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HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 12-030-9019

Hartgrove Hospital

Case summary: The HRA substantiated the complaint that Hartgrove Hospital did not give the guardian information regarding her ward's medication and would not return the recipient's belongings when he was discharged. The hospital has provided a corrective action plan and request that it not be attached herein.

INTRODUCTION

The Human Rights Authority of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving a complaint of possible rights violations at Hartgrove Hospital. It was alleged that the facility would not give the guardian information regarding her ward's medication, and would not return the recipient's belongings when he was discharged. If substantiated, this would be a violation of the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.), and the Illinois Probate Act (755 ILCS 5/11a-17 and 5/11a-23).

Hartgrove Hospital is a 150-bed behavioral health hospital located in Chicago.

To review this complaint, the HRA conducted a site visit and interviewed the CEO, the Director of Risk Management, and the Unit Nurse Manager. Corporate policies were reviewed, and the recipient's clinical records were reviewed with written guardian consent. The guardian's Letters of Office for Guardian of the Person has been entered into the record

COMPLAINT SUMMARY

The recipient, a 17 year old male with autism, was taking the medication hydroxyzine when he began to experience adverse reactions. His guardian spoke with his pharmacist and doctor and they decided it was not the drug itself but the manufacturer of it (because of other added ingredients), that caused an allergic reaction in the recipient. The pharmacist began to search for a new manufacturer but in the meantime the recipient's behavior decompensated and his guardian eventually called for an ambulance to have him transported to a hospital because his symptoms became so severe. When the recipient was transferred to Hartgrove, the recipient's guardian spoke with the social worker and told her that the physician would have to speak with her pharmacist about the recipient's medication. The complaint also indicates that the guardian mentioned the issue of the medication at the recipient's first staffing, when she indicated that she

would need the medication information before discharge. During his stay at Hartgrove, the recipient was again given hydroxyzine but from another manufacturer, and his symptoms subsided. The guardian requested the name of the medication's manufacturer so she could have it ready when he was discharged, however the hospital reportedly would not give her this information. The care giver continued to request this information but did not receive it until May 8th, two weeks after her son's discharge, when she contacted the hospital pharmacy herself and was able to speak with a staff person there.

When the guardian picked her son up after discharge, he was given his belongings which consisted of two stuffed animals, a coloring book and colors. His pants and shirt that he came in with were reportedly gone. The guardian asked staff to look for them but her ward had already begun a bad spell and was disrupting the whole waiting room so the guardian had to leave. The pants and shirt that the recipient is missing are clothing that he considers his security blanket. He does not wear any other clothes, won't take them off even to sleep, and cannot sleep without them. In fact the recipient will not wear any clothes rather than be without these pants and shirt and the guardian has to clean and dry them while the recipient is bathing in order to remove them from him. These pants were removed for laundering and the guardian brought additional clothing until the pants were cleaned. When he was discharged the guardian was given an inventory of belongings that showed that he came in with these pants (the shirt is not mentioned) and it also showed that he did not have them when he left. The guardian called the hospital several times and the last word she received about the matter was the doctor's statement that, "our records show that the pants went home with him."

FINDINGS

The record contains the recipient's Psychiatric Assessment, completed on 5/05/12, which includes his History of Present Illness and it states, "A 17 year old African American male, single, currently living with his legal guardian, who is his grandmother, who reports stable living situation. Patient has a history of autism with mood instability and agitation and aggressive behaviors and poor impulse control. According to information from the chart, patient was hospitalized because of agitation and aggressive behaviors. According to legal guardian, his medication was not right for him from the pharmacy, has stopped sleeping and eating, increasing irritable and agitated with frequent anger outbursts. Also had bit legal guardian in the palm. Also had pulled out two of his own teeth and threw them on the floor. Has a history of stabbing legal guardian in the back two years ago. At the time of evaluation, patient is nonverbal, does not provide any history." The Medication History section states: "Patient has tried multiple medications in the past, has suffered adverse effects to some medications,. Grandmother reports that his current regimen has worked the best for him."

The recipient's mental status upon admission is described in the record: "The patient was awake and alert. He did not communicate verbally. He is poorly engaged and poorly related. Oriented to person. Unable to assess orientation to time and place. Poorly cooperative and poorly related during this evaluation. ADL's were fair. The patient appeared restless and pacing. Mood was neutral. Affect was constricted, non-labile and non-agitated. No anxiety symptoms. The patient has a history of impulsive behavior. No compulsions or obsessions. The patient has a history of aggressive behavior. Speech was non-verbal. Thought process and content were

unable to be assess [sic]. He did not appear to be responding to hallucinations. Attention span is grossly impaired. Memory was unable to assess. Clinical estimate of intelligence is below average. Insight and judgment were poor. The patient is not currently suicidal or homicidal but has a history of poor impulse control and aggressive behaviors." The recipient's diagnoses are listed as Episodic Mood Disorder, Mental Retardation, and Pervasive Developmental Disorder-Autism.

The medications ordered for the recipient upon admission were Risperdal 2 mg 3 times daily and hydroxyzine, 50 mg at bedtime. The guardian's written consent for these medications is included in the record. The recipient was also ordered Ativan and Haldol as emergency medications. The History and Physical Exam note, "Multiple food and drug allergies. Will notify pharmacy, dietary and staff. Some of the allergies include Clonidine, Ativan, Trazodone, Adderall, Zyprexa, Benadryl, Trileptal, Lithium, Depakote, and Thorazine. For food allergies patient has allergy to milk, eggs, and peanut butter. Will use caution while the patient is here with his diet." The nutritional screening also identified the above allergies and note that the recipient is vegetarian. All allergies are named on each sheet of the Medication Administration Record for reference. The record shows that the recipient received Ativan as an emergency medication on four occasions both intramuscularly on 4/14/12 and orally on 4/15, 4/16, and 4/17. No adverse reactions were noted.

The recipient's Social Work Assessment is included in the record. It indicates that the recipient was adopted by his grandmother, a retired teacher, at 2 months old and when asked about the family dynamics she states, "We do fine, until episode with medication." An Educational Assessment was also completed on the recipient. It states, "Pt. destroys property when upset; while working on an art project with legal guardian pt. became enraged pulling out two teeth and bit legal guardian to point where she lost her nail. Behavior triggered by receiving wrong meds from pharmacy."

A Social Work Treatment Note was entered on 4/23/12 which states (in part), "SW contacted LG [legal guardian] for discharge family session. ...LG request information on manufacture of medication per pharmacy packaging for Hydrxyzine is by American Health Packaging [including phone contact information]. Manufacturer for Risperdal is Cadia Health Care...."

The record contains RN Progress Notes from 4/28/12. The notes state (in part), "Potential harm to others and self. Pt's mood and behavior anxious and impulsive. All precautions D/C'd as per the Dr.'s orders. Pt. discharged home accompanied with the legal guardian. He received all his belongings. Legal guardian was educated about the med Risperdal and Hydroxyzine. The effects and side-effects and the importance of compliance she said, 'I know about all that meds he is on that since a long time....'"

The record contains the Patient Belongings List completed on the day of admission, 4/05/12. It shows what the recipient kept while on the unit (one pair of short black pants, identified as "Nike pants", coloring books and 2 stuffed animals) and personal items that were sent home at admission (a blanket and a beaded stuffed animal). The belongings list was not signed by the guardian but was signed and dated by a staff person. The bottom of the page,

completed on the day of discharge, 4/23/12, has a section indicating "Belongings returned upon discharge from 1) Patient storage room and 2) Valuables in safe." This section is not completed and is not signed by the nurse or guardian.

Hospital Representatives' Response

Hospital staff/administrators were interviewed about the complaints. They stated that they were aware that the guardian in this case had requested the name of the manufacturer of the recipient's medication and that the social worker was able to provide the distributor name which was taken from the box, but that information on the manufacturer is a lot more difficult to obtain. They noted that staff did make an attempt to get the information, however this is something that is probably more easily obtained from the pharmacist and most staff would probably refer the guardian to the pharmacist. Staff noted that if the guardian was referred to the Director of the Pharmacy he is a part-time employee so it might take several calls to reach him. Additionally, staff indicated that the hospital employs a clinical psychologist as the patient advocate and anyone can make a complaint at any time. The complaint is then immediately directed to the Risk Manager who initiates the complaint protocol.

Staff were asked about the return of the recipient's pants and shirt. They indicated all the hospital linens are sent off site for laundering but that patients' clothing is laundered in the hospital. They speculated that the recipient's clothing might have been accidentally included in the linen laundry and if that happened, it would be impossible to retrieve. The staff indicated that the nurse manager looked on several units for the clothing but that it could not be found. Staff also indicated that the hospital will reimburse the recipient for clothing that is lost in the laundry. Staff were asked about the Patient Belongings List and they acknowledged that the list had not been completed either upon admission or discharge.

Although it is not part of the stated complaint, the HRA, as advocates, felt compelled to ask staff why the recipient had been administered Ativan as an emergency medication when it was repeatedly noted in the record that the recipient is allergic to it. The HRA wanted to ensure that physicians are made aware of guardians' directives and take this into consideration in prescribing medication. Staff indicated that because it was given in an emergency situation the physician probably weighed the risks against the benefits and decided in favor of the medication. Staff also noted that Ativan is often ordered for younger children because it has a short period of effect, and is not known to generate an allergic response. The HRA asks that the hospital review its procedure for alerting physicians and nurses to the guardian directives for treatment alternatives, and take these directives into consideration in prescribing medication.

STATUTES

The Mental Health and Developmental Disabilities Code provides for the inclusion of the guardian in all aspects of treatment:

"A recipient of services shall be provided with adequate and humane care 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...."(405 ILCS 5/2-102).

If treatment includes the administration of psychotropic medication, then the guardian must be advised in writing of the side effects, risks and benefits of the treatment:

"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 that is communicated. The physician shall determine and state in writing whether the recipient has the capacity to make a reasoned decision about the treatment. The physician or the physician's designee shall provide to the recipient's substitute decision maker, if any, the same written information that is required to be presented to the recipient in writing." (405 ILCS 5/2-102 a-5).

The Mental Health Code also allows the guardian to refuse treatment for the recipient:

"An adult recipient of services, the recipient's guardian, if the recipient is under guardianship, and the recipient's substitute decision maker, if any, must be informed of the recipient's right to refuse medication. The recipient and the recipient's guardian or substitute decision maker 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." (405 ILCS 5/2-107 a).

Additionally, the Illinois Probate Act of 1975 defines the duties of the guardian:

"To the extent ordered by the court and under the direction of the court, the guardian of the person shall have custody of the ward and the ward's minor and adult dependent children; shall procure for them and shall make provision for their support, care, comfort, health, education and maintenance, and professional services as are appropriate....The guardian shall assist the ward in the development of maximum self-reliance and independence." (755 ILCS 5/11a-17a).

Also, the Probate Act gives direction to providers to rely on guardian decision making:

"Every health care provider...has the right to rely on any decision or direction made by the guardian....to the same extent and with the same effect as though the decision or direction had been made or given by the ward." (755 ILCS 5/11a-23).

The Mental Health Code states that "When a recipient is discharged from the mental health or developmental disabilities facility, all of his lawful personal property which is in the custody of the facility shall be returned to him." 405 ILCS 5/2-104 c).

PROGRAM POLICY

Hartgrove Hospital provided policy on Patient Clothing List and Valuables. It states that the hospital does not assume responsibility for patient belongings. The clothing form may be used to provide a written record of the patient's property and personal effects, however this is at the discretion of the Unit Nurse Manager. Valuable items are to be sent home or secured in the hospital safe.

The policy outlines the action steps for medical staff and nursing:

1. *Labels form with patient labels*
2. *Enters all belongings kept in storage on form.*
3. *Reviews form with patient and obtains patient signature on form. (If patient is unable to sign, indicate this on form).*
4. *Signs form with classification.*
5. *Completes new clothing list each time patient brings in or receives new items.*
6. *Counts money with patient and a witness, then takes money to charge nurse for placement in safe.*
7. *Notes that money was placed in vault.*
8. *Places any valuables in "Valuables Envelope" and takes them to safe.*
9. *Notes placement of valuables on clothing list*
10. *Articles sent home are listed under "Items sent home" with appropriate signatures.*

Hartgrove Hospital provided their policy on Psychotropic Medication (#MM 317). It states, "Patients who are receiving medications and when appropriate, parent/guardian shall be given a clear, concise explanation of the proposed medications, the indications, benefits, risks, alternate treatment options and right to refuse medication. Parents/guardians are to provide informed consent for psychotropic medications. ...Psychotropic medications may be administered in an emergency situation to prevent imminent harm to the patient or others."

CONCLUSION

In this case a guardian requested information about a medication for her ward that is generally not requested of hospital staff, and the HRA understands that this information does not readily fall under the usual risks, benefits and side effects that are mandated for the consent for psychotropic medication. However this information was necessary not only for the ward's benefit, but also because the wrong medication could mean serious physical injury not only to the recipient but also to the guardian after discharge- this medication, while not a psychotropic, would have severe psychotropic effects if manufactured with ingredients that the recipient is allergic to. Realizing this danger, the guardian initiated the discussion of the medication's manufacturer at the onset of his hospitalization. When she became aware shortly thereafter that the hospital was administering the appropriate medication, the guardian only requested the manufacturer name so she could continue with a regimen that was proven effective. In the review of this record it is difficult to believe that the hospital could not have provided this information in the 18 days in which the recipient was hospitalized there. The HRA substantiates

the complaint that the facility would not give the guardian information regarding her ward's medication.

Although the hospital policy states that the hospital does not accept responsibility for patients' belongings, in this case the hospital did not follow its own policy for the completion of the Patient Belongings List and the Mental Health Code requirement that all lawful personal property of the recipient be returned at discharge. The HRA substantiates the complaint that the facility did not return the recipient's belongings when he was discharged.

RECOMMENDATIONS

1. Train staff to make every effort to provide the necessary information regarding medication so that guardians whose wards are extremely allergic can make informed decisions about their ward's care.

2. Train staff to complete the Patient Belongings List according to hospital policy (allowing guardians to sign for personal items when recipients are unable to do so), and make every effort to secure recipients' belongings.