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HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 14-030-9017

Hartgrove Hospital

Case summary: The HRA did not substantiate the complaint that the facility did not follow Code procedures when it was alleged it would not change the recipient's physician at the guardian's request, when the guardian was not given the opportunity to sign consent or have input into the ward's medications, when the guardian was not given notice of forced emergency medication, and when the ward was not given any medication for a day with no reason given to the guardian or her ward.

INTRODUCTION

The Human Rights Authority of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving a complaint of possible rights violations at Hartgrove Hospital. It was alleged that the facility did not follow Code procedures when it would not change the recipient's physician at the guardian's request, when the guardian was not given the opportunity to sign consent or have input into the ward's medications, when the guardian was not given notice of forced emergency medication, and when the ward was not given any medication for a day with no reason given to the guardian or her ward. If substantiated, this would violate the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.) and the Illinois Probate Act of 1975 (755 ILCS 5).

Hartgrove Hospital is a 150-bed behavioral health hospital located in Chicago.

To review these complaints, the HRA conducted a site visit and interviewed the facility CEO, the Director of Risk Management, the Risk/Quality Manager, the Director of Nursing, and the Nurse Manager. Relevant hospital policies were reviewed, and records were obtained with the written consent of the guardian. The guardian's Letter of Office is included as part of the clinical record.

COMPLAINT SUMMARY

The complaint alleges that a ward was prescribed Lithium and she then began to have tremors. The guardian attempted to communicate her concerns regarding the medication to the physician, however she felt that he would not work with her. The guardian asked to have the

doctor changed but no one would do it. She called the hospital CEO who said the physician was a fine doctor and that the guardian was standing in the way of treatment. The guardian then called the corporate office and the doctor was changed.

The complaint alleges that the guardian did not ever consent to Zyprexa for her ward, and requested that the facility contact her before administering emergency medication. Nevertheless the ward was administered Zyprexa without the guardian's knowledge.

The complaint alleges that on 10/31/13 the recipient was given no medication at all and no reason was given to the recipient or her guardian.

FINDINGS

The record shows that the recipient was voluntarily admitted to Hartgrove on 9/23/13. She was admitted with a diagnosis of Bipolar Disorder NOS (not otherwise specified). Her Discharge Summary describes her presenting illness: "The patient reports having episodes of becoming very angry and feels lithium is not working. States she becomes very irritated. Feels that on purpose staff and her peers are provoking her. The patient is living in a nursing home. Has admitted gets thoughts of wanting to walk in front of traffic and aggressive behavior. The patient's mother is her guardian now." The record contains a form indicating that the mother of the recipient has been appointed temporary guardian and it is dated 9/30/13. This form is not stamped by the court and does not include a case number. The HRA requested and received a copy of this appointment from the guardian and it is authorized by the county court and appears to be a legal document. The record also contains another Letter of Office appointing the guardian plenary guardianship on 10/30/13. This letter is stamped and assigned a case number.

Progress Notes from 9/24/13 state "...Client observed by staff with episode of her eyes rolling to back of her head. Client provided with structured milieu and therapeutic group. Dr... called with orders given for Cogentin 1 mg bid." The Medication Administration Record (MAR) shows that the recipient received Cogentin for this episode. On 9/26/13 the physician progress notes indicate that the recipient was evaluated for her medication regime: "Patient seen and evaluated. Chart reviewed. I left a message with mom to call me back. Patient has been refusing to take the Invega and lithium, and I told the patient to take lithium and then they can discontinue Invega. She is complaining of a problem with sleep, and she says she was taking melatonin in the past. She would like to go back on the melatonin." Further into the report it states, "I tried to reach mom and then we have been playing phone tag. I again left a message with her to call me back. I got the message from the staff that patient was doing good on Geodon in the past. I started her on Geodon, and she is currently taking Geodon 40 mg a.m. and before bedtime and I would like to discontinue Invega and start her on melatonin 3 mg 1 to 3 tablets at bedtime. Risks, benefits, side effects of medication discussed with the patient. She is in agreement with the above plan..." Physician notes entered on 9/27/13 state, "I just started [the recipient] on Geodon. I would like to go up on the Geodon and the mom was telling me that she was taking up to 160 mg of Geodon in the past. Also mom requested a neuropsychological testing for her impulsive behavior, borderline behavior."

Progress Notes written on 9/30/13 indicate that the recipient's mother called the unit and told staff that her daughter was experiencing audio hallucinations. The physician was contacted who ordered an emergency administration of Geodon 20 mg. On 10/17/13 the progress notes again indicate that the recipient was hearing voices from her grandfather but without specific commands. On 10/30/13 and 10/31/13 the notes again show that the recipient was hearing the voice of her grandfather, but at this time with a command to harm herself.

Physician notes written 10/01/13 state, "Chart reviewed. I spoke with the patient's mom over the speaker phone. She's asking me to sign the guardianship for the permanent guardianship. I don't feel comfortable signing the paperwork given the fact that I just saw the patient for about like 7 days and I cannot declare this person as disabled. That needs to be done by the psychiatrist where she has been following up. Patient does report that she has been feeling a little bit tired and she was started on Xanax after she said she is feeling anxious and now she's willing to go down on the Xanax. I want to discontinue Xanax. I will decrease the Xanax and discontinue Xanax in a couple of days. Mom is in agreement with that. Also mom reported that she did well on Geodon in the past. I would like to maximize the Geodon to 80 mg po daily. Mom was asking me about starting her on Trileptal. In the past, mom said she had some benign essential tremor. She does not know whether that is due to Lithium or any other medication, but she does not have any tremors of the hand at this point in time."

Progress notes entered on 10/18/13 state, "Pt mother upset requesting answers to why aren't the meds working? 'How can you talk about discharging her in one week?' Mom notified of who the person to talk to such as social worker. Note left in chart for MD to call mom and mom transferred to talk to nurse supervisor as requested at this time..." Physician notes from 10/22/13 state, "Pt was seen and evaluated. Spoke with mom. Mom wants meds changed. She has been seen by [the physician who took over during the attending physician's vacation] and she reports that she is angry. Pt said that mom is going to pursue guardianship. Mom is feeling angry. Pt denies suicidal ideation/homicidal ideation denies audio hallucinations...[illegible] Pt will benefit with behavioral modification." Social work notes entered 10/22/13 state, "Mother/legal guardian continues to be heavily involved in the care of the patient. Patient continues to report incidents of being triggered by her mother when they speak on the telephone. Mother recently requested that social worker process patient's recent allegations of abuse from previous ICF that patient was a resident of. Patient reported that she made this claim after mother continued to ask patient why patient was repeatedly aggressive towards staff members."

Physician progress notes from 10/23/13 state, "The patient reported that she continues to be moody. She is on lithium 300 mg 3 times a day. I would like to change to 600 mg twice daily and we spoke with her mom over the phone yesterday during the staffing. Mom is trying to get the guardianship as she is able to take care of herself at this point of time and the patient was also seen by Dr... when I was on vacation. She also agreed that she does not need the guardianship. The patient has been doing ok for the last 24 hours. She said she has been doing good and her anger has been getting better. We are going to work with the psychology department to develop some special program for her acting out." A behavior plan was then developed with the patient. Additionally, a De-escalation Preference Form is included in the record where the recipient has indicated that music and talking with staff both help her to

deescalate and that if her behavior becomes dangerous, she prefers medication as emergency intervention.

The first mention of the guardian's objection to the recipient's prn medication and physician change is documented in the physician's progress notes on 10/29/13 which state, "Mom don't want prn medication. She is requesting changing doctor. Pt was on behavior plan program she didn't go yesterday because of conflict with staff. She is back on her program. Guardianship hearing tomorrow..."

The first mention of the recipient's mother having been appointed plenary guardian occurs on 10/31/13. The physician progress note states, "The patient seen and evaluated. Chart reviewed. The patient does not want to talk to me. She was using F letter words. She was angry and she was frustrated. As per the staff, mom permanent has the guardianship [sic]. We don't have the guardianship paperwork. Earlier the patient told me last week that if mom wins the guardianship she is going to hurt herself but I did not have any chance to evaluate the patient at this point."

Progress Notes entered on 10/30/13 state, "...Mother called unit several times demanding what we can do for her [the recipient] and stated pt is suffering 'Rapid Cycling Bipolar.' Pt took her Geodon meds and Lithium meds after she talked with her mother. Mom demanded staff to call MD right now, and want staff to call her back. I talked to Dr..., no further orders given. Mom was called and even talked with nursing supervisor..." On 11/01/13 the notes state, "This writer informed the pts mother regarding medication refusal 10/31/13 and this morning. Mother also informed of stat medication today and the pts behaviors 10/31/13 pm shift and 11/01/13 am shift. Pts mother was agitated and yelling at this writer stating she 'Must be notified of all refusals within 30 mins of the refusal. This writer informed the mother that she is being notified and it is not always possible to always ensure a 30 min. notification due to unpredictable situations, however that she will be notified ASAP after all medication refusals. Mother was loud, demanding, unprofessional, and not accepting my feedback from this writer." Notes entered on 11/02/13 state, "The legal guardian Ms... called the unit wishing to confirm that Dr... made changes to [the recipient's] medications. I reviewed changes to orders and confirmed that she gave consent to changes. Mother requested to have form faxed to her and to call her prior to faxing. This writer was informed of my error and need to have mother go through medical records for all copies from chart. Dr... was called and notified of order sheet faxed to the legal guardian. Confirmation of fax..." On 11/05/13 the notes state, "[The recipient] attempted to refuse both her Geodon and lithium today morning, despite multiple redirections, encouragement and coaxing from staff.... [recipient] refused multiple times stating 'I can refuse whenever I want, that's my choice.' She has been refusing Geodon 3 times past 5 days and lithium 3 times past 5 days. Unit manager called pt's mother/legal guardian, who talked to [the recipient] and finally she agreed to take her medications. Mother expressed much concern re: dosages/frequencies and [staff] did talk to Dr... regarding these multiple concerns."

The record shows that on 11/02/13 the recipient was transferred to another physician.

The record contains the recipient's consents for psychotropic medication, including Cogentin, Trazodone, Lithium, Invega, Xanax, Trileptal, and Geodon. The progress notes show that the guardian was given information regarding these medications.

The record contains the PRN (as needed) and Stat psychotropic medications that were administered to the recipient. It shows that the recipient received emergency administrations of Zyprexa 5 mg orally on:

- 9/27/13. "Client with increased irritable/angry feelings regarding being refused by group home and mother wishing to be her guardian. Staff offered her room/radio to play music to help calm her down. Staff made multiple offers to sit with her and talk about events, increased anger. Client refused offers to talk with this staff but she did talk with others. Client observed walking to unit doors to check them out. Staff had to redirect and encourage her to use the radio. Pt. was sent to her room per limit setting pt checking doors again. Pt. focused on staff member. I observed pt exiting room yelling, kicking phone off the wall. Pt. then attacked Mr... by attempting to choke him. Staff assist client to open quiet room where she was hitting with her fist. Client accepted Zyprexa 5 mg po and tolerated a 10-15 min. time out in quiet room."
- 9/28/13. "Pt was involved in a verbal altercation with a peer in the dining room during morning group. Pt. approached the nurses' station anxious and agitated yelling, 'That man put his mother fucking finger in my face. I want to beat his mother fucking ass!' 1:1 verbal de-escalation was provided and Zyprexa 5 mg po stat x1 was administered..." The recipient was also placed in restraints for this event.
- 10/01/13. "Client given Zyprexa 5 mg po stat x 1 for increased aggression focused on another staff member. Pt. received assistance to her room. Client initially refusing medication and attempting to provoke a staff member several times."
- 10/06/13. "Pt attacked male staff difficult to deescalate and willingly walked to quiet room and given stat med po. Contracted with staff shortly after given med. Pt agreed to remain calm or talk to staff if having angry episode..."
- 10/18/13. "...pt observed having angry outburst throwing hospital property after another pt. became angry agitated pt threw vitals machine at wall there is a hole in the wall and vitals machine broken. Pt redirected and walked with staff to room medicated with scheduled HS meds and prn medication as request pt processed with staff following incident pt mother called to notify her her of pt behavior..."
- 10/28/13 at 5:30 p.m. "Pt in hallway requesting staff bring her downstairs for dinner pt notified not enough staff available this evening pt became agitated hit wall then tried to jump nurses' desk. Pt stopped by staff agreed to get down. When down, pt began to strike at staff pt walked to quiet room given stat med Zyprexa per Dr.'s orders received at 5:30 pm pt took PO med came out of quiet room into Dining room pt alone in dining room knocked over table came into hallway and began to strike staff. Pt walked to quiet room verbally de-escalated and processed with staff... Mother notified."

- 10/29/13. “Pt was observed going into male peer’s room and instructed to come out of room. Pt upset with staff and threatening staff, ‘I’m gonna kill you!’ Pt non-redirectable. Given Zyprexa po at 9am to relieve agitation...”
- 11/01/13 at 9:16 a.m. “Pt observed agitated, defiant and oppositional throughout the morning. Pt was threatening staff, ‘I’ll tell my Mom you threatened to give me a shot.’ ‘I’ll have her come up here and kick your ass.’ Staff did not threaten the pt with a shot. Staff redirected the patient set limits, gave feedback. Pt continued to curse and disrupt the milieu. Pt walked with staff to the quiet room and took a time out. Pt returned to the day room, under the verbal agreement to turn her behavior around and attend group appropriately. However, pt became fixated on a large aggressive and psychotic male. Pt was touching his arms and shoulders making inappropriate comments, ‘I’m going to have your baby’, ‘I’m horny right now’, and ‘give me your cock.’ Pt was redirected out of the room and to the quiet room. The male peer then became agitated, took off his shirt, and began threatening to hurt staff. The pt then left the quiet room and ran toward the aggressive male shouting, ‘give me your cock’ and pt was redirected by staff. Pt threatened the staff, ‘Fuck you! I’ll fuck you up!’... Pt was directed into her room with her social worker and two female counselors. Dr... was called and ordered Zyprexa 10 mg po 1x stat for aggressiveness which was administered at 9:16 a.m. pt continues to be agitated and defiant at this time. Pt is processing with staff.” Progress Notes from 10:15 a.m. state, “This writer informed the pts mother regarding medication refusal 10/31/13 and this morning. Mother also informed of STAT medication today and the patient behaviors 10/31/13 pm shift and 11/1/13 am shift. Mother was agitated and yelling at this worker stating she ‘Must be notified of all refusals [of scheduled medication] within 30 mins of the refusal.’ This writer informed the mother that she is being notified and it is not always possible to always ensure a 30 min notification due to unpredictable situations, however that she will be notified ASAP after all medication refusals. Mother was loud, demanding, unprofessional, and not accepting my feedback from this writer.”
- 11/01/13 at 4:40 p.m. “Staff dealing with another patient when pt attacked staff from behind. Pt walked to quiet room and received Zyprexa 5 mg po for agitation as ordered.”

The recipient received an emergency administration of Geodon on 10/12/13. The Nursing Note states, “Medical problems: Pt denies pain at this time. Pt has no signs of shortness of breath and hyper/hypoglycemia. Pt has no complications from hypothyroidism, anemia, dyslipidemia, or vaginal candidas. Problem #1: Potential to harm others. Pt got into a verbal altercation with a male peer over a comment he made. Pt began making verbal threats saying, ‘Come out here- I’ll beat your ass!’ Pt also tried to attack staff when staff attempted to process with her. Problem #2: potential harm to self. At this time patient has not made statements of wanting to hurt herself. Intervention: Pt. was directed to go to the quiet room. Pt refused to take her evening meds. Pt given Geodon 20 mg Im in the right deltoid. No physical restriction required. Pt calmed down and talked to staff. At 7:30 pm, pt was calmly sitting in her doorway.”

The record shows that at admission the recipient was prescribed Lithium 300 mg twice daily. She received Lithium 300 mg at 9:00 a.m. and 9:00 p.m. daily from 9/24/13 through 10/09/13. There was no Lithium given on 10/10/13. On 10/11/13 the Lithium was increased to 300 mg three times daily through 10/22/13. On 10/23/13 there is only one administration of Lithium 300 mg at 9:00 a.m. From 10/24/13 through 10/30/13 the Lithium level was increased to 600 mg given at 9:00 a.m. and 9:00 p.m. On 10/31/13 the record shows that the Lithium was refused for both administrations, was refused on the first dose for 11/01/13, and given at the 9:00 p.m. dose. On 11/02/13 the first dose was given at 9:00 a.m. and then the Lithium 600 mg was discontinued. The recipient did not receive Lithium again until 11/04/13 when 300 mg was ordered for each morning. On 11/05/13 the Lithium 300 mg was discontinued. The record shows that on 10/31/13 the recipient refused all regularly scheduled medications and did not receive any PRN medications.

HOSPITAL REPRESENTATIVES' RESPONSE

Hospital representatives were interviewed about the complaints. They emphasized that the mother of the recipient, even before she was made guardian, was intimately and constantly involved in the care of and decision making for her daughter. Staff indicated that an arrangement was made that the nurse manager called the mother each day at 9:00 a.m. and the social worker called her every evening at 4:00 p.m. to discuss the recipient's care. She was also included in the weekly staffing sessions by phone and was able to discuss her daughter with the physician at this time. Staff pointed out that the progress notes indicate that the physician responded to the guardian's concerns and made every attempt to accommodate her suggestions. Staff did not become aware that the guardian wanted to change physicians until they learned this from corporate headquarters. Generally if a patient or guardian is not a good fit with a particular physician the staff asks the patient to alert the physician to this and in a matter of days a new physician is assigned. In this case the recipient had changed physicians twice and staff were unsure of who would be assigned as her physician. There was also a conflict between the guardian and the recipient regarding the recipient's medication as well as her long term placement. Staff indicated that before the mother was appointed guardian the recipient would sometimes rescind her mother's right to receive information and then sign the release when the two were in agreement again.

Staff stated that when the recipient was admitted she was determined to have decisional capacity and was able to consent to treatment and her medications. The mother presented the staff with a form which looked like an appointment of temporary guardianship on 9/30/13, however it was not stamped and did not have a case number so staff did not think the mother had been granted guardianship. On 10/31/13 the mother presented a Letter of Office which was signed and stamped and the staff acknowledged that she was guardian. From this time on the mother was granted all the rights of a plenary guardian, however with or without guardianship the mother was included in every aspect of her daughter's care. Staff indicated that Zyprexa was ordered when the recipient was displaying dangerous behaviors. Because the staff are making every attempt to utilize CPI (Crisis Prevention Intervention), they implement calming techniques and avoid the use of injections or restraints. The recipient in this case generally accepted an oral dose of Zyprexa after less restrictive means were attempted. Staff indicated that security was not present for the recipient's emergency situations and the recipient was given the opportunity to

refuse emergency medication. The staff indicated that generally speaking the staff walked the recipient to her room or the quiet room where she accepted the medication and deescalated. Staff indicated that while the recipient was hospitalized at Hartgrove she stabilized and showed a reduction in her depression, her harmful behaviors and she was generally pleasant on the unit.

STATUTES

The Mental Health Code guarantees all recipients adequate and humane care in the least restrictive environment: "A recipient of services shall be provided with adequate and humane services 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: "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 under subsection (a) of Section 2-207, restraint under section 2-208, or seclusion under Section 2-109. At the same time, the facility shall inquire of the recipient which form 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."

The Mental Health and Developmental Disabilities Code provides for the inclusion of the guardian in all aspects of treatment:

"A recipient of services shall be provided with adequate and humane care 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...."(405 ILCS 5/2-102).

If treatment includes the administration of psychotropic medication, then the guardian must be advised in writing of the side effects, risks and benefits of the treatment:

"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 that is

communicated. The physician shall determine and state in writing whether the recipient has the capacity to make a reasoned decision about the treatment. The physician or the physician's designee shall provide to the recipient's substitute decision maker, if any, the same written information that is required to be presented to the recipient in writing." (405 ILCS 5/2-102 a-5).

The Mental Health Code also allows the guardian to refuse treatment for the recipient:

"An adult recipient of services, 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. 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. 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." (405 ILCS 5/2-107 a). Additionally, the Code states that upon commencement of services or as soon thereafter as the recipient's condition permits, the guardian shall be informed orally and in writing of the rights that are guaranteed by the Code which are relevant to the recipient's services plan, and the recipient's preferences for emergency treatment are to be communicated to the guardian (5/2-200).

And, whenever a guaranteed right of the recipient is restricted, the recipient and his/her guardian must be given prompt notice of the restriction and the reason therefore. (405 ILCS 5/2-201 a). The Secretary of Human Services and the facility director of each service provider must adopt written policies and procedures to implement the rights guaranteed by the Mental Health Code (5/2-202).

Additionally, the Illinois Probate Act of 1975 defines the duties of the guardian:

"To the extent ordered by the court and under the direction of the court, the guardian of the person shall have custody of the ward and the ward's minor and adult dependent children; shall procure for them and shall make provision for their support, care, comfort, health, education and maintenance, and professional services as are appropriate....The guardian shall assist the ward in the development of maximum self-reliance and independence." (755 ILCS 5/11a-17a).

Also, the Probate Act gives direction to providers to rely on guardian decision making:

"Every health care provider...has the right to rely on any decision or direction made by the guardian....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).

HOSPITAL POLICY

Hartgrove Hospital provided the policy regarding Informed Consent (Policy No. RI 1112). The policy statement declares, "Hartgrove Hospital maintains procedures and policies for obtaining informed consent from patients, parents, and guardians regarding treatment. The

Hospital maintains documented evidence of informed consent either signed by the patient, parent, or legal guardian or documentation of verbal consent provided by the patient, parent, or legal guardian. All informed consent disclosures will comply with applicable laws and guidelines established by the Centers for Medicare and Medicaid Services and the Joint Commission.” Informed Consent is defined in the policy as “communication between the patient, parent, or guardian and a clinician (physician or other non-physician clinician) that results in the patient’s, parent’s or guardian’s authorization to undergo a specific treatment intervention. Treatment interventions may include medication, procedures, or therapeutic services.” The policy indicates that the only exception to obtaining informed consent for a treatment intervention exists when the patient is in need of emergency treatment and delay of treatment may result in harm to self or others. In such cases, the parent and/or guardian is notified of the emergency treatment as soon as possible after the treatment is administered.

Hartgrove Hospital Informed Consent policy describes the process which occurs in the event that a guardian is unable to be present for admission to the hospital. It states that Emergency Services staff will secure verbal consent for admission. The verbal consent must be witnessed by two staff members on the Verbal Consent for Treatment form. The Emergency Services staff will arrange a specific time for the guardian to come to the hospital to complete admission and consent paperwork in person. The staff will facilitate arrangement of transportation and/or make arrangements for the paperwork to be mailed/couriered to the guardian’s residence, if necessary. The Emergency services staff will maintain responsibility for following up with the guardian until admission paperwork and consent forms are completed. The staff will communicate this process with the Director of Emergency Services and the Director of Social Services. The Emergency Services staff will file the completed and signed admission paperwork and informed consent documentation in the patient’s medical record, once completed.

CONCLUSION

The record is not clear regarding the dates that the mother of the recipient was appointed guardian. The HRA requested and received documentation from the guardian that she was appointed temporary guardian on 9/30/13 and then full plenary guardianship on 10/30/13. However, the documentation that was given to the hospital included a document that did not appear to be an authorized guardianship letter of office. The progress notes and staff report indicate that the facility did not know that the mother had been appointed guardian until after she presented her Letter of Office on 10/31/13. Nevertheless, the HRA feels that the hospital staff were very attentive to the input of the recipient’s mother/guardian and her directives were notable throughout the progress notes for this patient, including her refusal of medication and additions and changes to the medication regime. This complies with the Code mandate that written drug information must be provided to the recipient and any substitute decision maker. Additionally, the guardian received notification of emergency medication even though the medication was accepted by the recipient and the record indicates that the recipient never refused medication.

The record shows that the guardian requested a new physician for the recipient and within four days another psychiatrist was assigned. Additionally, progress notes show that the

physicians were open and responsive to the guardian's input and made adjustments to the recipient's medication based on her input. The Zyprexa was administered on an emergency basis for periods when the recipient was a threat of harm, and because of the immediacy of the need, the staff could not be expected to alert the mother/guardian before its administration, however they made every effort to inform her afterwards and it is noted that the recipient never refused her emergency medication even though she was given the opportunity to do so. Also, the staff did make every attempt to contact the mother and notify her of all medication refusals, although the record shows that the guardian requested to be notified within 30 minutes of each refusal, which the HRA finds unreasonable and not guaranteed by any legal right. On 10/31/13 the recipient refused all medication and the progress notes indicate that staff informed the guardian of her refusal. The HRA does not substantiate the complaints that the facility did not follow Code procedures when it would not change the recipient's physician at the guardian's request, when the guardian was not given the opportunity to sign consent or have input into the ward's medications, when the guardian was not given notice of forced emergency medication, and when the ward was not given any medication for a day with no reason given to the guardian or her ward.

COMMENTS

The HRA commends Hartgrove Hospital for their remarkable efforts to address behavior problems without the use of restraints and injections and the assistance of security. Despite the fact that the staff was at times attacked by the recipient and that property was broken or destroyed, the staff continued to work with the recipient to deescalate her behaviors in an effort to avoid the use of an injection or restraints. Staff should be commended for their continued care and commitment to the application of least restrictive measures.

SUGGESTION

1. If there is a question regarding the appointment of guardianship, have staff verify this with the appropriate probate court.