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HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 14-030-9014
Vanguard MacNeal Hospital

Case Summary: The HRA did not substantiate the complaint that MacNeal Hospital did not honor the role of the recipient's guardian in the care and decision making of the recipient.

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 MacNeal Hospital (MacNeal). It was alleged that the facility did not follow Code procedures when it did not honor the role of a recipient's guardian in the care and decision making of the recipient. If substantiated, this would violate the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.) and the Illinois Probate Act (755 ILCS 5/11a-17, 5/11a-23).

MacNeal is a 427-bed community hospital located in Berwyn and is part of the Vanguard Health System. The hospital incorporates an Emergency Department which services approximately 300 persons with mental illness per month.

To review the complaints, the HRA conducted a site visit and interviewed the Vice-President of Psychiatry and Behavioral Health Services, the Behavioral Health Services Intake Supervisor, the Emergency Department Medical Director, the Nurse Manager of the Emergency Department, the Behavioral Health Services Nursing Director, the Vice President of Nursing, and the Behavioral Health Services Director of Clinical Operations. Relevant hospital policies were reviewed, and records were obtained with the written consent of the guardian, whose Letter of Office is part of the record.

COMPLAINT SUMMARY

The complaint indicates that a guardian contacted her 12 year old daughter's private physician because she was feeling anxious and the physician directed her to the emergency department at MacNeal where she could receive medication. In the Emergency Department the recipient stated that she had hurt herself in the past and that is why she approached her mother about her feelings. She indicated that she did not have a plan and was not suicidal. The complaint indicates that the parents were then told to leave the hospital and that the staff were taking over. The recipient and her parents reportedly received no rights information, did not receive any information about the ward's admission and treatment, and at one point there were three security

guards who told the parents they were there to "watch" the mother so she did not hurt her daughter. Staff allegedly informed the mother that if she left with her daughter she would be arrested. Although the staff wanted the mother to sign a voluntary application for admission, she refused because she wanted to transfer her daughter to another hospital as per the complaint. Staff allegedly told the mother she would not be able to transfer her daughter. The hospital refused to contact either of the recipient's personal physicians. The complaint indicates that the parents were treated like criminals because they asked for help.

FINDINGS

The record shows that the recipient was admitted to the MacNeal Emergency Department on 10/20/2013 at 12:26 p.m. The recipient's stated complaint is listed as "suicidal thoughts". The triage notes indicate that the recipient's history was provided by the recipient and her parent, and indicates that the recipient's clinical psychologist recommended her to see a psychiatrist, however the mother was unable to get an appointment any earlier than the end of November. The notes also indicate that the recipient had a plan to kill herself and that she had hurt herself in the past. The notes also state, "Security on standby." The notes indicate that the recipient had no risk of neglect or abuse and that she denied suicidal ideations at the time. Nursing Notes entered at 5:41 p.m. state, "Visitor sitter at bedside. Pt.'s parents are very upset and unhappy due to a fact that their daughter has a sitter and constantly being watched and observed. In charge nurse is aware, will continue to monitor for any changes and needs with patient." Later, at 9:00 p.m. the notes state, "Family is concerned with the lengthy time for transfer. I explained to the patient and family that this is normal for psych transfers and that we are continuing to await an acceptance from [a doctor] at [an area children's hospital]." Notes entered at 10:15 p.m. state: “Received copy of psychiatric admission forms from [children’s hospital] and copies given to family because parents wanted to review the forms before transfer. [Staff] from Behavioral Health Services is at bedside with family and questions answered. Pt is resting calmly in ED cart, cooperative.” The recipient was then transferred to the receiving hospital at 11:33 p.m.

The recipient's Psychiatric Intake Assessment, completed on 10/20/13 at 1:31 p.m. by a Crisis Worker is included in the record. It describes the presenting problem: "Pt. in outpatient counseling, referred for outpatient psychiatry, no answer, no return calls; Dr… referred to ED today to get help with outpatient treatment. Per patient been suicidal for 1 month. Pt. denies suicidal attempt. Patient history of cutting for 4-5 months. Per patient, last act was Tuesday with the razor of a pencil sharpener. Patient denies suicidal ideation but scale of 1-10 at 5; plan to walk into traffic. Mother does not feel safe allowing her out of sight; no school Thur-Fri. Sleeping with her due to fear of self harm." The recipient was given a Primary Diagnosis of Depressive Disorder.

The record includes the Conditions of Treatment Agreement which is signed by the guardian on 10/20/13 at 12:30 p.m.

The record contains the Authorization for Transfer to Acute Care Facility and it is signed on 10/23/13 at 9:30 p.m. by the guardian.

HOSPITAL REPRESENTATIVE RESPONSE

Hospital representatives were interviewed regarding the complaint. They indicated that the 12 year old patient was brought by her mother/guardian to the Emergency Department (ED) after having expressed suicidal ideation and a plan to "walk out into the street and get struck by a car." The parent was unable to find a psychiatrist who could see the patient before the end of November, so in the interim the patient was referred to MacNeal ED. The patient was then evaluated by the ED physician. Due to the patient's suicidal statements, she was put into a gown and placed with a sitter. The parents were upset that a sitter was watching and observing them and the patient, however the assessment revealed that the patient had been kept home from school two days before her hospitalization and had been sleeping with her mother because the mother did not feel safe "letting her out of her sight." The patient was then interviewed by a Licensed Clinical Professional Counselor from the Behavioral Health Unit and along with the ED physician she determined that the patient required psychiatric hospitalization to prevent her from self harm. The patient's mother requested to transfer the patient to a children's hospital in Chicago, which staff indicated often takes a long time depending on the required paperwork from the transferring facility and bed availability. Staff indicated that the Crisis Worker from the MacNeal Hospital Behavioral Health Services Unit remained with the mother and the patient at the patient's bedside and along with the accepting physician from the children's hospital, spent a great deal of time talking to the mother, answering her questions and assuring her of the child's need for hospitalization.

Hospital representatives indicated that the ED sees approximately 300 patients with mental illness per month. Patients are triaged and a physician completes an assessment. If the patient presents with mental health issues, a licensed clinician is available to consult with the patient and complete an evaluation. If the juvenile patient expresses suicidal ideation as well as a plan, a sitter will be called to observe the patient- this serves as a reassurance that should the parent walk away or leave for some reason, the patient will be observed. In this case, a sitter was needed since the patient expressed that her plan was to walk into traffic. Generally, security staff is present 24-7 in the ED. Should the patient require involuntary admission as a psychiatric recipient, the required involuntary application would be completed and the patient and her guardians would receive rights information. In this case, the patient received no treatment and the hospital worked with the receiving facility to provide any necessary paperwork to complete the transfer. Hospital representatives indicated that staff would not under any circumstances tell a guardian that they would be arrested if they decided to leave with their child. Also, the record shows that the guardian was not asked to leave but was consulted for her daughter's assessment, evaluation, conference with the receiving hospital's physician, and ongoing dialogue with the clinician. Additionally, the record shows that the ED staff attempted to contact the patient's physician and psychologist, however they could not be reached and did not return the calls.

STATUTORY BASIS

The Mental Health 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 5/2-102a)."

The Mental Health Code mandates that from the time that services begin, legal guardians and other substitute decision makers are to be included in all facets of care. Information about a recipient's rights must be shared orally and in writing with the adult recipient upon commencement of services, or as soon as his condition permits, and with the guardian. A recipient aged 12 or older and any guardian must also be informed upon commencement of services of the right to designate a person or agency to receive notice should the recipient's rights be restricted. The recipient is allowed to select a preference for forced emergency treatment and the facility is to communicate a selection to any guardian (405 ILCS 5/2-200). If any guaranteed right under the Mental Health Code is restricted, including the right to refuse medication, then the facility must promptly give notice to the recipient, his guardian, and to any person or agency so designated. (405 ILCS 5/2-201).

The Mental Health Code allows adult recipients and their guardians the right to refuse generally accepted mental health services (2-107). If these services include psychotropic medication, the physician, or his designee, must advise the recipient, in writing, of the side effects, risks and benefits of the treatment as well as alternatives to the extent that it can be understood by the recipient. The physician must also determine and state in writing whether the recipient has the capacity to make a reasoned decision about his treatment. If the recipient lacks the capacity to make a reasoned decision about his treatment, the treatment can only be administered to prevent the recipient from causing serious and imminent physical harm to himself or others or upon a court order (2-102 a-5, 2-107.1). The same information in writing of the side effects, risks and benefits of treatment as well as alternatives to the treatment must be provided to any guardian. (405 ILCS 5/2-102 a-5).

The Probate Act of 1975 has the same intentions when it calls for appointed guardians to secure and oversee appropriate care for their wards and to be assured that providers will rely on their directives:

> "To the extent ordered by the court … the guardian of the person shall have custody of the ward and … shall procure for them and shall make provision for their support, care, comfort, health…and maintenance…(755 ILCS 5/11a-17).
>
> Every health care provider…has the right to rely on any decision or direction made by the guardian …that is not clearly contrary to the law, to the same extent and with the same effect as though the decision or direction had been made or given by the ward (755 ILCS 5/11a-23)."

CONCLUSION

Although the complaint's account of the matter is not discredited, there is no documented evidence of wrongdoing. The record shows that the patient in this case presented with suicidal ideations and a plan. She had missed the two previous days of school and was sleeping with her parent because her mother was afraid to let her out of her sight. MacNeal Hospital responded to the patient's presenting problem by assigning a sitter but also provided a mental health clinician who remained with the patient and her parent for the duration of her visit. The parent's choice for her daughter's inpatient hospitalization was honored by the hospital and the staff completed

the necessary paperwork to transfer the patient out. Although this process was lengthy (11 hours), it is within reason for a Chicago area ED. The HRA does not substantiate the complaint that the facility did not follow Code procedures when it did not honor the role of a recipient's guardian in the care and decision making of the recipient.