and communicating with attorneys and advocates are in line with the Code. There is no obligation for a facility to find the patient an

attorney, but they must provide him access to the phone and help using the phone if he needed. By all indications from the staff and the record, this is what they did. Complaint #4, the patient was not allowed to make a phone call until just before discharge, is not substantiated.

A customer relations representative spoke with the patient about his grievances and then met with him sometime later to discuss them further and to provide him a copy of his medical record. The hospital looked into the matter and provided him with a timely written response as was demonstrated to us. Based on what we saw, the patient was not ignored. Complaint #5, the patient was not allowed to file a grievance, is not substantiated.

SUGGESTIONS

1. Consider allowing calls from the Emergency Department if there is enough time and if it would help ease a patient's concerns.
2. Be sure that grievance responses include all of the information as required by the CFR. In this case the hospital's letter did not specifically identify the steps taken to investigate the complaints.