FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 12-030-9016
Rush University Medical Center

Case summary: The HRA did not substantiate the complaint that the hospital admitted, administered forced psychotropic medication, and discharged a recipient in violation of the Mental Health Code.

INTRODUCTION

The Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving a complaint of possible rights violations at Rush University Medical Center (Rush). It was alleged that the hospital did not follow Code procedure when it admitted, administered forced psychotropic medication, and discharged a recipient. If substantiated, these allegations would be violations of the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.).

Rush University Medical Center is a not-for-profit medical center comprising Rush University Medical Center, Rush University, Rush Oak Park Hospital, and Rush Health. The Medical Center encompasses a 664-bed hospital along with a 16-bed Behavioral Health Unit.

To review these complaints, the HRA conducted a site visit and interviewed two hospital Risk Managers, the Unit Director, the Psychiatry Department Associate Chair, and the Associate General Counsel. Hospital policies were reviewed, and the adult recipient's clinical records were reviewed with written consent.

COMPLAINT SUMMARY

The complaint alleges that a recipient went to Rush Hospital because he was depressed and experiencing suicidal thoughts. The complaint indicates that the recipient wanted to be evaluated in the Emergency Department (ED) and be transferred to the hospital where his physician practices. In the ED he was placed in a room with a sitter and asked to complete a Voluntary application for admission, which he did. The complaint alleges that the recipient requested that his physician be contacted but staff would not do this. The recipient was then admitted to the Behavioral Health Unit and the following day he had an altercation with another patient. The charge nurse asked him to go to his room which he did, however a short time later

approximately 6 security personnel came to his room and told him to take an injection or he would be placed in restraints- he was given Zyprexa, an anti-psychotic sedative. Approximately 20 minutes later the charge nurse came into his room and told him he was discharged. Allegedly he was then escorted out to the street. When he then saw his physician later that afternoon, his physician felt that he had been placed in jeopardy by being discharged after receiving such an injection.

FINDINGS

The record shows that the recipient arrived at the ED on 4/02/12 at 5:24 p.m. ED Notes indicate that the recipient presented with depression, stating that he had attempted suicide that day by wrapping a radio cord around his neck, however the cord broke. The recipient's History and Physical, completed 4/03/12 at 8:34 a.m. states, "The patient is a 39 year old male with significant past medical history of hypertension, Congestive Heart Failure, asthma, and depression who presents after a suicide attempt after hanging himself with a radio cord this AM. Cord broke and pt ended up telling a friend, who urged pt to come in for psych eval. Pt states he has been planning this suicide attempt for about a week. Has been having worsening depressed mood and SI [suicide ideation] for about 2 months and ran out of medication about 1 week ago (trazodone, klonopin, lexapro, and suboxone). Pt also endorsing heroin and cocaine use yesterday, as well as daily drinking (for 4-5 months) of about 1-2 six-packs of beer/day with last drink this AM. Denies ETOH [alcohol] withdrawal seizures or ICU admissions for ETOH withdrawal. UDS [urine drug screen] positive for benzos [benzodiazapines], cocaine, and opiates. Stressors have been unemployment, lack of social support, and trouble with the law (out of jail in 2005 after being incarcerated for selling illicit drugs). Pt endorsing depressed mood, anhedonia [inability to experience pleasure], feelings of guilt, decreased concentration, decreased energy, and decreased appetite. Pt endorses active SI [suicide ideation] and passive HI [homicidal ideation] however states he has been under the influence of substances during these times. States he has been having panic attacks, which have been worsening for the past 2 years. Symptoms include: SOB [shortness of breath], palpitations, dizziness, pruritis [itching], and feeling of going crazy. Pt endorsing generalized anxiety on most days. Denies IVH. Endorsing paranoia with thoughts of people watching him and out to harm him. Pt also endorses thoughts he is telepathic." The Assessment and Plan for the recipient shows that he is capable of signing a voluntary application and is recommended for admission to the hospital due to, "Threat to self requiring 24 hour professional observation. A mental disorder causing major disability in social, interpersonal, occupational, and/or education al functioning that is leading to dangerous or life-threatening functioning, and that can only be addressed in an acute inpatient setting." The Plan also includes Notes on the recipient's medications: "As pt has not been on psychotropic medications for 1 week, will hold on psych meds for tonight (klonopin 2 mg daily, lexapro 15 mg daily, suboxone 8 mg twice daily). Continue trazodone 50 mg prn (as needed) nightly."

The ED documentation as well as the Resident History and Physical indicate that the recipient was receiving care for his psychiatric illness and the physician's name and hospital is included in the record. The recipient was placed on close watch and his recommended length of stay is listed as 5-7 days.

Medical Student Progress Notes from 4/03/11 at 10:39 a.m. state, "Pt states he is doing 'fine' today and wants to leave. He is feeling agitated and feels like he is going through some withdrawal. He states he is feeling nervous, anxious, and diaphoretic. Endorses last heroin use was 2 days ago. States he is feeling 'stressed out' and 'depressed.' States he feels people are following him on the train…" On the same day at 2:26 p.m. Nursing Progress Notes state, "Patient affect, mood is angry, threatening behavior. Patient has hostile, verbal confrontation that he initiated with another male patient in dining area during lunch. Patient was unable to follow verbal redirection 'I'm not a fucking baby! You can't tell me where to go and what to do! Fuck these bitches here! I want to go to [his physician's hospital]!' Denied suicidal/homicidal ideation. Stated, 'I [sic] not trying to kill myself! I have no place to go! I want to go to [his physician's hospital].' Security called. Patient agreed to take Zyprexa 5 mgs IM [intramuscularly] at 12:30 p.m. Dr… informed and stated he can be discharged. ROC to write order. Patient monitored each 15 minutes for routine close watch. Patient informed of pending discharge. Will continue to monitor behavior, response to medication, and maintain safety." The recipient was discharged at 2:50 p.m."

Although the record indicates that the recipient accepted the injection of Zyprexa, there is no statement of informed consent regarding the risks, benefits and alternatives to this medication.

Hospital Representative Response

Hospital representatives were interviewed about the complaint. They indicated that the recipient came to the ED and was identified as a mental health recipient by the fact that he had attempted suicide that day. He was placed in an area of the ED that is used for mental health patients and a sitter was placed outside his door. The area is an open area and not secured. The sitter does not have the role of detaining patients and the recipient would have had the ability to leave if he wanted to. He was evaluated in the ED and determined to be in need of immediate hospitalization and this clinical determination is included in the ED documentation. While in the ED the recipient signed a Voluntary application for admission, was given his rights information, and was observed and monitored for safety as would be the practice for all suicidal patients. The hospital staff stated they (the case manager or social worker) make every attempt to contact patients' physicians if they are asked to do so, however it depends on the physician's availability, which can mean that it might take a while for their response. Staff members were uncertain whether the recipient's physician was contacted.

Hospital representatives were interviewed about the use of forced emergency medication. They stated that the recipient was "out of control" after his confrontation with another recipient and he refused to return to his room, thus initiating a dangerous situation on the unit. Security was called and the determination was made to administer medication to help the recipient gain control over his behavior. Staff reported that Security may be called in order to provide protection for the patient as well as other patients or staff in any potentially volatile situation where safety may be an issue. Security may be called in advance to be present and available in case a situation escalates. Staff indicated that Security is not present as a "coercion" but as back-up for staff and patients may still refuse medications with Security present. In this case the recipient agreed to take the medication voluntarily. Staff indicated that Zyprexa is a commonly

prescribed outpatient medication and has limited sedating effect- staff did not believe the recipient was in a compromised condition as a result of the medication.

STATUTORY RIGHTS

The Mental Health Code guarantees all recipients adequate and humane care in the least restrictive environment. The administration of psychotropic medication is regulated by the Code to protect the liberty interests of all recipients:

"(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 [below]…." (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

Rush hospital provided policy regarding the use of medication as an emergency intervention. It states, "A drug or medication is a restraint when it is used as a restriction to manage the patient's behavior or restrict the patient's freedom of movement and is not a standard treatment or dosage for the patient's condition. The use of PRN medication is allowed as long as it is a standard, therapeutic dose of medication to improve the patient's level of functioning so that they can more actively participate in their treatment such as sleeping medication for patients with insomnia, anti-anxiety medication prescribed to calm a patient who is anxious, or analgesics prescribed for pain management."

CONCLUSION

The record indicates that the recipient was admitted after completing a Voluntary application for admission and there does not appear to be any irregularities in the process of the admission and compliance with Code requirements. Although the record indicates that the recipient requested that his physician be contacted, it is unclear whether staff was able to make this contact and the recipient was only present at the facility for less than one day with rather complicated medical and mental health issues that demanded immediate attention. Progress Notes and staff report demonstrate that the recipient initiated a confrontation with another patient and was unable to be redirected. The decision was made to call Security for assistance in de-escalating the situation and then the decision was made to administer psychotropic medication. The record and staff report suggests that the recipient accepted the medication as a less restrictive intervention. Additionally, the record shows that the recipient requested discharge earlier in the day and after a physician determined that he was not suitable for petitioning, he was discharged two hours after having received his medication, not posing a threat to himself or others. The HRA does not substantiate the complaint that the hospital admitted, administered forced psychotropic medication, and discharged a recipient in violation of the Mental Health Code.

SUGGESTION

1. The complaint in this case indicates that the recipient received forced emergency psychotropic medication, however the hospital staff states that the medication was accepted. If the medication was accepted, the Mental Health Code requires that the record include a physician statement of decisional capacity, as well as information regarding the medication's risks, benefits and alternatives, presented to the recipient both orally and in writing for his informed consent.

2. Review and revise existing emergency medication policy to ensure Mental Health Code requirements for emergency medications for mental health recipients are met, including the statement of decisional capacity, medication risks/benefits/alternatives, and documentation that the mental health recipient's behavior met the criteria of "serious and imminent physical harm to the recipient or others…."