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HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case # 13-090-9011
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. Inadequate patient safety.
2. Inadequate treatment, including patient coercion and a patient not receiving adequate medication to treat an injury.
3. Inadequate 5-Day discharge process.

If found substantiated, the allegations would violate the Mental Health and Developmental Disabilities Code (MHDD Code) (405 ILCS 5) and the Hospital Licensing Act (210 ILCS 85/2).

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, Masters 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 documentation that is pertinent to the investigation.

COMPLAINT STATEMENT

The complaint states that a patient was being physically assaulted by another patient and no action was taken by Methodist staff to prevent these assaults from occurring or to protect the patient.

Another allegation states that a staff member told a patient that if they do not attend group therapy, they will take the patient's mattress away. The complaint alleges that this threat has also been made to other patients. The complaint also alleges that a patient's wrist was

injured and, the treatment provided by the facility did not relieve the pain but the facility would not provide alternative treatment.

The last complaint states that a patient requested to be discharged and a physician told the patient that if he cooperated there would be no commitment hearing. The patient rescinded the request under the assumption that he would be discharged in 5 days but this did not occur. The patient then made another discharge request.

INTERVIEW WITH METHODIST MEDICAL CENTER STAFF (11/13/2012)

The HRA began the investigation by discussing the allegations with Methodist Medical Center staff. Staff explained that there was a patient on the unit that was agressive towards other patients. The patient involved in these allegations was pushed by the aggressive patient. The patient was pushed against a wall, where he braced himself from impact and reinjured his wrist from a previous incident that occurred when the police brought the patient to the emergency department (ED) in handcuffs. Staff said that the patient was very focused on his wrist pain because of the police. Staff explained the the patient's wrist was x-rayed twice while at the facility, once when the patient was admitted and then once later during the patient's stay at the facility. Staff said that both of the x-rays were negative. Although it was negative, staff ordered ibuprofen and the patient took the medicine. Staff also explained that they discontinued the ibuprofen in favor of tylenol and aspercreme so the patient would have something more topical. The patient refused the aspercreme.

The staff explained that the aggressive patient's violent behavior was impulsive and staff was not yet aware that the patient had the propencity to act violent at times. After that incident, the patient was provided a one-on-one and kept in a less populated area of the unit. That incident was the first time the patient had acted out and staff felt as though they responded accordingly. Staff explained that depending on the level of injury, they may or may not write a report. Staff said that sometimes they may make a note of incidents because of the patient. They explained that staff recieves the brunt of the violent behavior and there is not a day that goes by when the staff do not get hit, spit on, etc. Staff explained that they tried to provide the aggressive patient as much freedom as possible without keeping him completely isolated. They said that this specific patient could not benefit from groups, so it was easier to keep him away from others.

Staff explained that if there was no injury then there would not be an incident report. The incident was not reported to the Illinois Department of Public Health nor investigated because the patient was shoved, not punched, which staff witnessed. Staff explained that with behavioral health patients you have to change care from moment to moment and staff felt as though they took care of the challenges involved in this situation and were responsive to the patient who was attacked.

Staff explained that part of the patients' treatments are to participate in therapuetic groups. Sometimes when someone would rather stay in bed than attend group, staff encourage them to attend group by removing their mattress. Staff said that this action is considered acceptable in general practice. Staff explained that they allow patients the choice of what they

want to do regarding the situation. Staff said they are at the facility for treatment and part of that treatment is group participation. Staff said that if patients are there to get better and do not want to attend group, which is an option, then they cannot go back to their bed and sleep during the day. Staff said that the mattress is removed during the waking hours and returned during the evening, around 8pm. Staff said that most of the programming is done on day shift and early second shift and there are groups and programming occurring the entire day. Staff said that if a patient came to them and said they do not feel well, or started on a new medication and was drowsy, they would return the mattress.

The staff explained that the patient involved in this complaint was someone who could benefit from group but did not want to attend group. Staff explained that if patients do go to group they recieve verbal praise and removing their mattress might just be something that occurs once. Staff explained that they talk to the patients about the benefits of attending group. Staff inform the patients that if they are not attending group, they can find something else to do in the unit, but laying in bed is not healthy. Staff explain is the patient's decision. Staff said that the idea is to help patients learn to make healthy decisions and show them that they do have a choice. Staff said that they do not want patients to be dependent on a system that makes choices for them.

In reviewing the patient's record, staff said that they do not see any evidence that his mattress was taken. They said that if it was, that should be added to his treatment plan. The HRA also clarified with a later correspondence to the facility that a patient's mattress is removed only after numerous attempts to engage him/her in his/her treatment. The action is considered a last resort. When asked if a rights restriction form is completed when a patient's mattress is removed, the facility did not directly answer the question, but rather reiterated that the mattresses are not taken away at night when the patient would be sleeping and that they are not taken if the individual has a reason to be in bed during the day.

Staff explained that this patient signed a 5-Day request form on 9/24 and rescinded the request on 10/1. Staff said that the patient signed another 5-Day request on 10/8 and the facility filed for a committment hearing on 10/11. Staff said that the request for discharge was denied by the court, i.e, granted the commitment petition.

Staff stated that sometimes when they explain the admission process, from the patient's perspective, it is seen as though they do not have a choice. Sometimes the process is confusing for the patients and they will rescind their discharge request out of confusion. Staff said that there is no documentation of any conversation between the patient and physician stating that if the patient cooperates then he would be discharged. They said that there is a residency progress note that explains that there will be a committment hearing and then the next day a physician progress note stating the patient rescinded the discharge request but there is no conversation documented.

FINDINGS (Including record review, mandates, and conclusion)

Complaint #1 - Inadequate patient safety.

The HRA reviewed an entry in the daily physician's documentation, dated 9/25/12, which reads "Patient was hit by another patient last night. Advised he could press charges if he wished to tell nurses if he decides to go through with this. States he has been calling non-emergency police number and every lawyer in phone book to file malpractice suit." A note the next day (9/26/12) indicates that the patient did end up pressing charges.

In the patient's treatment plan, on 9/23/12, a passage reads "a male peer attempted to kick pt a couple times and this pt did not get upset, but rather was understanding and did bless him but walked away."

A passage in the patient's treatment plan, dated 9/25/12, that describes the incident reads "Stated that his incident with peer occurred last noc [night] & named the staff present. Writer asked staff [staff name] about what happened & staff said it did not occur. Another staff present stated that the incident happened this am." Later the passage reads "Thinks he should press charges against a peer pt says 'hit me on the shoulder' despite counseling staff & even talking with the police desk sergeant." Later on the same day the patient states that his wrist felt better until he was hit by the patient. The HRA saw no evidence any other aggressive acts toward the patient occurred. The HRA does not have access to the alleged perpetrator's record due to the lack of a release, and because of this the HRA has no way to review what occurred with that specific patient.

The HRA reviewed the facility patient rights and responsibility policy regarding the complaint. The policy states that "The patient should expect reasonable safety with regard to MMCI practices and environment." The facility stated that they do not have a specific policy regarding patient on patient aggression but they stated that they do investigate all complaints when a patient alleges that they have been assaulted. The HRA reviewed the facility abuse policy, which was dated 2/13/10 and revised 1/10, which states "Health Care Professionals or any employed hospital personnel engaged in examination, care and treatment will identify possible victims of abuse and report them to proper authorities." The purpose of the policy is to "Define the types of abuse and procedures and requirements for reporting suspected cases of child abuse and neglect, elder abuse and neglect, and domestic violence." There is a section of the report titled, "Abuse Between the Ages of 19 - 59," which defines the terms, "abuse," "harassment," and "domestic violence," states that staff should screen for signs of abuse and describes the steps to take if abuse is suspected.

The HRA also reviewed a Patient Safety Plan, dated 10/8/10 and revised 10/10 which reads "Methodist Health Services Corporation (MHSC) utilizes a formal program to monitor and improve patient safety, evaluate and improve care, provide support staff who have been involved in an event, promote a 'Just Culture' philosophy and to assure disclosure of unanticipated outcomes to patient and/or family." The purpose of the policy is to "Define parameters of the MHSC Patient Safety Program." The policy provides an overview, program emphasis, staff responsibilities for plan oversight, and patient safety plan parameters, among other items. The plan also includes sections discussing the reporting of events, analysis of events, staff and patient education, and reporting responsibility and accountability.

The MHDD Code reads "Resident as perpetrator of abuse. When an investigation of a

report of suspected abuse of a recipient of services indicates, based upon credible evidence, that another recipient of services in a mental health or developmental disability facility is the perpetrator of the abuse, the condition of the recipient suspected of being the perpetrator shall be immediately evaluated to determine the most suitable therapy and placement, considering the safety of that recipient as well as the safety of other recipients of services and employees of the facility" (405 ILCS 5/3-211).

The Hospital Licensing Act reads "The purpose of this Act is to provide for the better protection of the public health through the development, establishment, and enforcement of standards (1) for the care of individuals in hospitals, (2) for the construction, maintenance, and operation of hospitals which, in light of advancing knowledge, will promote safe and adequate treatment of such individuals in hospital, and (3) that will have regard to the necessity of determining that a person establishing a hospital have the qualifications, background, character and financial resources to adequately provide a proper standard of hospital service for the community" (210 ILCS 85/2).

Compliant #1 conclusion:

Due to the fact that the HRA saw no evidence to support or deny the claim of inadequate patient safety, the HRA finds this complaint **unsubstantiated** but offers the following **suggestions:**

- The HRA is concerned that safety did not seem to be directly addressed with the patient in the patient's treatment plan in spite of the patient's reported concerns and suggests that the facility addresses individual patient safety concerns within respective treatment plans.
- Be certain that whenever patient on patient aggression occurs the facility meets the Code requirement to "determine the most suitable therapy and placement, considering the safety of that recipient as well as the safety of other recipients of services and employees of the facility" (405 ILCS 5/3-211).
- Create a policy/process on actions taken when there is patient on patient abuse to assure compliance with 405 ILCS 5/3-211.

Complaint #2 - Inadequate treatment, including patient coercion and a patient not receiving adequate medication to treat an injury.

Although the facility admitted to the practice of confiscating patients' mattresses, the HRA saw no indication in the patient's treatment plan or in any other documentation that the patient's mattress was taken away.

The HRA reviewed records regarding the complaint that the patient was not provided alternative treatment for a wrist injury when the initial treatment given did not work. According to the patient's medical administration record (MAR), the patient was scheduled to have 400mg of Ibuprofen daily starting on 9/17/12 which was changed to 600mg on 9/26/12 and then was discontinued for 400mg of Ibuprofen on 9/28/12. Also, on 9/28/12 the patient had scheduled Aspercreme treatment that was to be applied to the left wrist twice daily. The patient tried Aspercreme on 4 occasions but refused it 48 times. The patient also started taking PRN (as

needed) Acetaminophen on 9/28/12. The HRA also reviewed an x-ray consultation report stating that the patient received an x-ray on 9/17/12 due to wrist pain and then received another x-ray on 9/28/12 due to injury to wrist. The HRA notes that it received this complaint on 9/25/12.

In reviewing the emergency department (ED) face sheet, the HRA saw that the patient was put in restraints upon entering the ED. The HRA reviewed the restraint/seclusion progress note, which reads "wrist are hurting going to reposition" during one of the checks on the patient. The 9/17/12 x-ray consultation report reads "lateral wrist pain after restrained in the hospital" and then "Patient developed wrist pain after being restrained during an arrest on 9/16/12 and also had an injury after an altercation with another patient this week. The patient has persistent pain." In the patient's treatment plan on 10/1/12 it states that the "Pt continue to c/o left wrist pain. Pt refused cream application, stating that nothing alleviates the pain. Pt. also reports that neither ice or ibuprofen are effective and has requested a steroid shot." The HRA saw no further mention of the steroid shot in the records.

Another medical assessment dated 9/17/12 reads that "The patient also had restraints in the emergency department, now complaining of left wrist pain. He denies any complaints of any trauma to the hand except restraints. He denies any complaints of any fall." Later in the document it reads "He has swelling and erythema around his left wrist where he had the restraint." In the patient's treatment plan, it states on 9/17/12 that the patient believes he was injured during the restraint in the ED and on 9/24/12 it states that the patient is having wrist discomfort and the patient states that it is due to "restraints they used on me when I got in here." On 9/25/12, the patient states on two separate occasions that the initial wrist pain was due to the handcuffs that the police put him in when they brought him into the ED.

In reviewing the restraint/seclusion progress note, it appears that the individual was checked by staff at least every 15 minutes (sometimes sooner) with the exception of a time frame from 2141 until 2202, which indicates that the individual was not checked for 21 minutes. At 2141 it states that the individual was given water and "gave blood" and then at 2202 they removed the restraint. There is no check in-between.

The MHDD Code reads "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) and "No recipient of services shall be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Illinois, or the Constitution of the United States solely on account of the receipt of such services" (405 ILCS 5/2-100). The Code also reads "A recipient who is restrained and secluded shall be observed by a qualified person as often as is clinically appropriate but in no event less than every 15 minutes" (405 ILCS 5/2-108).

The Medical Patient Rights Act reads "(a) The right of each patient to care consistent with sound nursing and medical practices, to be informed of the name of the physician responsible for coordinating his or her care, to receive information concerning his or her condition and proposed treatment, to refuse any treatment to the extent permitted by law, and to privacy and confidentiality of records except as otherwise provided by law" (410 ILCS 50/3).

Compliant #2 conclusion:

In this case, the HRA saw no evidence that the patient's mattress was taken, and even though the facility admits to the practice, the HRA has no evidence available to review if procedure is being followed other than what was explained by the facility staff. Although the facility says that the removal is added to the treatment plan, the HRA has no way to verify that this is occurring. The facility's removal of a patient's mattress could be considered inhumane treatment in accordance with 405 ILCS 5/2-102 which reads "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" but because there is no evidence that this practice is coercive nor is there any indication that the patient was receiving inadequate medical treatment, the complaint is found to be **unsubstantiated.** With that being said, the HRA would like to remind the facility that humane treatment is a guaranteed right, which is to be reasonably calculated to improve a patient's clinical condition. Because refusal of treatment is also a guaranteed right, please use caution and assure that the staff is not bargaining with patients' rights. The HRA offers the following **suggestions:**

- Ensure that recipients can exercise their right to refuse treatment. Offer choices whenever possible.
- Although the HRA finds this complaint to be unsubstantiated, they still do not necessarily condone the practice of removing mattresses and suggests that the facility attempt incentives for participation or utilizing alternative methods rather than removing comforts.
- Based on the log kept while the patient was in restraints, it appears that the patient was not checked every 15 minutes which is not in compliance with the MHHD Code (405 ILCS 5/2-108). Because of the severity of the situation and importance of checking individuals while in restraints, the HRA strongly suggests that the facility work with staff to assure compliance with the Code regarding 15 minutes checks while in restraints.
- The HRA understands that the patient changed his statement regarding how his wrist was injured but there is still some indication that it may have occurred while the patient was in restraints. This is another serious allegation and the HRA strongly suggests that the facility review their restraint process with the staff to assure that individuals are not being injured while being restrained.

Complaint #3 - Inadequate 5-Day discharge process.

The HRA began investigating the complaint by reviewing the patient's application for voluntary admission. The voluntary admission form was dated 9/17/12, which according to the emergency department (ED) face sheet was the date that the patient was brought to the ED. The application states that the patient has been informed of voluntary admittee rights as explained on the back of the application. The back of the application states that the patient has the right to request discharge from the facility and after the request is given, the facility must discharge at the earliest appropriate time which may never exceed 5 days (excluding Saturdays, Sundays, and Holidays) unless the patient is likely to "inflict serious physical harm" on themselves or others. The application proceeds to state that "If the facility director believes you are likely to harm yourself or others, he/she must file a petition and 2 certificates with the court within the same 5-

day period." The application also states "You will have the right to withdraw your request to be discharged if you should decide to remain at the facility."

The HRA reviewed a 5-day discharge request that was dated 9/24/12 and then rescinded on 10/1/12. The HRA reviewed another 5-day discharge request dated 10/8/12. Two inpatient certificates were filed on 10/11/12 along with a petition on the same date. The HRA reviewed a court order for involuntary admission dated 10/17/12.

In the psychiatrist discharge summary, it reads "Throughout his stay, the patient frequently sought taking medications and would exercise child-like judgment when deciding which medication he would take as he would frequently not take the medications that were not court ordered. He also withdrew and resubmitted a five-day notice of discharge frequently as well as permission to discuss information with his [family member] …". A daily physician progress note, dated 9/25/12, reads "He also signed a five day yesterday prior to being informed about the medication increase. His reason for signing the five day was 'I need to get out of here ASAP.'" Another physician note dated 9/28/12 reads "5-day addressed today" and then on another note dated 10/1/12 it states that the patient rescinded the five day; explanations were not given regarding either statement. The patient signed another 5-day request on 10/8/12.

There is another physician progress note dated 10/2/12 which reads "Pt is also concerned that he may still have court tomorrow. Reports that he turned in his 5 day form Monday, 10/1/12 but that he was told this may be too late." Another progress note dated 10/11/12 reads "He reports that he feels [physician] lied to him regarding his date of discharge." Another progress note dated 10/15/12 reads "he does not fully agree w/ decision for a nursing home and has signed 5-day."

The HRA saw no documentation stating that a physician said that if the patient cooperated he would not have to go to court.

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. (b) For purposes of consenting to voluntary admission, a person has the capacity to consent to voluntary admission if, in the professional judgment of the facility director or his or her designee, the person is able to understand that: (1) He or she is being admitted to a mental health facility. (2) He or she may request discharge at any time. The request must be in writing, and discharge is not automatic. (3) Within 5 business days after receipt of the written request for discharge, the facility must either discharge the person or initiate commitment proceedings" (405 ILCS 5/3-400). The Code also reads "No physician, qualified examiner, or clinical psychologist shall state to any person that involuntary admission may result if such person does not voluntarily admit himself to a mental health facility unless a physician, qualified examiner, or clinical psychologist who has examined the person is prepared to execute a certificate under Section 3-602 and the person is advised that if he is admitted upon certification,

he will be entitled to a court hearing with counsel appointed to represent him at which the State will have to prove that he is subject to involuntary admission" (405 ILCS 5/3-402).

Compliant #3 conclusion:

Due to the fact that the HRA saw no evidence that the patient was misled by a physician regarding the 5-day discharge request, the HRA finds this complaint **unsubstantiated** but offers the following **suggestions:**

- The HRA did not review a direct reason why the patient rescinded the 5-day discharge other than the physician making a statement in the discharge summary that the patient exhibited child-like judgment. The HRA suggests that the facility begin documenting the patient's reason for rescinding discharge requests for the patient's record.
- This is the second complaint dealing with a miscommunication between a physician and a patient regarding admission procedures (see report 13-090-9002). Although that complaint was unsubstantiated in the mentioned report, the HRA does see a pattern forming where, in the least, patients may be confused about the admission process. The HRA encourages the facility to take this opportunity to review with staff how admission is discussed and explained to patients.