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HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 14-030-9003

Thorek Hospital

Case Summary: The HRA did not substantiate the complaint that Thorek Hospital did not follow Mental Health Code requirements when it placed a recipient in seclusion and administered forced psychotropic medication.

INTRODUCTION

The Human Rights Authority of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving a complaint of possible rights violations at Thorek Hospital (Thorek). It was alleged that the facility did not follow Mental Health Code requirements when it placed a recipient in seclusion and administered forced psychotropic medication. If substantiated, this would violate the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.).

Thorek is a 218-bed not-for-profit, acute care facility located in Chicago. The hospital contains a 22- bed Behavioral Health Unit.

To review these complaints, the HRA conducted a site visit and interviewed the Nurse Manager of Behavioral Health and the Mental Health Specialist present at the time of this event. Hospital staff as well as the hospital's General Counsel, also discussed the case at a closed session of the Human Rights Authority meeting. Relevant hospital policies were reviewed, and records were obtained with the consent of the recipient.

COMPLAINT SUMMARY

The complaint indicates that on Sunday, 6/23/13, an elderly woman was being threatened by a large, younger man. The recipient stood up and asked him, "Hey, what is going on?" She was then told she was disrupting the group and she was placed in the quiet room. She was in there one and a half hours and another lady was placed in there with her. The complaint indicates that the recipient was scared and worried for her safety. At one point a nurse entered the room with an injection of psychotropic medication and asked, "Who do I give it to?" The complaint indicates that the nurse stated that the injection was being given for "the safety of the unit."

FINDINGS

The recipient was given a psychiatric evaluation on 6/17/13 at which time the physician described her presenting illness: "The patient is a 40 year-old Caucasian female. The patient is a poor historian. According to reports, the patient presented to emergency room saying she was suicidal, saying that a satanic cult was out to get her and that her medications were not working. Upon presentation, the patient is a poor historian. States that her medications of Zyprexa and Depakote cause her different side effects. She states that other people are trying to harm and hurt her. Admits to getting message from the TV, from the radio talking about satanic cult, hearing voices, not able to sleep. The patient feels depressed as a result with poor appetite, poor sleep and intense crying spells. Feeling helpless, hopeless, and suicidal ideation; no plan. Denies homicidal ideation. Denies recent mania. No substance abuse." The recipient was given a diagnosis of Schizoaffective Biploar Disorder.

The record contains the recipient's Seclusion/Restraint De-escalation Plan. It allows patients to choose de-escalation techniques which may help to prevent a seclusion/restraint episode. The patient identifies deep breathing, physical exercise, writing in a journal, counting to 10, artwork, taking a shower, listening to music, talking with staff or peers, wrapping herself in a blanket, and taking medications.

Progress Notes from 6/23/13 at 6:43 p.m. may describe the incident named in the complaint: "Pt. became angry when witnessing another Pt. become upset in the day room. She came from the day room stating, 'He was choking her. He was choking her. That black man was choking her.' Staff had heard the disagreement in the day room and had seen that other pt. was not being choked. Staff asked Pt. to calm herself and stop making the false accusation as it could lead to a more unsafe environment. Pt. became argumentative and oppositional and did not seem to understand the extent to which her instigating behavior put her and others in danger. She was given a time out to ensure safety for all. PRN [as needed] meds were given to help Pt. become more emotionally calm and to clear her thinking. After PRN meds were in her system, Pt. was able to process calmly and agreed to focus on her own treatment. She further agreed to stop making false claims about other patients." This event was again referred to the following day and described in a progress note: "Severe anxiety; psychotic disturbance. Pt. attended in movement and coping skills on this morning. Pt. appears to be notably anxious, labile mood with disturbed affect. When Pt. was encouraged to express her feelings, Pt. responded in such hyperverbal speech, racing thoughts, fixated on the incident that Pt. witnessed yesterday. Pt. unable to provide much details of the incident. Pt. noted to be paranoid, overly anxious, with poor insight. Pt. thinking remains disorganized with delusional paranoid thinking. Lacks coping skills. Poor impulsivity. Pt. unable to engage fully in topic of discussion due to her fixated thinking about the incident, stating, 'This place is scarey! People are getting hurt here! The lady was going to get choked by the black guy ,…, people don't believe what I said.' Pt. became more agitated with tearful affect."

The record shows that the recipient was placed on close observation throughout her hospital stay and contains a daily High Risk Precautions Monitoring form. This form shows that

on 6/23/13 from 1:00 p.m. until 7:15 p.m. the recipient was calm and in her room. The Medication Administration Record for this day shows that the recipient received prn (as needed) Olanzapine 10 mg by injection at 6:51 p.m.

HOSPITAL REPRESENTATIVE RESPONSE

Hospital representatives were interviewed about the complaint. They indicated that the recipient was delusional and psychotic throughout her hospitalization, and very often she demonstrated paranoia regarding the intentions, motivations and actions of other patients. Staff also indicated that the recipient was a very caring person and felt protective of some of her peers who she viewed as vulnerable. For this event, staff indicated that he was observing the day room area when the recipient began to shout that another recipient was being choked by a peer. This staff person observed that no one was being choked, and he approached the recipient, who was escalating very quickly and seriously. He tried to de-escalate the recipient and asked her if she wanted to go to her room. When she refused, he escorted her to the quiet room. While the recipient was in the quiet room, with the door open, he approached the nurse on duty and asked her if an injection would be appropriate. He then approached the recipient and asked her if she wanted an injection and she accepted it, indicating that she preferred to receive it in her arm, which is where it was administered. Staff indicated that the door of the quiet room remained open throughout the event and no other patients were present in the room with the recipient. Because the recipient did not refuse the medication, a Restriction of Rights form was not completed. Staff were asked if the recipient had signed a consent for the medication administered to her and they stated that the record did not contain a consent form for the recipient's medications, even though this is protocol for all patients. Also, the record did not contain a physician statement of decisional capacity, however since this event a statement has been added to the medication consent form for this purpose. Staff were asked if there are video cameras which would have recorded this event and they indicated that there are cameras and that tapes are kept for 90 days, after which they are destroyed. The Nurse Manager stated that the tape of this event was destroyed.

The HRA observed the quiet room which automatically locks when the door is closed.

STATUTORY BASIS

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 including the reason 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).

The Mental Health Code defines Seclusion as "the sequestration by placement of a recipient alone in a room which he has no means of leaving" (405 ILCS 5/1-126). It may be used only as a therapeutic tool to prevent a recipient from causing physical harm to himself or others. Seclusion requires a written order of a physician, clinical psychologist, clinical social worker, or registered nurse (405 ILCS 5/2-109). A recipient who is restrained may only be secluded at the same time pursuant to an explicit written authorization by a physician or those named above (405 ILCS 5/2-108 i).

HOSPITAL POLICY

Thorek Hospital provided policy and procedure for the administration of Emergency Medication (AMH-107). It indicates that a patient may be given medication against his/her will "only if he/she demonstrates that he/she is a serious and imminent threat of physical harm to self or others and no less restrictive alternative is available." Emergency medication requires the completion and issuance of a Restriction of Rights Notice per hospital policy.

Thorek Hospital provided policy and procedure for Restraint/Seclusion for Psychiatric and or Violent Behavior (AD-99). The policy complies with the all Mental Health Code requirements for the use of restraint and seclusion. For seclusion, the policy indicates that the patient will be observed face-to-face for the first hour and thereafter observation with audio/video camera "if this is consistent with the patient's condition and wishes." Both restraint and seclusion require the completion of a Restriction of Rights Notice.

CONCLUSION

The record shows, and staff confirm, that the recipient was not placed in seclusion, but was asked to go to a quiet room after she became very upset in the unit day room. The door was never closed, and security was not called to administer medication, which was given in the recipient's upper arm per her request. Thus, the HRA does not substantiate the complaint that Thorek did not follow Code requirements when it placed a recipient in seclusion and administered forced psychotropic medication.

SUGGESTION

1. One requirement of the Mental Health Code for the administration of psychotropic medication is the patient's consent. If medication is administered on an emergency basis against the refusal of the patient, consent is not necessary, but drug education and a Restriction of Rights Notice are (405 ILCS 5/2-102 a-5 and 5/2-201). If the medication is a scheduled or PRN (as needed) medication accepted by the patient, then consent is required. In this case, neither the consent nor the Restriction of Rights documentation is present. The HRA suggests that staff review the process for obtaining consent for medication and ensure that it is a required element of psychotropic medication administration and documentation.