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HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 12-030-9008  
St. Anthony Hospital

Case summary: The HRA did not substantiate the complaints that the facility did not follow Code procedure when it administered forced psychotropic medication for no adequate reason, denied a recipient the right to wear a religious artifact for no adequate reason, breached the recipients' confidentiality when the physician interviewed the recipients with his door open, and denied a recipient his phone rights.

INTRODUCTION

The Human Rights Authority of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving a complaint of possible rights violations at St. Anthony Hospital. It was alleged that the facility did not follow Code procedure when it administered forced psychotropic medication for no adequate reason, denied a recipient the right to wear a religious artifact for no adequate reason, breached the recipients' confidentiality when the physician interviewed the recipients with his door open, and denied a recipient his phone rights. If substantiated, this would violate the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-107).

St. Anthony Hospital is a community hospital that contains a 30-bed inpatient adult behavioral health unit.

To review these complaints, the HRA conducted a site visit and interviewed the Director of Acute Care and Psychiatry, the Director of Quality Resources, a Psychiatric Registered Nurse, a Risk Management personnel, and a staff psychologist. Hospital policies were reviewed, and the adult recipient's clinical records were reviewed with written consent.

COMPLAINT SUMMARY

The complaint indicates that a recipient was voluntarily admitted to the St. Anthony Hospital Behavioral Health Unit and thereupon was refused permission to wear his religious scapular, a two-sided religious picture suspended on a brown ribbon approximately 30 inches long. The complaint also indicates that the recipient was given forced psychotropic medication and was not able to make phone calls, both for no reason. The complaint also indicates that the recipient's physician met with patients while his door was ajar, thus allowing any passerby to hear confidential information.

## FINDINGS

The record shows that the recipient was admitted to St. Anthony Hospital on 8/10/11. On that date the recipient's personal belongings were inventoried, and although the form shows that the recipient had a rosary with him, there is no indication that he brought a scapular with him to the hospital. The Psychiatric Evaluation completed on the same day states, "This is a 59- year old Caucasian male who presented himself to the Emergency Department floridly psychotic. He presented with rambling speech with flight of ideation regarding demons and masturbation. He stated that he was just evicted from his apartment of four years a couple days ago. He is currently homeless. He stated it is all because of Mr... who was from another planet. He brought with him the demons, the demons enter his body and suck his blood. The demons threatened his father and mother, believing that the demons had lost his spaceship to his parents. They were threatening them in order to get the spaceship back. They were torturing his father and mother and trying to get to him. He stated that he had not been feeling safe. There were instances where demons and other associates push him down, try to destroy him, cut him up, etc. He is very scared, so at one point he tried to kill himself because of it." The record contains a physician statement that the recipient maintains decisional capacity.

The recipient's diagnosis is listed as Paranoid Schizophrenia with acute exacerbation. He was prescribed two psychotropic medications, Haldol and Cogentin for which he signed informed consents. The recipient's Care Plan indicates that he is a risk of harm to himself and others due to his previous suicide threat and he was placed on close monitoring for safety. The record also indicates that the recipient refused his prescribed medication more than 50 times during his hospitalization from 8/10/11 until 9/06/11.

The clinical record does not contain a Preferences for Emergency Intervention document or information.

Progress Notes from the clinical record indicate that the recipient received injections on two days, 8/31/11 and 9/01/11. The notes from 8/31 state, "Pt. was noted in group throwing pencils at other pts., pt. refuses to take any medications. Pt. feels that he does not need medications because there is nothing wrong with him. For days now pt. has been informing maintenance how to do their job and housekeeping. Pt. has refused to take any p.o. medications. Pt. now has recvd Ativan 2 mg i.m. in regards to his behavior. Will continue to monitor." There is no Restriction of Rights notification for this event. The second event, described in an entry on 9/01, states, "Pt. was observed up this a.m. cleaning the table and picking up things over the unit. Pt. refused to take any medications this morning. The later in the a.m. Pt. threw the pencils at one of the workers, telling the staff what should be done and things that not should be done [sic]. Pt. remains on telephone precautions, no calling of businesses or F.B.I. Pt. became very argumentative with staff whenever being redirected about his behavior. Pt. recvd Ativan 2 mg I.M. and Haldol 5 mg I.M. along with Cogentin 2 mg I.M. Pt. became very angry that he was receiving medications once again pt. was encouraged to stay in his room for at least 30 minutes. Will continue to monitor." There is no Restriction of Rights notification for this event.

The first incidence of a phone restriction is described in a Progress Note from 8/26/11: "Pt. became so upset about his doctor not being able to sit down and talk with his doctor. Pt. feels that he is being threatened by his doctor and his nurse, attempted to explain to the pt. that no one is threatening him except himself. Perhaps pt. misunderstood, he does not have to take medications unless he is a danger to himself or others, explained to pt. this true. Pressured speech was noted, tremors to upper extremities were also noted. Pt. was on the phone calling others c/o the doctor and the nurse and it was so loud and causing a disturbance on the unit until the pt. was placed on phone restriction. Informed pt. of the restrictions and further agitation was released. Pt. was encouraged to go to his room for a time out." There is no Restriction of Rights notification in the record for this event. This event is again referenced by the recipient and described in an entry made on 8/20/11: "Patient visible in the milieu most of the shift socially withdrawn from peers patient appears paranoid at times redirection given patient also express undertone hostility regarding phone restriction. Patient stated to writer, 'I don't know why I'm on restriction know one never explained to me why.' Patient was then explained the reason why hes on phone restriction due to being very loud on the phone after redirection was given noncompliant during that time. Will continue to monitor patient throughout shift."

#### HOSPITAL REPRESENTATIVES' RESPONSE

Hospital representatives were interviewed about the complaint. They stated that the recipient was assessed upon his arrival and determined to be a risk of danger to himself or others and thus would not have been given a scapular or rosary for his personal use. Additionally, staff stated that the recipient never had a scapular in his possession. They indicated that he came to the hospital from another hospital and some of his belongings were not sent to St. Anthony's and perhaps this is where the scapular was located that he referenced in his complaint. Also, the recipient remained very delusional throughout his hospital stay, and although he stabilized to a point where he no longer experienced hallucinations or homicidal or suicidal ideas, he was unpredictable because of his frequent refusal of medication.

Hospital representatives were interviewed about the recipient's emergency medication. They stated that the recipient generally refused his medication and the staff discussed with the recipient the fact that he would not be forced to take medication as long as he did not pose a danger to himself or others, as was noted in the Progress Notes. Staff stated that the injections the recipient received were not forced. They indicated that when any medication, either regularly prescribed or emergency, is refused, it is noted in the chart and the physician is notified. If a recipient refuses emergency, or prn (as needed) medication, then security is called and the recipient is held for the injection, and this is always accompanied by a Restriction of Rights notification. The staff indicated that a forced injection would present too dangerous a situation without these safety measures in place and in the extant case there is no indication that the medication was forced.

Hospital representatives were interviewed about the recipient's phone restriction. They stated that when the recipient became upset he would call agencies (FBI) or individuals (administrators) and speak very loudly, disrupting the unit. Staff indicated that the recipient was still able to use the phone, however when there was a problem a social worker would place the calls or monitor them so as to avoid problems. Staff believed there was a Restriction of Rights

notification completed for this restriction, however it was not found in the record. Staff speculated that it could have been filed in the non-electronic file.

Hospital representatives were asked about the complaint that recipients' consultations with their physicians could be heard by passersby. They stated that the area of the mental health unit where patient interviews are conducted is within an area of the nurse's station that is enclosed and not within earshot of the patients or visitors. Also, staff confirmed there was no record of a complaint or grievance regarding confidentiality.

## STATUTES

The Mental Health and Developmental Disabilities Code states that "Every recipient who resides in a mental health or developmental disabilities facility shall be permitted to receive, possess, and use personal property and shall be provided with a reasonable amount of storage space therefore, except in the circumstances and under the conditions provided in this Section... Possession and use of certain classes of property may be restricted by the facility director when necessary to protect the recipient or others from harm, provided that notice of such restriction shall be given to all recipients upon admission. The professional responsible for overseeing the implementation of a recipient's services plan may, with the approval of the facility director, restrict the right to property when necessary to protect the recipient or others from harm (405 ILCS 5/2-104).

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).

The Mental Health Code states that a recipient who resides in a mental health or developmental disabilities facility must be permitted unimpeded, private, and uncensored communication with persons of his choice by mail, telephone, and visitation. Telephones must be reasonably accessible and telephone communication may be reasonably restricted by the facility director only in order to protect the recipient from "harm, harassment, and intimidation, provided that notice of such restriction shall be given to all recipients upon admission (405 ILCS 5/2-103).

The Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110/5) states that all records and communications shall be confidential and shall not be disclosed without written release.

### HOSPITAL POLICY

St. Anthony Hospital provided the policy for Patient Property which is distributed to all residents on the behavioral health unit upon admission. It states that upon admission, valuables are secured in the Unit Safe and all other property is stored in the Locked Contraband room until the Patient is discharged. All jewelry such as pins, brooches, necklaces, dangling earrings, and all large and potentially dangerous jewelry is not allowed as a precaution for all the patients' safety.

St. Anthony Hospital provided the policy for Administration of Medications (#PC78-A005). It states that no patient will be forced to take medication. If the patient refuses medication, the reason for the refusal is to be documented in the patient's medical record.

Emergency administration of psychotropic medication is done to prevent serious and imminent physical harm to the patient or others.

St. Anthony Hospital provided the policy for phone rights (#PC78 RO31). It states that the restriction of phone rights requires a physician's order and may only be imposed to protect the patient or others from harm, harassment or intimidation. The order for the restriction must be accompanied by the Restriction of Rights Note Sheet and documentation must substantiate the restriction. The patient's family must be notified of the restriction along with the patient.

St. Anthony Hospital provided the hospital Privacy Practices which describes how medical information may be used, and disclosed, and how patients can get access to their medical information. This policy ensures the protection of patients' medical information and guarantees that information may be disclosed only with the patient's permission.

## CONCLUSION

The recipient's inventory of personal items which was completed at admission does not include a scapular and may have been part of a group of items which did not get transferred from his placement previous to his St. Anthony Hospital stay. The HRA does not substantiate that the complaint that the recipient was denied his scapular for no reason.

The record indicates that the recipient received two injections of psychotropic medication, however the testimony of staff suggests that the injections were accepted by the recipient and that forced injections would be too dangerous to administer without a security assist. The reason given for both injection episodes was that the recipient was throwing pencils at staff and peers and this appears to be a serious threat of physical harm. The HRA does not substantiate that the recipient received forced psychotropic medication for no adequate reason.

The recipient's phone usage was restricted due to the disruption it caused to the unit and the harassing nature of the calls. Although the staff explained the reason for the restriction to the recipient and documented it in the Progress Notes, this restriction warrants a Restriction of Rights Notice which staff said was completed but which was not in the record. Although the HRA cannot substantiate that the recipient's phone calls were restricted for no adequate reason, staff are reminded that any time a recipient's right is 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.

The clinical record and staff report does not indicate that there was a problem with the recipient's physician counseling patients while his door was ajar. There was no complaint or grievance filed in this regard and the physical structure of the unit prohibits passersby from hearing conversations. The HRA does not substantiate the complaint that St. Anthony Hospital breached the recipients' confidentiality when the physician interviewed the recipients with his door open.

## SUGGESTIONS

1. Include in the Care Plan a Preferences for Emergency Intervention form which records the recipient's stated emergency intervention preferences, and consider these preferences if an emergency should arise.

2. Remind staff that any time a recipient's right is restricted, notice must be given to the recipient, a designee, the facility director or a designated state agency, and it must be recorded in the recipient's record.