



FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 12-030-9003
LORETTO HOSPITAL

Case Summary: The HRA substantiated the complaint that Loretto Hospital did not follow Mental Health Code procedures when it administered forced psychotropic medication absent an emergency.

INTRODUCTION

The Human Rights Authority of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving a complaint of possible rights violations at Loretto Hospital. It was alleged that the facility did not follow Mental Health Code procedures when it administered forced psychotropic medication absent an emergency. If substantiated, these allegations would violate the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.), and hospital policies.

Loretto is a private community hospital located in Chicago. The hospital contains a 60 - bed behavioral health unit.

To review these complaints, the HRA conducted a site visit and interviewed the Director of Behavioral Health and the Vice President of Risk Management and Patient Safety.

FINDINGS

The record shows that the recipient was brought by her son to the Loretto emergency department on 9/01/11 at 11:43 p.m. A petition and certificate for involuntary admission were completed immediately and she was then transferred to the behavioral health unit on 9/02/11 at 12:49 a.m. At this time, the recipient completed a voluntary application and was determined to be clinically suitable for voluntary admission for the following reason, "Patient to the ER with SI [suicidal ideation] no plan. Patient has not taken her meds is homeless. Patient is unable to care for self and in need of immediate hospitalization." The application does not include a certification that the applicant has the capacity to consent to be admitted as a voluntary admittee.

The record contains the recipient's Psychiatric Evaluation completed 9/02/11. it states, "This 60 year old female known to me from previous treatment, was last seen in I think 2007 or

2008, at which time she was mandated by the court following acquittal due to mental illness. The patient had stabbed a man at church in response to her delusions, thinking that he was the devil and that God asked her to kill him. The patient has had similar assaultive behavior in the past as well and has spent extensive time in multiple psychiatric institutes. Since her 2007 or 2008 visit, patient quit taking medication and quit following up with me as soon as the mandate from the court expired. She has been practically free of medication pretty much since except 1 or 2 occasions when she had gone to county for evaluation, at which time she was given risperdone. She has been without medications for at least a year now.

The patient presents in a very psychotic state. She has multitude of delusions about God and religion. She quotes Bible throughout, tells me I am going to be dead shortly unless I accepted Jesus. She is actively hallucinating as well. She has not been sleeping well. She resided in 1 of the residential motels from where she was kicked out due to causing disturbance. She currently is somewhat euphoric, but very psychotic, disorganized, rambling and incoherent in her responses. Delusional content readily evident. She complains of sleep disturbance... The patient prefers to be on Loxitane, which has been started." The recipient was also placed on high risk precaution with monitoring every 15 minutes for safety.

The recipient's preferences for emergency intervention are included in the record. These indicate that the recipient preferred medication for those times when she was in need of emergency intervention. The record indicates that the recipient received 6 administrations of forced psychotropic medication while she was a patient at Loretto Hospital between 9/01/11 and 9/09/11:

1. On 9/02/11 at 8:30 a.m. the recipient received an injection of Haldol 5 mg and Ativan, 2 mg for "agitation/anger." There is no corresponding progress note entry for this event and no restriction of rights notice was issued.

2. On 9/02/11 at 2:52 p.m. the recipient received an injection of Haldol 5 mg and Ativan, 2 mg for "agitation/anger." There is no corresponding progress note entry for this event and no restriction of rights notice was issued.

3. On 9/03/11 at 2:30 a.m. the recipient received an injection for Haldol 5 mg and Ativan 2 mg for "agitation." There is no corresponding progress note for this event, however a restriction of rights notice was issued. The reason for the restriction is listed as "agitation, disruptive behavior, loud, hard to re-direct, tried to fight when giving PRN [as needed medication]." The form indicates that the recipient wanted no one notified of the restriction.

4. On 9/06/11 at 12:50 a.m. the recipient received an injection of Haldol 5 mg and Ativan 2 mg. There is no corresponding progress note for this event, however a restriction of rights notice was issued. The reason for the restriction is listed as, "increased agitation, not redirectable, yelling, loud." The form indicates that the recipient wanted no one notified of the restriction.

5. On 9/07/11 at 11:33 p.m. the recipient received an injection of Haldol 5 mg and Ativan 2 mg although the reason stated on the PRN stamp is illegible. A progress note entered at

this time describes the event: "Patient up swearing at staff because they are making ...[illegible]. Patient upset the entire milieu not redirectable. Patient states I am going to own this hospital you better listen to me if you want my job. Patient is delusional pacing and refusing to go to her room. Patient threatening to fight staff. Patient given PRN in her room...." There is no restriction of rights notice issued for this event.

6. On 9/08/11 at 3:23 a.m. the recipient received Haldol 5 mg and Ativan 1 mg for "pt. threw H2o at staff." A corresponding progress note for this event states, "patient up pacing back and forth from room to room. Patient arguing with staff and threw a cup of H2o on the counselor. Patient redirected to her room and given a PRN...." There is no restriction of rights notice issued for this event.

HOSPITAL REPRESENTATIVES' RESPONSE

Hospital representatives were interviewed about the complaint. They indicated that the recipient was very psychotic and unstable during her hospitalization and that the record reflected that her behavior was at times dangerous. Staff were asked about the use of forced medication and they stated that it would be used only if the recipient presented a danger to herself or others and no less restrictive alternative was available. Staff indicated that the hospital uses PRN stamps that indicate when a recipient is given medication "as needed" and that this recipient received at least one injection that she agreed to. They noted that at times recipients will agree to an injection because they realize that it works faster and thus is affective sooner. Staff stated that generally when the staff administer forced medication, a restriction of rights notice is issued, as was done in this case.

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 outlines how recipients are to be informed of their proposed treatments and provides for their participation in this process to the extent possible:

"(a) A recipient of services shall be provided with adequate and humane care and service in the least restrictive environment, pursuant to an individual services plan. The Plan shall be formulated and periodically reviewed with the participation of the recipient to the extent feasible and the recipient's guardian, the recipient's substitute decision maker, if any, or any other individual designated in writing by the recipient. The facility shall advise the recipient of his or her right to designate a family member or other individual to participate in the formulation and review of the treatment plan. In determining whether care and services are being provided in the least restrictive environment, the facility shall consider the views of the recipient, if any, concerning the treatment being provided. The recipient's preferences regarding emergency interventions under subsection (d) of Section 2-200 shall be noted in the recipient's treatment plan. [Section 2-200 d states that recipients shall be asked for their emergency intervention preferences, which shall be noted in their treatment plans and considered for use should the need arise].

(a-5) If the services include the administration of...psychotropic medication, the physician or the physician's designee shall advise the recipient, in writing, of the side effects, risks, and benefits of the treatment, as well as alternatives to the proposed treatment, to the

extent such advice is consistent with the recipient's ability to understand the information communicated. The physician shall determine and state in writing whether the recipient has the capacity to make a reasoned decision about the treatment. If the recipient lacks the capacity to make a reasoned decision about the treatment, the treatment may be administered only (i) pursuant to the provisions of Section 2- 107 [to prevent harm]...." (405 ILCS 5/2-102).

Should the recipient wish to exercise the right to refuse treatment, the Mental Health Code guarantees this right unless the recipient threatens serious and imminent physical harm to himself or others:

"An adult recipient of services...must be informed of the recipient's right to refuse medication... The recipient...shall be given the opportunity to refuse generally accepted mental health or developmental disability services, including but not limited to medication... If such services are refused, they shall not be given unless such services are necessary to prevent the recipient from causing serious and imminent physical harm to the recipient or others and no less restrictive alternative is available. The facility director shall inform a recipient...who refuses such services of alternate services available and the risks of such alternate services, as well as the possible consequences to the recipient of refusal of 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, a designee, the facility director or a designated agency, and it must be recorded in the recipient's record (ILCS 405 5/2-201).

HOSPITAL POLICY

Loretto Hospital provided the Inpatient Psychiatry policy on Use of Psychotropic Medication (#IPU-1500.5). It states, "An adult patient with decisional capacity shall give consent to and shall be given the opportunity to refuse psychotropic medication. The facility director or designee shall inform a patient or guardian who refuses such services of alternative services available and the risks and benefits of such alternate services, as well as possible consequences to the patient refusing such services." Policy also states, "Psychotropic medication may be given in an emergency as set for in the Illinois Mental Health and Developmental Disabilities Code...when such services are necessary to prevent the patient from causing serious and imminent physical harm to himself or others." The policy also mandates the completion of a restriction of rights form with each administration of emergency medication and that a copy is given to the recipient and anyone the patient designates.

CONCLUSION

The Mental Health Code gives recipients the right to refuse treatment, including medication. Should the recipient wish to exercise the right to refuse treatment, the Mental Health Code guarantees this right unless the recipient threatens serious and imminent physical harm to himself or others. When the recipient's rights are restricted in any way the Mental Health Code states that 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. In this case it was difficult at times, to decipher if the recipient's medication was accepted or forced, even with the stamp. Several administrations, such as the two on 9/2/11, had no corresponding progress note or restriction of rights notice, so we have no way of knowing if the injection was clinically justified, since the comments on the stamped note say only "agitated/angry", and this description does not rise to the level of dangerousness that is referenced in the Code (serious and imminent physical

harm). On 9/07 and 9/08, although the progress notes indicate an emergency administration, for these events there were no restrictions of rights notices.

The HRA substantiates the complaint that Loretto Hospital did not follow Mental Health Code procedures when it administered forced psychotropic medication absent an emergency.

RECOMMENDATIONS

1. Review with staff the Mental Health Code requirements for the administration of forced psychotropic medication and ensure that the administration decision is based on the Code requirement for behaviors reflecting an imminent threat of physical harm, and ensure that this threat is documented in the clinical record. Ensure that a restriction of rights notice is issued whenever a recipient's rights are restricted.

SUGGESTION

1. Ensure that the voluntary application includes the certification that the recipient has the capacity to consent to voluntary admission in addition to being clinically suitable for admission as a voluntary recipient.