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HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 13-030-9002

Northwestern Memorial Hospital

Case summary: The HRA did not substantiate the complaint that Northwestern Hospital administered psychotropic medication 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 Northwestern Memorial Hospital (Northwestern). It was alleged that the hospital did not follow Code procedures when it administered psychotropic medication to a recipient. If substantiated, these allegations would be violations of the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.).

Northwestern is an academic medical center in Chicago that offers inpatient psychiatric health services at the 29-bed Galter Pavilion.

To review these complaints, the HRA conducted a site visit and interviewed the Department of Psychiatry Manager and the Senior 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 received psychotropic medication without her consent. It alleges that the recipient experiences a physical reaction to psychotropic medication, such as elevated blood pressure, burning sensations throughout her body and tingling in her mouth and lips and that she experienced this reaction after becoming a patient on the behavioral health unit. The complaint alleges that the recipient refused all medication and treatment and never gave consent for any medication.

FINDINGS

The Discharge Instructions (completed 4/26/12) include a statement of the recipient's history: "Pt. is a 53 y/o retired attorney with 8 year history of paranoid delusions worsening over the past 2 years. This hospitalization was prompted by the patient's suicidal ideation, based by

her delusional belief that she cannot safely eat or drink. A former attorney ... [recipient] told her mother that people are following her, poisoned her food in her refrigerator and attempting to pollute the air in her condominium. She currently trusts no one, family, doctors, etc. Family history is strongly positive. Brother attempted suicide several years ago and has permanent brain damage as a result. Grandmother (per mother) 'had a mental breakdown and received ECT.' Patient's great aunt was in a mental institution from the age of 20 to 60. She was very agitated, bordering on combative, but refusing meds and wanted discharge in the ED." The accompanying Summary of Hospital Course states, "[Recipient] was admitted to Galter 13 on certificate and petition. She was evaluated by the psychiatrist, psychiatric resident, nursing and social worker. She was offered, but refused, antipsychotic medication. Maintaining hydration and nutrition was initially a challenge on the unit, although pt agreed to drink canned ginger ale if she could wash it in a communal sink before drinking. She eventually accepted food and fluid in closed containers. Differential at admission included paranoid delusional disorder, psychosis secondary to a medical problem, such as frontal temporal dementia or late onset bipolar or schizophrenia. Onset of illness in the late fourth, early fifth decade increased the possibility that this is an early presentation of what will eventually be diagnosed as dementia. BMI 18.7 at admission. BMI 18.5 is considered underweight. CBC was within normal range. Amylase, serum protein not assessed at admission. The patient refused additional laboratory work. Following collection of collateral information from the patient's mother and brother and identification of the onset of illness as in the fourth decade, the broad scope of the paranoid delusions strongly supported a diagnosis of schizophrenia, paranoid type. The diagnosis was discussed with [the recipient]. She demonstrated no insight into the nature of her illness or the benefit potentially available with treatment...."

The record contains the petition for involuntary admission completed on 4/20/12 at 2:45 p.m. by a registered nurse from the emergency department. The description of the recipient's behaviors which led to the assertion that she requires hospitalization states, "Pt. has a psych history- was brought to ED by CPD after emailing brother she was going to end her life. Pt. is paranoid delusional." A certificate is included in the record, completed on 4/21/12 at 10:00 a.m. by the attending physician and it requests inpatient hospitalization based on the following information, "Patient states that water will poison her, and that she will not take medication because she will be poisoned. She is very delusional and at risk for self harm. The record includes confirmation that the recipient was given her rights information both verbally and written, as well as a copy of the petition and Rights of Individuals Receiving Mental Health and Developmental Disabilities Services.

The record shows that the recipient was initially evaluated to have decisional capacity and that later, on 4/24/12 she was determined not to have capacity. The electronic Medication Administration Record (MAR) includes all physician orders for the recipient's care and it shows that the recipient was ordered two psychotropic medications: Haldol 5 mg tab PRN (as needed) for agitation or 5 mg injected for agitation, and Lorazepam 2 mg PRN for agitation or 2 mg injected for agitation. These orders include a statement that the physician discussed with the patient the "benefits and the nature and frequency of side effects" of these medications and that the recipient "has agreed to the administration of the above psychotropic medication". The record contains the Medication Administration Record for this recipient, and it shows that the recipient never received any psychotropic medication throughout her hospitalization. The record also

shows that the recipient never received any emergency medication, was never placed in restraints, and never took part in any group or individual therapy.

The Psych Assessment Notes entered on 4/21/12 indicate that issues surrounding contamination emerge in the recipient's treatment: "Continues to refused [sic] to eat refused orange juice since it is made in China. Refused Kosher prepacked food since it is covered in plastic. Claimed plastic can caused [sic] cancer." The following day the Notes state, "Pt. irritable demanding to leave. Wants the list of all the meds given to her 'directly or indirectly.' Maintains being poison [sic]. Reports wiping the can ginger ale is not enough wants to wash can in the sink. Alleged her knees hurt because of chemical agents, reagents [sic] and contaminants from meds directly or indirectly given to her." Progress Notes also from 4/22/12 state, "Pt very angry and agitated this am, states that she can only drink from can of ginger ale if she is able to wash it in the communal sink, because she is now convinced that the former coworker who was trying to kill her is now in the hospital and able to enter her room. She does not trust washing it in the sink in her own room, as she feels that the faucet has been tampered with. Is very hungry and thirsty but afraid to eat or drink anything, believes that she is already being poisoned in the hospital- 'I feel worse, my leg is stiff, I'm getting physically ill...I know that my food is being contaminated and that you people are allowing it. I demand to be discharged, I have to move away from the city in order to be safe. My family is in on this too, they cannot help me. Your people cannot help me, I don't need medicines, they will just hurt me- there is nothing wrong with me.' Pt only ate potato chips and drank 3 cans of ginger ale yesterday. Continues to refuse meds. Informed about possibility of signing in voluntarily and signing a 5-day, which she refused. Pt refusing all meds." Notes entered on 4/23/12 state, "Patient expressed concern that her Kosher dinner was heated with the plastic on top of it. She states that there are too many carcinogens in the hospital styrofoam and plastic wrap in her meal. She was also concerned that someone had tampered with her dental floss and now she was unable to use it because of contamination. Patient is refusing medications at this time." Psych assessment notes from 4/25/12 contain comments on the recipient's symptoms, "Thoughts scattered continues to focus on feeling unsafe at home that someone has key to her apartment and has been tampering with her food frustrated feeling that no one has helped her the police a lawyer she has retained condo association. Continues to insist on having her food arrive to unit frozen and cook it herself for fear that she will be poisoned."

The recipient was discharged on 4/26/12 to her home.

HOSPITAL REPRESENTATIVE RESPONSE

Hospital representatives were interviewed about the complaint. They indicated that never, under any circumstances, would a patient be administered medication that was hidden or placed in anything in order to encourage the recipient to take it without her knowledge. Patients are always given the opportunity to refuse medications unless their behavior is an immediate threat of physical harm, and even emergency medication would not be hidden from patients. Staff were asked about the statement in the MAR about the recipient having agreed to the administration of psychotropic medication and they indicated that this statement is a prompt for physicians and sets an expectation of education regarding the recipient's medications. Staff

confirmed that the recipient never received psychotropic medication in any form while she was hospitalized as evidenced in the MAR.

STATUTES

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

Northwestern policy #5.28 Treatment/Medications: Refusal of Medications states that unless medications are necessary to prevent the patient from causing serious and imminent physical harm to self or others and no less restrictive alternative is available, the patient or the patient's guardian and the patient's substitute decision-maker, if any, has the right to refuse medications and is informed of this right, in writing on admission. The process for this policy states:

1. Discuss with and present in writing to the patient, and/or guardian and/or substitute decision maker if any, the benefits and potential side effects of taking the medication as prescribed, both short term and long term, as well as alternative services available and the risks of such alternate services, as well as the possible consequences to the patient of refusal of such services.

2. Physician shall assess and document patient's capacity to make a reasoned decision about the administration of treatment (psychotropic medication).

3. Document the patient's reaction and the reaction of the guardian or substitute decision maker if any to the discussion, including a description of the patient's current behavior.

4. Notify the physician of the patient's refusal of the medication.

5. Observe the patient and continue to offer the medication at the prescribed times, without coercion. Document each refusal in the patient's medical record.

Only when a patient's behavior constitutes a significant/imminent threat of physical harm to self or others and no less restrictive alternative is available, may a nurse administer a medication despite the patient's refusal (and in separate policy, #4.0 Rights of Individuals Receiving Mental Health and Developmental Disabilities Services the facility shall inquire which form of intervention the recipient would prefer in these circumstances and this preference must be noted in the recipient's record and given due consideration should it be needed). The nursing staff must also complete a Notice Regarding Restricted Rights of Individual.

CONCLUSION

The record shows that the recipient in this case never received psychotropic medication for any reason and that all of the Mental Health Code requirements regarding the administration of psychotropic medications were followed. Although the HRA does not substantiate the complaint that the hospital did not follow Code procedures when it administered psychotropic medication to a recipient, we disagree that the recipient gave informed consent for these medications, and request that the hospital review this procedure for future patients.