



FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 13-030-9003

Vanguard Weiss Memorial Hospital

Case Summary: The HRA substantiated the complaint that a recipient was detained in the hallway of the emergency department in a chair for six days without authority before he was transferred to a mental health facility. The facility's response is attached below.

INTRODUCTION

The Human Rights Authority of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving a complaint of possible rights violations at Vanguard Weiss Memorial Hospital (Weiss). It was alleged that a recipient was detained in the hallway of the emergency department in a chair for six days without authority before he was transferred to a mental health facility. If substantiated, this would violate the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.).

Weiss is a private, 236- bed community hospital and is part of the Vanguard Health System. The hospital services an area of more than 600,000 people and houses a 12-room emergency department.

To review these complaints, the HRA conducted a site visit and interviewed the Chief Medical Officer, the Director of the Emergency Department, the Director of Cardiology and Telemetry as well as Gero-Psychiatry, the Vice- President of Psychiatry and Behavioral Health Services, the Interim Director of Risk Management and Patient Safety, and the Director of Quality. Relevant hospital policies were reviewed, and records were obtained with the consent of the recipient.

COMPLAINT SUMMARY

The complaint centers around the alleged improper involuntary hospitalization of a recipient from 7/24/12 until 7/30/12 during which time the recipient was not given a room but was detained in a chair in the hallway of the emergency department, where his friends visited him throughout his stay.

FINDINGS

The clinical record face sheet lists the admission date for the recipient as 6:09 p.m. on Tuesday, 7/24/12. The record indicates that the recipient was sent to Weiss from a nursing home

where he was exhibiting "aggressive behavior." The Emergency Department (ED) Chart states that the recipient was brought to the hospital on a petition, however the record does not contain a petition completed at the nursing home. A petition for involuntary admission was completed at Weiss (see below), however it was completed on 7/30/12. At 6:13 p.m. on the 24th the record shows that the recipient was given a psychiatric evaluation which states, "54 y/o male with history of DM II and anxiety is sent to the ED for behavioral evaluation. Pt. was aggressive and disruptive per [nursing home] and is sent to ED for evaluation. Pt. denies suicidal and homicidal ideations. Exam started at 6:17. History comes from patient. It is unclear when the presenting problem started. Have reviewed and agree with RN note. Able to get a good history. Source is a poor historian." Triage Notes indicate that the recipient's history was provided by the nursing home where he resided and that the recipient was triaged and then sent to the Main ED at 6:13 p.m. The recipient was medically cleared at 9:19 p.m. the same night.

The record contains a Uniform Screening and Referral Form completed on 7/24/12 at 10:00 p.m. The presenting problem is described as "Clt brought to ER by ambulance from nursing home with reports of client being aggressive and threatening to staff. Also reported was destruction of property, noncompliant with medication and elopement. Nursing home staff states clt is not redirectable." The Diagnostic Conclusion lists an Axis I Diagnosis of Mood Disorder NOS (not otherwise specified), and the recipient is referred to inpatient treatment at a state mental health facility.

The clinical record contains the Conditions of Admission (Consent for Treatment) form completed on 7/24/12. On the patient signature line the word "Confused" is written. In the section requesting a reason for a signature other than the recipient's there is none given. The recipient was ordered and administered insulin, his regular medication for the treatment of his diabetes, and the psychotropic medications Ativan, Haldol, Risperdal, and Depakote. The record does not contain a physician's statement of decisional capacity and there is no indication that the recipient gave informed consent for the psychotropic medication or that there was a need to prevent serious and imminent physical harm prior to them being administered.

The ED Nursing Notes show that staff began the process of transfer to a state facility at 6:00 p.m. on 7/24. Various fax transmissions were completed with medical and mental health information sent to the referring hospitals, however the record shows that the recipient was placed on a waiting list and the earliest he could be transferred out would be Monday, 7/29/12. The Chart contains a statement made on 7/27 that the recipient was seen by a physician "who does not feel he is safe to be discharged to a shelter, so he is here until accepted at [state mental health facility]."

The ED Chart presents a confusing picture of the placement of the recipient throughout his hospitalization. For example, on 7/24 the Chart shows that the recipient was in a bed at 6:13 p.m. and then in a chair at 1:51 a.m. the following morning. On 7/26 the recipient is in bed at 6:43 a.m. and in a chair at midnight the same day. On the 7/27 the recipient is listed as in a bed all day and on the 28th the recipient is in bed until 9:54 a.m. when he is then resting in a chair. On 7/28 the Chart describes the recipient's placement: "...Pt. agitated, screaming after he was told he needs to go back to his chair by the hallway." The Chart shows that the recipient was in a chair all day and night on 7/29 and then discharged on 7/30 at 2:12 a.m. Friends of the recipient testified that they never saw the recipient in a bed throughout the time that the recipient was hospitalized.

A Petition for Involuntary Admission is included in the clinical record. It was completed on 7/30/12 at 10:30 a.m. by a Registered Nurse at Weiss. The detail of the signs and symptoms of mental illness displayed by the recipient are, "Mr... as [sic] being exhibiting aggressive behavior, per nursing home staff he has been destroying facility properties, threatening staff members, his [sic] a danger to himself and others, and his [sic] non-compliant with his medical regimen." The section of the petition indicating that the recipient received a copy of the petition within 12 hours and that the recipient was given rights information and a copy of Rights of Individuals Receiving Mental Health and Developmental Services is not signed. The section of the petition that indicates the recipient was given the Rights of Admittee document is not signed. An Inpatient Certificate is included with the petition. It was completed by the ED physician and includes the following clinical observation on which the recipient's admission is based, "Patient sent for aggressive behavior. Per [referring nursing home] patient poses a danger to himself and the staff. Patient is not compliant with his medications. Patient denies any homicidal or suicidal ideations." The section of the certificate which indicates that the recipient was told the purpose of the examination, that he did not have to speak with the examiner and that any statements he made could be related in a mental health hearing, is not signed by the examiner.

HOSPITAL REPRESENTATIVE RESPONSE

Hospital representatives were interviewed regarding the complaint. They indicated that the recipient was brought to the hospital because of aggressive behavior at the nursing home where he resided. He was assessed by a physician and determined to be in need of mental health services. Since the recipient did not have insurance and was self-pay, he was referred to a state mental health facility because the hospital does not have an inpatient behavioral health unit except for geriatric patients. Staff immediately attempted to find a transfer bed for the recipient, however the receiving facilities put the recipient on a waiting list and generally, they do not accept patients throughout the weekend, which slows down the process considerably. In the meantime, beds in the ED (12) are needed to treat more emergent problems, and when rooms with emergency equipment are needed, then recipients must move to allow staff to address these cases. Staff indicated that the recipient was placed in a recliner, not a chair, and that he would be placed in a room at night if the situation allowed. Staff also indicated that psychiatrists visit the ED daily (except perhaps on Sunday), at which time they re-examine the mental health recipients and make recommendations accordingly. Also, the recipient received treatment for any medical issues while he was hospitalized and was ordered his regular medications.

Staff indicated that there is not a dialog between the hospital and the receiving mental health centers regarding the movement of recipients who are awaiting a bed and this is perceived to be an aggravating problem. Also, staff stated that hospital physicians should determine when the patient is clear for transfer and not the receiving facility- this would facilitate a smoother transfer process.

Staff were asked if the recipient received any rights information or if the rights of mental health recipients are posted anywhere in the ED, along with contact information for the Guardianship and Advocacy Commission. Staff indicated that this information is not posted in the ED.

STATUTORY BASIS

The Mental Health Code describes a "mental health facility" as "...any licensed private hospital, institution, or facility or section thereof, and any facility, or section thereof, operated by the State or a political subdivision thereof for the treatment of persons with mental illness and includes all hospitals, institutions, clinics, evaluation facilities, and mental health centers which provide treatment for such persons" (405 ILCS 5/1-114).

The Mental Health and Developmental Disabilities Code states, "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 a).

The Mental Health Code states that when a person is asserted to be in need of immediate hospitalization, any person 18 years of age or older may complete a petition (5/3-600), which specifically lists the reasons (5/3-601). The petition is to be accompanied by the certificate of a qualified examiner stating that the recipient is in need of immediate hospitalization. It must also indicate that the qualified examiner "personally" examined the recipient not more than 72 hours prior to admission. It must contain the examiner's clinical observations and other factual information that was relied upon in reaching a diagnosis, along with a statement that the recipient was advised of certain rights (3-602), including that before the examination for certification the recipient must be informed of the purpose of the examination, that he does not have to speak with the examiner, and that any statements he makes may be disclosed at a court hearing to determine whether he is subject to involuntary admission (5/3-208). Upon completion of one certificate, the facility may begin treatment, however at this time the recipient must be informed of his right to refuse medication (3-608). As soon as possible, but no later than 24 hours after admission, the recipient must be examined by a psychiatrist or released if a certificate is not executed (5/3-610). Within 12 hours after his admission, the recipient must be given a copy of the petition (5/3-609). Also, within 24 hours, excluding Saturdays, Sundays and holidays, after the recipient's admission, the facility director must file 2 copies of the petition, the first certificate, and proof of service of the petition and statement of rights upon the recipient with the court in the county in which the facility is located. Upon completion of the second certificate, the facility director must promptly file it with the court. Upon the filing of the petition and first certificate, the court shall set a hearing to be held within 5 days, excluding weekends and holidays, after receipt of the petition (5/3-611).

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).

The Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110 et seq.) states that "All records and communications shall be confidential and shall not be disclosed

except as provided in the Act." The Act defines "recipient" as "a person who is receiving or has received mental health or developmental disabilities services."

HOSPITAL POLICY

Weiss provided hospital policy regarding ED Scope of Practice (No. V.B. 1.). It states, "The Emergency Center (EC) provides medical assessment and care for pediatric and adult patients in acute or chronic phases of illness or injury regardless of age, race, religion, or ability to pay as defined by federal and state laws. All patients arriving in the ED requesting treatment are assessed by an RN and ED physician. Patients are prioritized according to the seriousness of their condition or injury and treated in order of acuity. Patients are evaluated for their response to treatment and are either admitted to the hospital, transferred for further treatment deemed necessary but not provided by the hospital, or discharged with written follow-up instructions." Policy Regarding Delivery of Patient Care, Treatment and Services (No. P/P 13-12) states, "Patient services at Weiss Memorial Hospital occur through an organized and systematic process designed to ensure the delivery of safe, effective, and timely care, treatment and services. Providing and delivering patient care, treatment, and services requires specialized knowledge, judgment, and skill derived from the principles of biological, physical, behavioral, psychosocial, and medical sciences. As such, patient care, treatment, and services shall be planned, coordinated, provided, delegated, and supervised by professional health care providers who recognize the unique physical, emotional, and spiritual needs of patient/family teaching, patient advocacy and research. Under the auspices of Weiss Memorial Hospital's leadership, the Medical Staff, registered nurses, allied health care professionals, and support services function collaboratively as part of an interdisciplinary team to achieve optimal patient outcomes."

CONCLUSION

The HRA does not know under what authority Weiss Hospital held the recipient in the ED for six days- from 7/24/12 until 7/30/12. There is no petition in the record from the nursing home where the recipient resided before his hospitalization. The petition and certificate that were completed by Weiss were not provided until the day the recipient left the facility on 7/30/12 and both of these documents are incomplete, with not even a suggestion of the recipient's rights under the Mental Health Code. If the hospital stands on the premise that its ED is not a mental health facility, it certainly functioned as one- the recipient was medically cleared within three hours of his admission, and he was then seen by a psychiatrist who ordered psychotropic medication and had it administered to the recipient although without his informed consent and without a physician's statement of decisional capacity, both Code requirements. Additionally, the recipient never consented to treatment of any kind in the six days in which he was hospitalized and was never given information regarding the clinical justification for his detention, was never told he could object to his treatment, and was not offered legal advocacy. The recipient was then placed in a chair in the hallway of the ED and apparently brought in and out of any available ED room until he was discharged nearly a week later. The fact that he was able to hear the personal mental health information of other patients (and they his) not only exacerbates the humiliation of his detention, but is also a violation of the Mental Health and Developmental Disabilities Confidentiality Act. Additionally, the record presents other issues almost too numerous to mention here and for which the HRA sincerely hopes the hospital makes a thorough review. The HRA substantiates the complaint that a recipient was detained in the hallway of the emergency department in a chair for six days without authority before he was transferred to a mental health facility.

RECOMMENDATIONS

1. The HRA understands the dilemma presented by the lack of available mental health beds for our area's mental health recipients. However, if the emergency department is going to involuntarily detain and treat recipients for long periods of time while waiting for available bed space, then we recommend that an area or room be set aside for these patients so that their privacy can be maintained as well as some type of therapeutic environment. Consider how sitting in the hallway indefinitely may exacerbate symptoms of depression, anxiety, and other mental health diagnoses.

2. Once the patient is medically cleared in the ED and held for mental health treatment, the procedural guarantees and rights under the Mental Health Code apply. This includes the completion of a petition and certificate, which offer not only the clinical justification for the recipient's loss of liberty, but also provide the recipient with his rights to refuse treatment, to be informed of the purpose of his mental health examination, to be informed he does not have to speak with an examiner and that his responses to the examiner may be used in a mental health court hearing. By design the petition and certificate begin a timeline which was developed just to avoid the arbitrary detention of mental health recipients. Additionally, these documents ensure that recipients are informed of their guaranteed rights, both verbally and in writing. The HRA recommends that the hospital administration review its process for detaining and treating mental health recipients in the ED and ensure that all staff are trained in the Mental Health Code rights of individuals receiving mental health services.

SUGGESTIONS

1. Ensure the privacy of medical and mental health information by not interviewing or evaluating recipients where their information can be heard by other patients.

2. Several times during our discussion of this case with hospital staff it was mentioned that the hospital and the area mental health centers do not have ongoing discussions regarding the transfer of patients. The HRA suggests that the hospital engage the local mental health centers in a dialogue regarding the availability of treatment beds for these vulnerable patients and develop a protocol for the efficient transfer of patients to these treatment beds.

RESPONSE

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



June 26, 2013

Nicole Erickson, HRA Chairperson
Illinois Guardianship and Advocacy Commission
1200 S. 1st Avenue, Box 7009
Hines, Illinois 60141

Re: HRA No. 13-030-9003

Dear Ms. Erickson:

This is in response to the report of HRA investigation of case # 13-030-9003.

Weiss Memorial Hospital is reviewing its processes to make for a safe environment for patients who present with mental health needs. The Hospital will make every effort possible to ensure that patients will be afforded privacy and a therapeutic environment when they present to the Emergency Department and stay until such time as they are discharged or transferred elsewhere.

An Emergency Room is an ever changing environment to meet patients' critical needs. Weiss Memorial Hospital is reviewing its processes so that it not only continues to provide a safe environment for those medically stable patients who present for mental health needs, but also provide a private, stable location. The Hospital will ensure that all staff are trained in the Mental Health Code rights of individuals receiving mental health services. Emergency Department staff were in-serviced on May 29, 2013 regarding completing the petition and certificate for recipients of mental health treatment, and providing such patients with a full copy of the documentation.

Emergency Department staff will be in-serviced in the next two weeks regarding ensuring the privacy of medical and mental health information by not interviewing or evaluating recipients where their information can be heard by other patients, and to keep voices down when discussing patient care. The Hospital will make every effort to keep our patients safe and comfortable while respecting their privacy.

The Hospital currently engages and will continue to engage in discussions with area mental health centers regarding the availability of treatment beds for those vulnerable patients, and will endeavor to develop a protocol for the efficient transfer of patients to appropriate treatment beds.

Respectfully submitted,

A handwritten signature in cursive script that reads "Cheryl Miller".

Cheryl Miller
Interim Director of Patient Safety
& Risk Management