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HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 12-030-9013
Norwegian American Hospital

Case summary: The HRA did not substantiate the complaint that Norwegian did not follow Code procedure when staff 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 Norwegian American Hospital (Norwegian). It was alleged that the facility did not follow Code procedure when staff administered forced psychotropic medication absent an emergency. If substantiated, this would violate the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.).

Norwegian is a 200-bed, acute care community hospital serving residents of the near northwest Chicago area. The hospital incorporates a 31-bed Behavioral Health Unit.

To review these complaints, the HRA conducted a site visit and interviewed the Risk Manager, the Quality Analyst, the unit Nurse Manager, and the Unit Clinical Coordinator. Relevant hospital policies were reviewed, and records were obtained with the consent of the recipient.

COMPLAINT SUMMARY

The complaint centers around two episodes of forced psychotropic medication that were allegedly administered for no adequate reason.

FINDINGS

Emergency department documentation indicates that the recipient arrived at Norwegian on 9/02/11 at 4:05 p.m. The record indicates that although she was physically active, she was non-verbal and delusional. The patient presented with a petition for involuntary admission, completed at 1:00 p.m. on 9/2/11 by her case manager from the housing program in which the recipient resided. The petition asserts that the recipient is in need of immediate hospitalization

and this assertion is based on the statement, "Clt presents with delusions of her child not being deaf [sic], she claims that she chopped her child's head of death [sic], talk in religious terms, acts happy, jumping around, wheeling around. Clt has a history of becoming violent when delusional." An Inpatient Certificate was completed the following morning at 10:00 a.m. It states that the recipient was examined for involuntary admission, was informed of the purpose of the exam and that she did not have to speak with the examiner. The examiner certified that he informed the recipient of her right to speak with an attorney or other designee prior to the exam. The examiner's clinical observations state, "Floridly psychotic, hostile, combative and threatening, unable to care for self and in need of medication and stabilization." The recipient's Initial Psychiatric Evaluation, completed on 9/03/11 states, "The patient has been deteriorating in her mental status for the last one week. She has become increasingly irritable, agitated, aggressive towards others, and not redirectable. The patient is also mute and not communicating much during the interview. Results of the Mental Status Examination states, "The patient has loosening of association of thought. Affect is restricted in range and inappropriate to situation and ideation. Mood is one of anxiety. The patient denies suicidal or homicidal thoughts. She has paranoid ideations and is responding to auditory hallucinations. Orientation and memory could not be tested at this time as the patient is not cooperative. Intelligence is average. Insight is poor and judgment is impaired."

The record shows that on 9/02/11 the recipient's physician ordered three medications for prn, or "as needed" medication. These included 1 mg of Ativan for oral or injected administration, 5 mg of Haldol for oral or injected administration, and 10 mg of Ambien for oral administration, all for "Agitation". The record includes a signed consent for all medications and the physician's written statement of decisional capacity.

The hospital record contains the recipient's Medication Administration Record (MAR). This record indicates that the recipient received injected psychotropic medication on two occasions. The first injections were administered on 9/03/11 at 1:54 p.m. and included 1 mg Ativan and 5 mg Haldol. Progress Notes from this date and time state, "…Pt. is mute however she appears able to comprehend basic information. She was given her IM due to the appearance of irritability. Initially she was uncooperative however as writer encouraged cheerful play with patient she took the IM without further difficulty." The MAR indicates that this medication was not refused by the recipient.

The second administration of injected medication occurred on 9/05/11 at 8:50 a.m. and included 1 mg Ativan and 5 mg Haldol. The Progress Notes for this event state, "…Pt. is withdrawn and isolated from peers. Pt.'s affect is flat. Pt. is suspicious and agitated. Pt. has loose associations and disorganized. Pt. has pressured speech. Pt. interacts with staff only." The MAR indicates that this medication was not refused by the recipient.

HOSPITAL REPRESENTATIVE RESPONSE

Hospital representatives were interviewed about the complaint. They indicated that the recipient was mute but very physically active when she was admitted to the hospital and remained very psychotic throughout her stay. They stated that the recipient received two administrations of injected medication during her hospitalization and the record shows that both

of these administrations were accepted by the recipient. The HRA and hospital staff reviewed the MAR and it was noted that the recipient often refused medication and at these times it was not given. Hospital staff indicated that Restriction of Rights notices are issued whenever a recipient's rights are restricted in any way. Hospital staff did acknowledge that the documentation of the recipient's acceptance of the prn could have been more clearly stated. They indicated that staff will be inserviced on prn medications and they provided the agenda, training materials and post-test for this training.

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

Norwegian provided the hospital policy and procedure for Patient Rights and Responsibilities (#BM3.050). It states, "It is the policy of NAH that patients receive considerate and respectful care at all times and under all circumstances with recognition of personal dignity in a humane environment that affords appropriate privacy and reasonable protection from harm. Patients have a right to receive prompt and appropriate treatment for any physical or mental disability. Patients have the right to the least restrictive conditions necessary to achieve treatment purposes. No patient, except as otherwise provided by the applicable state law, shall be denied legal rights solely by virtue of being voluntarily admitted or involuntarily committed. These rights include voting, making wills, entering into contracts and other rights held by any citizen." The hospital policy also states, "Patients have the right to be free from unnecessary or excessive medication. Patients requiring emergency medication for control of behavior deemed dangerous to themselves or others should be evaluated by a physician prior to ordering such medications, but if this is impractical, a written order may be entered on the basis of telephonic authority received from a physician. Medications shall not be used as a punishment; for the convenience of staff, or in quantities which interfere with the patient's treatment plan." Additionally, the policy states that if a valid and sufficient reason exists to restrict a patient's rights, "the patient must be promptly notified of any restriction and the reason for imposing the restriction."

CONCLUSION

The hospital record shows that the recipient received two administrations of injected medication and it indicates that these injections were accepted by the recipient. The HRA discussed with staff the hospital's practice of recording prn medication that is accepted by recipients and we feel that their inservice material that was presented to the HRA adequately addresses this need for additional documentation. The record also contained all of the Code's mandated elements pertaining to the administration of psychotropic medication. The HRA does not substantiate the complaint that Norwegian did not follow Code procedure when staff administered forced psychotropic medication absent an emergency.