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HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case # 13-090-9002
Methodist Medical Center

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving a complaint of possible rights violations at Methodist Medical Center. The complaints alleged the following:

1. Forced medication is administered in the facility emergency room with no rights restriction documentation completed.
2. Inhumane treatment occurred when a facility staff member pressured a patient to sign voluntary admission paperwork.

If found substantiated, the allegations would violate the Mental Health and Developmental Disabilities Code (405 ILCS 5/2).

The Methodist Medical Center covers a 22 county area; most patients reside in Peoria, Tazwell, Woodford, and Fulton Counties. The Behavioral Health Program has 2 adult units consisting of 44 beds and an adolescent unit which consists of 23 beds. The Behavioral Health Unit employs approximately 120 staff which consists of nurses, Master's Degree level clinicians, mental health associates, nurse's aides, activity therapists, and psychiatrists. The Methodist Medical Center also offers other mental health programs such as a partial hospitalization program and an outpatient mental health clinic for children and adolescents.

To investigate the allegations, HRA team members interviewed Methodist Medical Center staff members and reviewed records and policies pertinent to the investigation.

COMPLAINT STATEMENT

One complaint alleges that a patient was in the emergency room and was asked to please take medication. When the patient refused, staff held the patient's arm and medicated the patient against the individual's will.

The second allegation states that a physician pressured a patient to sign in voluntarily to the behavioral health unit. The patient felt pressure to sign the voluntary admission documents because the physician was so persistent in requesting that the patient sign the paperwork.

Allegedly, the physician asked the patient to sign the voluntary admission paperwork on 5 separate occasions. The patient did not sign the documentation.

INTERVIEW WITH METHODIST MEDICAL CENTER STAFF (9/7/2012)

The HRA met with Methodist staff to discuss the allegations. The staff said that the chart indicates that the patient refused oral medications when offered in the emergency department (ED) but did not refuse recieving an injection. Staff explained the patient recieved the injection in the right deltoid, which indicated to the staff that he was probably willing to receive the injection. The staff explained that if a patient recieves an injection in the buttocks, it is an indication that the medication was forced. Staff explained that Zyprexa was the medication that was administered while the patient was in the ED. Staff stated that the patient refused oral medication at 8:11 AM and the injection was ordered at 8:40 AM. Lorazepam was the medication that the patient refused orally. The staff explained that while in the ED, the patient was very paranoid and manic and was calling the FBI and police about a person the patient thought was a drug dealer. Staff said there was no evidence that the patient signed consent for medication while in the ED. Staff said that the medication, and reason for the medication, was explained to the patient. According to staff, the ED records show the patient was cooperative when recieving the injection. Staff explained that they do not get consent for emergency medication in the ED. Staff explained that the ED is considered outpatient which is different than inpatient. Staff also explained that emergency medication is different than psychiatry treatment. Staff explained that when patients are on the unit, the MHDD Code applies for those patients. Staff did explain that in the ED there is a behavioral health unit that is separated from the rest of the ED. In the behavioral health unit, a restriction of rights document would be given if forced medication was administered. If medication was forced in the medical ED, that is not part of the behavioral health unit, then a rights restriction form is not completed for the patient. Staff said that patient consent and capacity are not requirements in the ED. Staff explained that they treat the need for emergency medications the same throughout the ED. Staff explained that they may force medication if a patient is not in the behavioral health section of the ED, if there was an unsafe situation. Staff said that when a patient enters the ED, if it is believed that they need a psychiatric evaluation and they have passed a medical assessment, then they are moved into the psychiatric area of the ED.

Staff explained that there is no indication as to why the patient did not want oral medication but later accepted an injection. Staff explained that the behavioral health section of the ED consist of safe rooms where patients are not able to harm themselves and the atmosphere is quieter, calmer, and safer. There are also specific behavioral health staff members in the ED. Staff explained that the behavioral health staff are trained to give restriction of rights for forced medications. Staff explained that they would not say the patient was in danger, but he was paranoid. Staff said that the patient's sibling called the emergency response service (ERS) because of her concern for the patient's well being.

Staff explained that when being given medication, patients are educated on the medications first and then the medication is administered. Staff also explained that there are times where there are emergencies and the process does not occur. Staff explained that this situation was considered an emergency situation. The patient as brought into the ED and was

described as suicidal, manic, paranoid. Staff explained that everyone brought into the ED is presumed to be in an emergency situation, because hospital staff do not know their situations. The staff explained that the regulations for restraints are followed while in the ED, as well as all other aspects of the MHDD Code except for medication. Staff stated that no one determined the patient's capacity to understand the treatment while in the ED. Staff also explained that there is no documented ED forced medication policy.

Staff explained that when medications are forced in the ED, it is a physician's decision. In this instance, a physician ordered medication, a nurse explained the medication, and then the patient received an injection in the patient's right arm. The staff said that there is a hospital rights statement that is provided to the patient when they enter the ED but this is not the rights statement they would recieve in the behavioral health unit. This is because the individual is an emergency room patient and not a behavioral health unit patient. Staff explained that the patient did not recieve forced medication while on the behavioral health unit. The patient refused medication until recieving a court order for medication and then he was compliant with the medication.

The patient was an involuntary patient. The staff indicated that in the patient's record it was documented that the physician had one conversation about the patient signing voluntary documents. Staff stated that the physician wrote in the patient's record that the patient would voluntarily sign into the hospital. The next day the records were corrected to read that the patient did not want to sign into the facility voluntarily and that the admission documents were not signed. Staff explained that there is no difference in patient care whether they are voluntary or involuntary. The only benefit of the patient being a voluntary admission would be that the patient has agreed to be at the facility. Staff explained that there is no set procedure for a discussion with a patient who is involuntarily admitted on whether they should voluntarily sign into the facility or not. Sometimes the psychiatrist may discuss the patient signing voluntary admission documents with the patient, sometimes a staff member will have a discussion, and at other times, no one will discuss it with a patient. The record does not indicate who initiated the conversation between the physician and the patient. They have never had a prior complaint about patients being pressured. Staff explained there may have been comments about being forced to stay at the facility but nothing about being pressured.

Staff explained that they did not recall a time that the patient said he was feeling pressured. Staff said that it is common that a patient will sign in voluntarily after they are an involuntary admission. They explained that this occurs for different reasons, for example sometimes a patient will become stable and decide that they want to stay at the facility.

The staff explained that the process for admission from the ED to the behavioral health unit starts with a discussion with patients about their situation and explaining to them that they have concerns about the safety. Staff will then ask them to sign in voluntarily and explain why they should be admitted into the facility. If the patient does not want to be admitted onto the unit, staff will have a discussion with the physician about involuntary admission. If the physician decides involuntary admission is appropriate, the staff will ask the patient for a second time if they would voluntarily be admitted into the unit, and if they still do not want to be

admitted, staff will explain they are concerned about them and that they will be involuntarily admitted.

FINDINGS (Including record review, mandates, and conclusion)

The HRA reviewed records and documents pertinent to the complaints alleged in this case.

Complaint #1 - Forced medication was administered in the facility emergency room with no rights restriction documentation completed.

The HRA reviewed the patient's ED record. The arrival date and time in the ED chart for the patient is 7/5/12 at 07:57. According to the nursing continuation notes in the ED chart, at 8:40 am the patient refused oral medication. The nursing continuation notes read that at 8:49 AM, the "Pt given a choice of where he wanted injection. Pt asked what the medication is for. [staff], BHRN informed pt of medication indication and name. Pt cooperative through injection in rt deltoid." The ED drug orders indicate that an oral tab of Lorazepam was ordered but cancelled, and switched to an order for an intramuscular injection of Zyprexa which was administered in the deltoid. The only other order was Potassium Chloride which was refused.

The HRA reviewed the patient's medication consents (also called the medications explanation & written information on side effects given) which indicates that on 7/5 the patient refused to sign the document for Zyprexa 10mg. The HRA requested clarification from the facility regarding the consents and was told that the consent form provided were for the behavioral health unit and not the ED, so the consent for Zyprexa was for the behavioral health unit only. In their record review, the HRA saw no consents for psychotropic medication given in the ED.

The HRA requested a capacity statement for the patient and emergency intervention preferences. In a letter to the HRA, it is stated that the capacity statement should be included in the psychiatrist's history and physical but the facility did not believe a specific statement stating the capacity would be found in the document. The HRA also did not see a capacity statement in their review. The facility also stated that they did not see anything indicating the patient's emergency intervention preferences in the chart.

The HRA reviewed a policy dealing with ED triage flow. In the policy, there is no mention of the MHDD Code or the ED following aspects of the Code. The only mention of psychiatric patients deals with patients' physical placement in the department. The HRA did not receive any indication of policy that the ED must follow the MHDD Code or any other ED policy addressing psychiatric patients.

The HRA reviewed the petition that was completed by the facility for involuntary admission of the patient. The petition was dated 7/5/2012 at 1300 and the address for the petition is the same address for the hospital. In the petition there is no differentiation between completion in the behavioral health unit, hospital ED or behavioral health unit of the ED. According to the ED chart, the patient physically left the ED and was removed from the tracking

board at 15:23 on 7/5, discharged from the ED at 16:20 and then admitted into the behavioral health unit of the hospital at 16:31. The HRA also reviewed an inpatient certificate dated 7/5 at 15:30 (the second certificate was dated 7/6).

Under the Mental Health and Developmental Disabilities Code, “'Mental health facility' means 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 Code reads "(a-5) 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" (405 ILCS 5/2-102).

The Code also reads "An adult recipient of services or 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 or electroconvulsive therapy. 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 or electroconvulsive therapy. 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, guardian, or substitute decision maker, if any, 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).

Regarding alternative treatments to emergency forced medication, the Code reads "(d) Upon commencement of services, or as soon thereafter as the condition of the recipient permits, the facility shall advise the recipient as to the circumstances under which the law permits the use of emergency forced medication or electroconvulsive therapy under subsection (a) of Section 2-107, restraint under Section 2-108, or seclusion under Section 2-109. At the same time, the facility shall inquire of the recipient which forms of intervention the recipient would prefer if any of these circumstances should arise. The recipient's preference shall be noted in the recipient's record and communicated by the facility to the recipient's guardian or substitute decision maker, if any, and any other individual designated by the recipient. If any such circumstances subsequently do arise, the facility shall give due consideration to the preferences of the recipient regarding which form of intervention to use as communicated to the facility by the recipient or as stated in the recipient's advance directive" (405 ILCS 5/2-200). The MHDD Code reads " The recipient's preferences regarding emergency interventions under subsection (d) of Section 2-200 shall be noted in the recipient's treatment plan" (405 ILCS 5/2-102).

The Code reads "(a) When a person is asserted to be subject to involuntary admission on an inpatient basis 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 to the facility director of a mental health facility in the county where the respondent resides or is present. The petition may be prepared by the facility director of the facility" (405 ILCS 5/3-601).

Conclusion - Complaint #1

In reviewing the documentation, there is no indication that that medication was forced upon the patient in the ED. Documentation indicates that the patient "cooperated" with an IM injection in the ED but does not state that the patient gave informed consent for the administration of the psychotropic medication. In addition, the HRA saw no indication of capacity statements or emergency intervention documented for the patient while in the ED or the behavioral health unit.

The HRA also reviewed a petition certificate for the patient's involuntary admission. The only legal authority in Illinois to detain any person apart from being arrested by police officers is by a completed petition under the Code, and subsequent certificates. It appears that in this case the facility used the Code's authority to detain the patient through a petition, which means the facility applied the Code in the ED. If the facility is going to detain patients in the ED under the Code, as it should, the facility needs to demonstrate full application of the Code and not only utilize sections of the requirements.

Overall, there is no conclusive evidence that medication was or was not forced on the patient in the ED but because the facility openly admits to the fact that the ED does not follow the Mental Health Code when administering psychotropic medication, the HRA finds this complaint **substantiated** and offers the following **recommendations:**

- When a patient with mental health needs enters the ED, the ED must be compliant with the MHDD Code. Methodist Medical Center ED must follow the MHDD Code requirements when administering mental health care, including psychotropic medication, which is a unique protection for the patient in whatever section of the hospital he receives mental health treatment. The HRA requests evidence in the hospital's response that the ED is in compliance with the Code including evidence that the ED staff are trained on the MHDD Code. These same recommendations where made in the HRA's prior report 12-090-9017.
- It was indicated in a letter to the HRA and through the HRA's review that there were no capacity statements included in record. The HRA recommends that the facility develop a policy/procedure for physicians to determine and state in writing whether the recipient has the capacity to make a reasoned decision about the proposed mental health treatment per 405 ILCS 5/2-102. The HRA also recommends that facility physician's are trained/educated in this policy. This includes the ED as well as the behavioral health unit. Please provide the HRA with evidence of the policy and training.
- It was indicated in a letter to the HRA and through the HRA's review that there were no patient emergency mental health treatment intervention preferences included in the

treatment plan for the patient while on the behavioral health unit. The HRA recommends that the policy is created and staff are trained on adding emergency intervention preferences to the treatment plan in compliance with 405 ILCS 5/2-200 and 405 ILCS 5/2-102. Provide the HRA with evidence of this policy and training. This recommendation was also made in report 11-090-9025.

Complaint #2 - Inhuman treatment occurred when a facility staff member pressured a patient to sign voluntary admission paperwork.

In reviewing the documentation, the HRA saw no direct evidence that the physician repeatedly asked a patient to sign into the facility voluntarily. The HRA saw evidence that the patient was an involuntary admission, and in reviewing the in-patient physician progress notes, the HRA saw that there was mention of the admission within the notes. A note on 7/8 states that the patient agreed to stay voluntarily and later in that note there was indication that the patient signed documentation to stay voluntarily. In a note on 7/9, which was the next day, it is stated in two separate entries that the patient will not and did not sign voluntary documentation. The HRA saw no further documentation whatsoever regarding the patient voluntarily signing into the facility or discussion of this action with the staff. The HRA reviewed the facility admission and discharge criteria and saw no procedural statements regarding staff discussing signing voluntary admission documentation with the patient.

The MHDD CODE reads "(a) Any person 16 or older, including a person adjudicated a disabled person, may be admitted to a mental health facility as a voluntary recipient for treatment of a mental illness upon the filing of an application with the facility director of the facility if the facility director determines and documents in the recipient's medical record that the person (1) is clinically suitable for admission as a voluntary recipient and (2) has the capacity to consent to voluntary admission" (405 ILCS 5/3-400).

The MHDD CODE also reads "(a) A recipient of services shall be provided with adequate and humane care and services…." (405 ILCS 5/2-102).

Conclusion - Complaint #2

Due to the fact that the HRA found no evidence regarding the physician discussing voluntary admission with the patient outside of the mentioned physician notes, the HRA finds this complaint to be **unsubstantiated** and has no recommendations or suggestions regarding the complaint, however the HRA offers further **suggestions** regarding items they reviewed in the patient's record:

- In the patients treatment plan, on 7/13/2012, it reads "Patient remains preoccupied about his house going into foreclosure. When asked who he was making numerous calls to on the phone the patient stated 'friends. I need them to look up on the internet how long before I loose my house." The MHDD Code reads "Except as provided in this Section, a recipient who resides in a mental health or developmental disabilities facility shall be permitted unimpeded, private, and uncensored communication with persons of his choice by mail, telephone and visitation" and "(c) Unimpeded, private and uncensored communication by mail, telephone, and visitation may be reasonably restricted by the

facility director only in order to protect the recipient or others from harm, harassment or intimidation, provided that notice of such restriction shall be given to all recipients upon admission" (405 ILCS 5/2-103). The fact that the staff is questioning who the patient is speaking to, seems to indicate that the staff is in violation of the communication regulations due to the fact that there is no real evidence that the person being contacted is possibly being harmed, harassed or intimidated. The HRA suggests the facility review communication regulations with the staff to assure that they are not in violation of the regulations.