FOR IMMEDIATE RELEASE

REPORT OF FINDINGS
PALOS COMMUNITY HOSPITAL— 12-040-9014
HUMAN RIGHTS AUTHORITY— South Suburban Region

[Case Summary— The Authority made corrective recommendations regarding two of the allegations that were accepted by the service provider. The public record on this case is recorded below; the provider's response immediately follows the report.]

INTRODUCTION

The South Suburban Regional Human Rights Authority (HRA), the investigative division of the Illinois Guardianship & Advocacy Commission has completed its investigation into allegations concerning Palos Community Hospital. This general hospital located in Palos Heights has an adult and adolescent behavioral health unit with a 28-bed total capacity. The complaint stated that a recipient was detained, administered psychotropic medication and transferred to another hospital against his will. Additionally, it was reported that a physician was rude and verbally abusive.

METHODOLOGY

To pursue the investigation, the Medical Director of the Emergency Department, the Assistant Vice President of Nursing, the Director of Nursing/Emergency and Critical Care Services, the Attending Physician, the Clinical Nurse Manager and three Registered Nurses were interviewed. The complaint was discussed with the adult recipient who maintains his legal rights. The recipient's record was reviewed with written consent. Relevant hospital policies were also reviewed.

COMPLAINT STATEMENT

The complaint stated that the recipient voluntarily went to the hospital's Emergency Department seeking outpatient mental health services. Once there, he was allegedly detained and psychotropic medication was administered without cause. The recipient reportedly told the physician that he was feeling stressed; he was looking for housing and had recently returned from a military base. The physician allegedly told the recipient that "I do not have time for people like you and that you are not the only patient." He also made derogatory remarks such as "you guys and you people" toward the recipient. Then, the hospital's security officers reportedly came in the examination room, and the staff made it clear that the recipient was going to get an injection "one way or another." Additionally, the complaint alleged that the recipient was later transferred to another community hospital for hospitalization.

FINDINGS

The recipient's record indicated that he arrived at the hospital's Emergency Department for an evaluation on July 19th, 2011 at 12:03 p.m. At triage, the recipient told the nurse that he was feeling anxious and that he was having problems doing everyday activities because of his anxiety. He reported having lower back pain and that he was homeless. He said that he had been previously diagnosed with Bipolar Disorder and that he had not taken medication for this problem in five years. He had been at another community hospital on that previous night and earlier morning. He denied having suicidal or homicidal thoughts.

The recipient was reassessed by the nurse at 2:07 p.m., and he was oriented to person, place and time. The nurse also wrote that the recipient was calm as he waited to be evaluated. At 4:00 p.m., a behavioral management record or flow sheet indicated that the recipient was placed under close observation for elopement precautions, and that his behaviors were recorded every 15 minutes. The flow sheet also recorded that the physician was with the recipient minutes later and that this precaution was continued until he was transferred to another hospital on that same day. The record contained a petition completed by a hospital employee that allows for a recipient's involuntary detention for a mental health assessment under the Code. The HRA was unable to determine the date, time, and supporting behaviors for his detention because the document was not legible. A certificate prepared by the physician for involuntary hospitalization at 4:30 p.m. was included in the recipient's record. The physician affirmed on the certificate that he advised the recipient of his rights prior to the examination, but his clinical observations written on the document also were not readable. The hospital provided the HRA with another copy of the legal documents asserting that the recipient was subject to involuntary hospitalization because he was reasonably expected to engage in physical harm to self or others. As before, we still could not read the information on them as referenced above.

A report written by the physician explained that the recipient's history included steroid induced psychosis and multiple violent psychotic episodes. It stated that the recipient had requested to be admitted to an inpatient psychiatric unit because he was concerned that his increased anxiety would result in more of these incidents. A Psychiatry Nursing Admission Assessment further recorded that the recipient presented with "rapid pressured speech, flight of ideas and [illegible]." He said that "they ruined me" and that "my brain is [broken]." He reportedly believed that the staff were trying to harm him. The nurse documented suicidal risk factors such as severe anxiety, substance abuse, insomnia, etc. At 4:45 p.m., the flow sheet recorded that an Electrocardiogram (EKG) was completed. Blood work and a urine specimen also were collected minutes later.

At 6:30 p.m., the nurse wrote that the recipient was agitated as he stood in the doorway, and he was angry because the staff would not listen to him. He also exhibited flight of ideas; he was difficult to redirect and told the staff that he was going to leave because they could not legally hold him. He was instructed to go back into the examination room and eventually sat on the cart. The hospital's security officers were called for assistance. At 6:50 p.m., the nurse attempted to evaluate the recipient, but he remained agitated and would not answer questions. He denied having any problems and told the staff that he was not going to allow them "to sneak

in a court order." According to the nursing note, the recipient was informed about the need for medication and was asked to remove his shirt but refused. The hospital's security personnel were called again. Ten minutes later, the nurse noted that the recipient was wearing a gown and that he accepted intramuscular medication (IM). According to the medication record, Ziprasidone 20 mg and Lorazepam 2 mg IM were administered at 7:13 p.m. However, there was no evidence that his decisional capacity was established in writing or that his informed consent was provided before the medication was administered.

At 7:30 p.m., the recipient reportedly came out of the examination room without his clothing or gown and yelled at the physician "you think this is funny asshole?" He was directed to go back into the room and security officers were summoned again. The medication record indicated that Haloperidol 5 mg and Lorazepam 2 mg IM were given at 7:41 p.m. There was no clear indication concerning why the medication was given or documentation of an emergency or that he was informed of his right to refuse the medication or given the opportunity to refuse it. On that same night, the recipient was involuntarily transferred on a certificate for emergency admission to another community hospital because he reportedly needed a higher level of care. The record lacked a transfer form or documentation of the recipient's response concerning his transfer. We found no evidence during the record review that the physician was verbally abusive toward the recipient as alleged in the complaint.

The hospital first responded to the complaint in a letter written by the Attending Physician who described the recipient as having pressured speech, severe anxiety, delusions, aggression, impaired judgment, paranoid thoughts and flight of ideas. The physician wrote that the recipient had requested to be hospitalized because he was concerned about having another psychotic episode. He was further described as being extremely hostile and agitated, but he was never restrained. He reportedly accepted psychotropic medication after he was provided with extensive, compassionate and supportive information regarding the need for medication. The letter mentioned the nursing note found in the record stating that the recipient accepted IM medication. The physician wrote that he has never been verbally abusive or derogatory toward any patient nor would he tolerate patients being treated in such a manner. According to the physician, the recipient was provided with the same high level of compassion, respect and dignity that all patients receive in the hospital's Emergency Department. The physician speculated that the recipient might have confused his care at Palos Community Hospital with the other hospital that he had sought help from on that previous night.

When the complaint was discussed with the hospital's staff, the HRA was informed that about seven psychiatric patients are seen in its Emergency Department daily. The recipient reportedly was physically abusive, combative and that he had tried to elope from the hospital's Emergency Department. The Assistant Vice President of Nursing explained that the hospital's security officers are called when a patient begins to escalate. He said that the officers are very helpful in deescalating the situation. He reported that all appropriate staff must complete an eight-hour training course on deescalation. The Clinical Nurse Manager said that calming interventions should be documented in a recipient's record when they are implemented. She mentioned that the flow sheet shows that the physician and security personnel were called to the recipient's bedside to calm him. According to the Director of Nursing/Emergency and Critical

Care Services, it is standard practice to comfort a patient. The nurse who provided the most care to the recipient could not be interviewed because she is no longer employed with the hospital.

According to the Attending Physician, the recipient had refused to answer some questions during the psychiatric nursing assessment regarding his mental status. He had discontinued taking medication; he was having a psychotic episode and was concerned about harming others in the community. The physician told the investigation team that the recipient did not refuse medication when offered. He reportedly shared information about the side effects, risks, and benefits of the medication as well as alternatives to the proposed treatment with the recipient. He said that other staff members also might have provided drug information. He stated that a person's capacity to give informed consent about the proposed treatment is "decision-specific," and that the recipient might have agreed to accept medication after they were explained to him. We found no evidence that his decisional capacity was established in writing or that his informed consent was provided before the medication was administered. The record also lacked documentation that medication information was shared verbally or in writing with the recipient. The nurse who provided the most care to the recipient could not be interviewed because she is no longer employed with the hospital.

The HRA was informed that a determination is made concerning whether or not the recipient is appropriate for the hospital's behavioral health unit. Patients who are considered to be at high risk for violence and involuntary individuals are usually not appropriate for the unit. The recipient reportedly was transferred to another hospital because he required a higher level of care. The Assistant Vice President of Nursing reported that the hospital does not have a better copy of the petition and certificate. He said that the original involuntary documents were sent to the receiving hospital. We were told that a transfer form should have been part of the recipient's record reviewed, but the form was not found. The Attending Physician repeated that the recipient was provided with the same high level of care that all recipients received. According to the Medical Director of the Emergency Department, the recipient did not file a complaint with the hospital concerning possible abuse.

Palos Community Hospital's "Care of the Patient At Risk for Self-Harm" policy states that patients who present to the Emergency Department will be evaluated and treated according to their needs. Patients determined to be at risk for harm to self or others will be detained until their discharge is authorized by the Attending psychiatrist or the psychiatrist on call. The patient will be immediately assessed by the nurse to determine risk of self harm and the need for suicide precautions that include observation, monitoring and continual support of the patient. The patient will be placed in a hospital gown, and the individual's belongings will be given to the hospital's Public Safety Department. A sitter will be assigned when a patient is considered suicidal. A patient on close watch precaution must be visible to the nursing staff and 15 minutes checks will be done. The patient will be reassessed by the physician concerning the level of precaution needed.

The hospital's "Involuntary Admission To A Psychiatric Unit" policy states that a person 18 years of age or older who is subject to involuntary admission and in need of immediate hospitalization may be admitted to a mental health facility upon proper completion of a petition and certificate. It states that the petition should be completed immediately when a patient is detained involuntarily for a mental health examination. The patient will be examined by a

psychiatrist or physician and a certificate will be completed. If the patient is transferred to another facility, the original petition and certificate will be sent to the receiving facility.

The hospital's "Patient Right" policy states that when the patient's treatment plan includes 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 advise 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. The patient will be provided with written medication information prior to administering the medication unless there is a documented emergency in the record.

According to the hospital's "Refusal of Psychotropic Medications" policy, an adult recipient of services or the recipient's guardian if appropriate shall be given the opportunity to refuse generally accepted mental health services, but not limited to, medication. If such services are refused, they shall not be given unless such services are necessary to prevent imminent physical harm to self or others and no less restrictive alternative is available.

Palos Community Hospital "Out Of Facility Transfer Of Psychiatric/Chemical Dependency Patients" policy states that patients who have clinical conditions that cannot be treated within the hospital setting may be transferred as ordered by a physician. These include: 1) patients who are extremely combative, violent or dangerous, 2) involuntary patients with a history of non-compliance and resistance to treatment, 3) patients who require treatment in a more restrictive unit for their safety, and, 4) adolescent patients who require treatment on a separate adolescent unit due to behaviors that would be difficult to address in the hospital's mixed milieu. According to the policy, a transfer form should be completed for any patient transferred from the Emergency Department. The form should be signed by the physician and the patient. It states that the patient's signature indicates his or her understanding for the transfer and the location.

CONCLUSION

According to the following Sections of the Code,

> A recipient of services shall be provided with adequate and humane care and services in the least restrictive environment, pursuant to an individual services plan. (405 ILCS 5/2-102).
>
> If the services include the administration of electroconvulsive therapy or 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 Section 5/2-107 …. (405 ILCS 5/2-102 [a-5]).

An adult recipient of services…must be informed of the recipient's rights to refuse 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 harm to the recipient or others and no less restrictive alternative is available….psychotropic medication or electroconvulsive therapy may be given under this Section for up to 24 hours only if the circumstances leading up to the need for emergency treatment are set forth in writing in the recipient's record. (405 ILCS 5/2-107).

Every recipient of services in a mental health facility shall be free from abuse and neglect. (405 ILCS 5/2-112).

Whenever a petition has been executed …, and prior to this examination for the purpose of certification of a person 12 or over, the person conducting this examination shall inform the person being examined in a simple comprehensible manner of the purpose of the examination; that he does not have to talk to the examiner; and that any statement he makes may be disclosed at a court hearing on the issue of whether he is subject to involuntary admission. …. (405 ILCS 5/3-208).

When a recipient is asserted to be subject to involuntary admission and in such a condition that immediate hospitalization is necessary for the protection of such person or others from physical harm, any person 18 years of age or older may present a petition … (b) The petition shall include a detailed statement of the reason for the assertion that the recipient is subject to involuntary admission, including the signs and symptoms of a mental illness and a description of any acts, threats, or other behavior or pattern of behavior supporting the assertion and the time and place of their occurrence. (405 ILCS 5/3-601).

Upon completion of one certificate, the facility may begin treatment of the respondent. However, the respondent shall be informed of his right to refuse medication, and if he refuses, medication shall not be given unless it is necessary to prevent the respondent from causing serious harm to himself or others. The facility shall record what treatment is given to the respondent together with the reasons therefore. (405 ILCS 5/3-608).

The Authority cannot substantiate the complaint stating that the recipient was detained against his will because the record contained a petition that allows for an individual to be involuntarily held for a mental health assessment under Section 5/3-601. However, the HRA was unable to determine exactly when the petition was executed and the supporting assertions regarding his behaviors because the document was not legible. We also were not able to read the physician's clinical observations on the certificate prepared at 4:30 p.m., which affirmed that rights were admonished under Section 5/3-208. The investigation team was informed that the original involuntary legal documents were sent to the receiving hospital, and we were not able to secure a signed release for them. We are very troubled by the poor quality of the documents provided, and we must caution the hospital that the Code requires that a timely petition be accompanied by a certificate for immediate hospitalization.

The HRA cannot substantiate the complaint stating that the recipient was administered psychotropic medication against his will. The medication record indicated that Ziprasidone 20 mg and Lorazepam 2 mg were administered at 7:13 p.m. and that Haloperidol 5 mg and Lorazepam 2 mg were given intramuscularly at 7:41 p.m. We noticed that the hospital security officers were present in all instances when medication was administered, and we understand how this might be perceived as coercion as stated in the complaint. However, a nursing note stated that the recipient accepted the first dosages of medication. The physician told the HRA that the recipient accepted all of the medication offered after they were explained to him. Therefore, the hospital violates Section 5/2-102 (a-5) and program policy because the record lacked documentation of his decisional capacity or informed consent for the medication. Also, there was no documentation that written drug information was provided before the medication was administered in absence of a documented emergency.

The Authority cannot substantiate the complaint stating that the recipient was transferred to another hospital against his will. The investigation revealed that the recipient required a higher level of care and that he was transferred on a certificate for involuntary emergency hospitalization. However, the hospital violates its "Out Of Facility Transfer Of Psychiatric/Chemical Dependency Patients" policy because there was no documentation in the record of his response concerning the transfer as required by the policy. The transfer form was not evident in the record.

The HRA cannot substantiate the complaint that the physician was rude and verbally abusive because we found no evidence of this. No violations of Sections 5/2-102 (a) or 5/2-112 of the Code were found in regard to possible abuse.

RECOMMENDATIONS

1. Follow Code requirements and document whether a recipient has the capacity to give informed consent about the proposed treatment and ensure that informed consent is obtained before administering psychotropic medication under Section 5/2-102 (a-5) and program policy.

2. Document in recipients' records when they are provided with written information regarding psychotropic medication according to the hospital's rights policy and under Section 5/2-102 (a-5). To clarify, information must be given in all instances whenever psychotropic medications are used in services per this Section. Be sure that patients are eventually given education materials

of what they were injected with during an emergency and be sure that program policy is clear on the requirement.

3. The hospital shall follow its policy and document a recipient's response regarding his or her transfer to another facility as required by program policy.

SUGGESTIONS

1. Although the Authority understands that the hospital was not required to file the petition and first certificate with the court because the recipient was transferred to another hospital for possible emergency admission, the provider should ensure that legal documents placed in a recipient's record are legible.

2. Ensure that completed transfer forms are placed in recipients' records.

RESPONSE

Notice: The following page(s) contain the provider response. Due to technical requirements, some provider responses appear verbatim in retyped format.

Palos Community Hospital

12251 S. 80th Avenue Palos Heights, Illinois 60463 (708) 923-4000

January 16, 2013

Kimberlee Brewerton, Chairperson
Regional Human Rights Authority
Guardianship and Advocacy
P.O. Box 7009
Hines, Illinois 60141-7009

Re: HRA No. 12-040-9014

Dear Ms. Brewerton:

Please accept this letter as the response of Palos Community Hospital to the above-sited report of the Human Rights Authority. We have reviewed the Human Rights Authority Report, including all recommendations and suggestions, as well as the care provided to the patient in our Emergency Department. A revised policy and procedure as well as a staff training sheet are attached per your request.

We have reviewed our policy and procedures and added language to assure that all patients who receive psychotropic medications are provided with written medication information. Palos Community Hospital's policy and procedures are consistent with the recommendations of the Human Rights Authority and the Illinois Mental Health and Developmental Disabilities Code. The policy and procedure changes and recommendations of the Human Rights Authority will be reviewed with Emergency Department staff and discussed at the February 15, 2013, Department of Emergency Medicine meeting. In addition to the policy changes and scheduled review at the Emergency Department meeting; training is ongoing with all the Emergency Department staff utilizing the attached training sheet.

Palos Community Hospital remains committed to providing compassionate and humane care to patients in need of mental health services.

Sincerely,

Kirk Bergmark, APN, CNS
Assistant Vice President of Nursing,
Psychiatry/Chemical Dependency

Attachments

February 26, 2013

Kimberlee Brewerton, Chairperson
Regional Human Rights Authority
Guardianship and Advocacy
P.O. Box 7009
Hines, Illinois 60141-7009

Re: HRA No. 12-040-9014

Dear Ms. Brewerton:

Please see the attached February 15, 2013 Emergency Department Meeting attendance sheet , Memo to all of the Emergency Department Physicians and Roster of the Emergency Department Nurses who received the education regarding the Human Rights Authority recommendations and suggestions.

In addition to the education provided we have worked with our Information Systems Department to develop order screens to facilitate the consistent documentation of the patient's decisional capacity by the physician in the electronic medical record. This order will also add an assessment to the registered nurses work list to assure that written medication information is provided to the patient and that the registered nurse documents that the medication information has been provided.

Sincerely,

Kirk Bergmark, APN, CNS

Kirk Bergmark, APN, CNS
Assistant Vice President of Nursing,
Psychiatry/Chemical Dependency

Attachments