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HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 14-030-9025
Chicago Read Mental Health Center

INTRODUCTION

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

Chicago Read Mental Health Center is a 215-bed Illinois Department of Human Services (DHS) facility located in Chicago.

To review these complaints, the HRA conducted a site visit and interviewed the Medical Administrator II, the Social Worker II, and the Quality Manager. Hospital policies were reviewed along with the recipient's records upon written request.

COMPLAINT SUMMARY

The complaint alleges that a recipient's physician ordered forced emergency medication for three days and for no adequate reason.

FINDINGS

The recipient's Initial Assessment describes the recipient's referral to Read: "Patient is a 57 year old female who is a transfer from [jail] with Unfit to Stand Trial (UST) status. She was transferred to Chicago Read Mental Health Center (CRMHC) in order to attain fitness for trial. Patient was living in her condominium but owed approximately $12,000 to her condo association which was an ongoing issue. When she was evicted, she did not allow [the police department] to enter and her door had to be knocked down. She has been incarcerated at [the county jail] for approximately 2 months." Psychosocial Notes provide the first brief clinical description of the recipient: "Patient is oriented x3 but is tangential, grandiose, argumentative with her verbalizing paranoid delusions, alleging that the courts, the police, the cable company, her property manager and the mob are out to get her, have lied about her history and actions and are discriminating and intimidating her; stating that the police are colluding with drug dealers and human traffickers. She reports having contacted various celebrities and governmental agencies in her mission to

receive restitution." The recipient was admitted to the psychiatric unit on 1/29/14 with a diagnosis of Bipolar Disorder, Manic and with Psychosis and Mood Disorder NOS (not otherwise specified). She was placed on Frequent Observation for Unpredictable Behavior.

On 2/4/14 the recipient began her twice weekly meetings for fitness restoration. Notes from the psychiatrist from the first meeting state: "[Recipient] would not participate in formal effort to assess her fitness to stand trial. She spoke, virtually non-stop, for 35 minutes about her belief that law enforcement has abused and victimized her by improperly and illegally arresting her. Pt. insists she is fit to stand trial. Per her report, pt. has left messages with [local rights celebrity] about wanting [the celebrity] to represent her. She has also given [celebrity's office manager] my telephone number (which presumably pt. obtained by calling the direct line to the hospital and asking to speak with me). Pt. stated that her Public Defender has not been defending her case, because 'he won't address the fictitious documents lodged against me.' Dr… attempted to obtain pt.'s understanding of why the court thought she was unfit to stand trial she said, 'Because this was called in…this is a mocked up situation …police collusion. I've given up gang information, license numbers, dates…it's retaliation… they wouldn't allow my evidence to be presented in court.' Pt, alleges there is an 'Arian, Serbian, Baltic, Nazi, Cobras, and Gangstas' collusion against her… Pt remains unfit to stand trial. It is quite possible that she knows all the fitness terms/concepts and the court process but she is completely unable, at this time, to assist in her defense…." The recipient was scheduled for fitness restoration twice weekly. The recipient also refused all psychotropic medication. The record contains two petitions for involuntary medication, dated 2/14/14 and 3/19/14. The court order for involuntary medication was obtained on 4/18/14.

A Psychiatry progress note, entered on 2/14/14 at 1:30 p.m. states, "Patient not available for conversation. Remains on phone restriction. Non-compliant with psychotropic meds. Petition for Involuntary Psychotropic meds completed. Bi-polar Mania vs. Schizo Affective Disorder, Bipolar type. Begin Haloperidol 10 mg IM daily x 3 days for psychosis." Nursing Notes entered at 3:10 p.m. state, "Discussion about Involuntary Psychotropic Medication. Remain strongly refused to get med became angry- loudly [illegible] staff that violate her rights. Security call to assist to give involuntary Physical hold [illegible] at 3:23 p.m. due to uncooperative. [Illegible] he body- screaming for someone to call 911 because staff violate her rights. Undirectable. Refused to listen to any explanation. Involuntary med (Haldol 10 mg IM given with security assist). Dr… made aware. Pt. remains very upset grab the nurses' station phone to call Dr… also picked up pt.'s phone attempted to call 911 but staff intervene and reminded she is on phone restriction. Very impatient to call for Dr… to see her. Ask every staff to call Dr… immediately. Counseling and wait for Dr… Calm down and went to her room. Continue frequent observation for unpredictable behavior." The same day at 4:30 p.m. another note states, "Seen by Dr… and has conversation about involuntary med that she go to receive for x 3 days. Pt. don't get angry while talk with Dr…"

Progress Notes entered at 9:00 p.m. indicate that the recipient slept most of the evening and "Involuntary meds working well at times not in distress." On the following day, Progress Notes state, "Alert, isolative, kept to self in bedroom reading …[illegible] still upset about involuntary meds. Talk to Dr… for long time. Remain unpredictable but no harm pt. continue to

provide structure milieu/safety." The notes entered for 2/16/14 state, "Pt. delusional, argumentative, but redirectable, continue with treatment plan at this time."

The Medication Administration Record is included in the record. It shows that the recipient received Haldol 10 mg IM daily from 2/14/14 through 2/16/14 for "psychosis."

The clinical record contains three Restriction of Rights Notices for each day of the three-day involuntary medication administration. The Restriction Notice for 2/14/14 indicates that the recipient was placed in a physical hold and administered Haldol 10 mg IM (intramuscularly) for the following reason: "Pt is petitioned for involuntary psychotropic medication. Pt is a danger to herself and others, as evidenced by making threatening calls to President Obama, Jesse White, and Mayor Emanuel. Pt continues to violate the phone restriction order. Pt attempted property destruction by slamming her door. Pt refused to follow staff's directions." The Restriction Notice for 2/15/14 indicates that the recipient was administered emergency medication for the following reason: "Haloperidol 10 mg IM given as Involuntary medication ordered by Dr… for psychosis. Pt. non-compliant with psychotropic meds." The Restriction Notice for 2/16/14 indicates that the recipient was administered emergency medication for the following reason: "Haloperidol 10 mg IM given as involuntary medication ordered by Dr… for psychosis. Pt. non-compliant with psychotropic medications."

Progress Notes continue to indicate the recipient's resistance to psychotropic medication and her continued fixed delusions regarding conspiracies against her ("I need to contact the governor. You're committing malpractice. There is no court order for me to be here. I want to sign a 5-day. I don't need medication."). The Progress Notes entered 3/21/14 state, "Dr… has petitioned the court for enforced medication. Hearing scheduled for 3/28/14." The record shows that the hearing occurred on 4/18/14 when the court ordered the recipient to receive forced psychotropic medication.

FACILITY REPRESENTATIVES' RESPONSE

Facility staff were interviewed about the complaint. The recipient's physician indicated that the recipient had been court ordered to receive treatment at Read because she was deemed unfit to stand trial for an offense for which she had been incarcerated in the county jail. At the time that she was hospitalized, and throughout her hospital stay, staff stated that the recipient was so delusional and demanding of time that it was nearly impossible to talk with her as is reflected in the record. Staff stated that she had a constant barrage of questions and statements related to her various paranoid delusions and constantly threatened to report staff to higher authorities or to sue them. Staff indicated that on a daily basis the recipient claimed that everyone was violating her rights.

Staff were asked what circumstances were different on the day the recipient was ordered three days of involuntary medication. They indicated that they were inundated with the recipient's threats of lawsuits. Staff also stated that this "trial" of medication, if it worked, would support a case for involuntary medication when the court considered the physician's petition. Staff were asked if they ever felt threatened with physical harm and they indicated that no, the threats were not physical. Staff were asked about the two petitions for involuntary

medication. The physician stated that the first petition, when reviewed by the State's Attorney, was not accepted and the physician then removed the portions that were objectionable and on 3/19/14 resubmitted the petition which was then accepted by the court on 4/18/14. The nursing staff followed the physician's order for a three day administration of emergency medication and included the Restriction of Rights Notices as their redetermination of need each day.

Facility staff were asked about the Mental Health Code requirement for a physician statement of decisional capacity. The physician indicated that a new form is being developed which may include this statement, however this language is not in the record at this time. Staff were asked if the recipient completed preferences for emergency intervention paperwork and they indicated that she refused to complete this information at Intake and again when presented with it on 1/30/14.

STATUTES

The Mental Health Code provides mandated procedures for the administration of psychotropic medication:

"(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. The physician or the physician's designee shall provide to the recipient's substitute decision maker, if any, that same written information that is required to be presented to the recipient in writing. 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 or 2-107.1 or (ii) pursuant to a power of attorney for health care under the Powers of Attorney for Health Care Law [FN1] or a declaration for mental health treatment under the Mental Health Treatment Preference Declaration Act. [FN2] A surrogate decision maker, other than a court appointed guardian, under the Health Care Surrogate Act [FN3] may not consent to the administration of authorized involuntary treatment. A surrogate may, however, petition for administration of authorized involuntary treatment pursuant to this Act. If the recipient is under guardianship and the guardian is authorized to consent to the administration of authorized involuntary treatment pursuant to subsection (c) of Section 2-107.1 (court ordered medication) of this Code, the physician shall advise the guardian in writing of the side effects and risks of the treatment, alternatives to the proposed treatment, and the risks and benefits of the treatment…" (405 ILCS 5/2-102).

Additionally, the Mental Health Code (405 ILCS 5/2-107) restricts forced medication, including emergency medication pursuant to a pending court order:

(a) 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.

(b) Psychotropic medication or electroconvulsive therapy may be administered under this Section for up to 24 hours only if the circumstances leading up to the need for emergency treatment are set forth in writing in the recipient's record.

(c) Administration of medication or electroconvulsive therapy may not be continued unless the need for such treatment is redetermined at least every 24 hours based upon a personal examination of the recipient by a physician or a nurse under the supervision of a physician and the circumstances demonstrating that need are set forth in writing in the recipient's record.

(d) Neither psychotropic medication nor electroconvulsive therapy may be administered under this Section for a period in excess of 72 hours, excluding Saturdays, Sundays, and holidays, unless a petition is filed under Section 2-107.1 and the treatment continues to be necessary under subsection (a) of this Section. Once the petition has been filed, treatment may continue in compliance with subsections (a), (b), and (c) of this Section until the final outcome of the hearing on the petition."

FACILITY POLICY

Read provided the facility policy for the administration of psychotropic medication (PC-RX-06-40-01-00). It states that medical staff will prescribe psychotropic medication in accordance with the Mental Health Code. Additionally, policy # PC-RX-06-40-52.00 states that if medication is refused, it shall not be given unless it is necessary to prevent the patient from causing serious and imminent physical harm to herself or others and no less restrictive alternative is available. It also indicates that under no circumstances shall staff threaten a patient with restrictive measures for refusing medication.

Read provided the Department of Human Services policy for the administration of psychotropic medication (#02-06-02-020). It states, "An individual's refusal to take psychotropic medication does not in itself constitute an emergency. An individual's refusal to take psychotropic medication, as documented in the clinical record, shall be honored except … in an emergency, when treatment is necessary to prevent an individual from causing serious and imminent physical harm to self or others…" Additionally, the policy states, "Treatment shall not be administered under Section 2-107 of the Mental Health and Developmental Disabilities (MHDD) Code for a period in excess of 72 hours excluding Saturdays, Sundays, and holidays, unless the treating physician with the support of the interdisciplinary team files a Petition for the Administration of Authorized Involuntary Treatment (IL462-2025) for a court order under Section 2-107.1 of the MHDD Code and the treatment continues to be necessary in order to prevent the individual from causing serious and imminent physical harm to herself or others. If no such petition is filed, treatment must be discontinued."

CONCLUSION

The Mental Health Code mandates that recipients must be informed of their right to refuse medication. If they refuse, the Code requires that the medication shall not be given unless it is necessary to prevent the recipient from causing serious and imminent physical harm to herself or others and no less restrictive alternative is available. The Mental Health Code then describes the parameters for the length of time and conditions under which these forced psychotropic medications may be administered:

(a) For up to 24 hours only if the circumstances leading up to the need for the emergency treatment is written in the recipient's record.

(b) Continued beyond 24 hours only if the need for the continued use of the medication is redetermined at least every 24 hours based on a personal examination by the physician or supervisory nurse and the circumstances demonstrating the need are written in the record.

(c) The medication is not continued for a period in excess of 72 hours unless a petition for involuntary psychotropic medication is filed and the medication continues to be necessary due to an imminent threat of physical harm as outlines in subsection (a). Once the petition has been filed, treatment may continue but must comply with subsections (a), (b), and (c) until the final outcome of the hearing on the petition.

In this case, the first petition for involuntary medication was completed on 2/14/14, however it was not accepted by the State's Attorney and did not result in a court order. On the same day the recipient was administered forced psychotropic medication, however the reason for that administration, threats to call the president and mayor, slamming her bedroom door, and attempting to make phone calls, do not rise to the level of threat of "serious and imminent physical harm", and by staff account, were daily expressions of the recipient's symptoms of Bipolar Disorder with Psychosis. The initial medication order forecasted a three-day emergency in violation of redetermination requirements and there are no allowances for "trial medications". The two following days of forced psychotropic medication assume that the petition has been submitted to the court, however the threat of serious and imminent physical harm, and the circumstances demonstrating the need for the medication are not present in these documents, and the staff accounts, both in the record and in their conversations, do not indicate that the recipient was a physical threat. The record fails to show whether or not the recipient was offered less restrictive alternatives. Additionally, both of the latter Restriction Notices indicate that the recipient was given forced medication because she was "non-compliant with psychotropic meds", which is a violation of the recipient's right to refuse medication. And finally, the HRA reminds staff that even if a petition for involuntary medication has been filed with the court, the administration of forced psychotropic medication must comply with subsections (a), (b), and (c) of Section 5/2-107 of the Mental Health Code pending the outcome of the hearing on the petition. The HRA substantiates the complaint that the facility did not follow Mental Health Code mandates when it administered forced psychotropic medication.

RECOMMENDATION

1. Train all staff in the Mental Health Code requirements for the forced administration of psychotropic medication. Ensure that all recipients are afforded the right to refuse medication,

and if refused, it is given only when the recipient presents a serious and imminent threat of physical harm to herself or others and no less restrictive alternative is available. Comply with the Mental Health Code timeline for the administration of emergency medication:

(a) For up to 24 hours only if the circumstances leading up to the need for the emergency treatment is written in the recipient's record.

(b) Continued beyond 24 hours only if the need for the continued use of the medication is redetermined at least every 24 hours based on a personal examination by the physician or supervisory nurse and the circumstances demonstrating the need are written in the record.

(c) Continued for a period in excess of 72 hours unless a petition for involuntary psychotropic medication is filed and the medication continues to be necessary due to an imminent threat of physical harm as outlines in subsection (a). Once the petition has been filed, treatment may continue but must comply with subsections (a), (b), and (c) until the final outcome of the hearing on the petition.

2. Stop the practice of writing "trial" orders and/or emergency orders that exceed 24 hours.

SUGGESTION

1. Although the complaint in this case does not include the phone rights of recipients, the HRA reviewed the Read policy regarding the use of phones and we suggest that staff review their policy to ensure that phone rights are honored consistently throughout the facility.

2. Document decisional capacity whenever psychotropic medications are proposed. It was suggested that Read is developing a new form to include this. Consult other state operated facilities as they already have been using forms to meet this Code requirement.

3. Quality management should conduct random reviews of emergency medications and nursing or administrative staff should alert physicians against potential Code violations such as these.