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HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 15-030-9008
JOHN J. MADDEN MENTAL HEALTH CENTER

Summary: The HRA did not substantiate the complaint that the provider did not follow Code procedures when a staff person cut a recipient's hair against her will and the recipient's jewelry was not returned upon discharge.

INTRODUCTION

The Human Rights Authority of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving a complaint of possible rights violations at John J. Madden Mental Health Center (Madden). It was alleged that the facility did not follow Code procedures when staff cut a recipient's hair against her will and the recipient's jewelry was not returned upon discharge. If substantiated, this would violate the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.).

Madden Mental Health Center is a 150-bed, Illinois Department of Human Services (DHS) facility located in Hines, Illinois.

To review these complaints, the HRA conducted a site visit and interviewed the Medical Director, the Director of Nursing, the Central Office Quality Coordinator, the Quality Manager and Nurse Manager. Hospital policies were reviewed, and the recipient's clinical records were reviewed with written consent.

COMPLAINT SUMMARY

The complaint alleges that a recipient was injected with psychotropic medication and while she was asleep from this medication, a staff person cut her hair and removed jewelry that was woven into it. This jewelry was not returned to the recipient upon discharge.

FINDINGS

The clinical record shows that the recipient was admitted to Madden on 11/26/14 and discharged on 1/2/15. Her Comprehensive Psychiatric Evaluation does not list a diagnosis but indicates, "Rule out acute stress disorder but mostly BD [Bipolar Disorder] mania with psychosis

recurrent." The recipient's Discharge Summary, written 12/31/14, describes the recipient's treatment episode:

Patient is a …single childless Chinese female who is here to study, came to USA in September and about a week ago, had moved into a studio as she could not get along with her brother who she was initially staying with. Admitted as a transfer from [Chicago area hospital] but unclear initially how she presented there but see later.

Per ED notes she was not speaking good English but insisting on speaking in that language, despite they attempting [sic] to use a Cantonese interpreter. She was seen as very anxious and scared and stated that her brother had hit her and did something "bad" to her.

Per reports she did have various bruises on her body, esp. lower part. Also per reports there is a history of rape and she was on prophylactic HIV meds. Per ED notes they found lithium, raltegravi on her but she denied being aware what they were for. The ED MD documents no overt psychosis as such but seen to be 'regressing' as she was holding a 'teddy bear' and seemed to making poor decisions. She was eventually sent to us.

Tried to review intake notes, but not very legible but it seems she was apparently blaming her brother for her issues, thinking that he is blaming a MI on her and she herself is fine.

On the unit, the patient has been reportedly having a very difficult time over the last few days; reportedly displaying very odd and bizarre behaviors like disrobing, going to various people's rooms, playing with self, seemingly responding to visual hallucinations and has require [sic] frequent prns [as needed medication] and even one time FLR [full leather restraints] and then put on 1:1.

When we tried to staff her this am, she was mostly very sedated, incoherent, and not able to process. She did mention something about card. The brother says that she has a voucher which allows her to get readmitted to [Chicago area hospital] and would like that to happen…."

Patient was started on IT [individual therapy] MT [milieu therapy] AT [activity therapy] GT [group therapy]. Referred to internist for medical issues. Psychiatric medications included lithium and Seroquel as it had apparently worked before. The patient was seen as overtly psychotic, labile and very sexually preoccupied at first overtly refusing regular med and so did require PRNs. Later on she supposedly was taking meds but when we got a lithium level is minimal and we were essentially able to confirm lack of compliance and then confronted her, proceeded to use court options but then she did agree to stay longer and comply and her lithium level reflected that and as well as her behaviors.

On 12/03/14 the recipient met with her physician, along with her brother, and a telephone interpreter clarified some of the recipient's issues:

…. She had possible some early manic type behaviors which led to conflict with her brother. She wanted to move out; he was living with roommates and he was going to get a studio and leave her with the roommates who know her but she insisted on moving herself. At some

point she got lost (brother reported her missing 10/27/14) was sexually assaulted and eventually admitted to [a Chicago area hospital] between 10/29/14 and 11/13/14. Per that discharge summary she had been found naked in an empty commercial building near [Chicago neighborhood]; she was naked and broken glass and bloody footprints around her. She was crying hysterically and unresponsive. She had stated that she had been on CTA, got lost and found herself in an unfamiliar neighborhood and was offered a candy by a white lady and then got amnestic for next 24 hours; they were able to locate brother who then added manic type behaviors for a few days prior to her leaving the brother's house. She was treated with lithium and Seroquel and discharged apparently in stable condition. She had been given apt for follow up on 11/18 but both she and brother confirmed lack of compliance and follow up. …She does not seem to be psychotic but clearly does have memories of trauma at some level and not dealing with it too well. She does not have full insight into all her behaviors and judgment is questionable….

A physician progress note entered on 12/02/14 states, "Follow up of injury to lt eye- punched by another individual in lt eye. Denies any pain. Unable to give me a clear [illegible]. Noticed some swelling and bruising and lt upper eyeball and [illegible] area of lt eye. …." Another physician note entered on the same day states, "Nursing staff report that she is at times victim of sexual harassment by another patient and so we are not able to take her off 1:1."
A corresponding social work progress note states, "Pt continues on 1:1 UPB [unpredictable behavior] Obs [observation] and has been focused on by a male psychotic pt who feels a need to 'protect' her; this AM was accidently pushed into a door during an altercation the other patient was involved in and her eye and knee impacted, she was examined by the MOD [medical officer of the day] and is apparently in that regard. She doesn't seem to have a clear picture/recall of why she was admitted, maintains that her 'brother wants me in the hospital because he's gay and doesn't want me to (or is afraid I will) tell our parents. She prefers to deal with her sister. Brother is planning to come tomorrow for family meeting with Pt, the Attending Psychiatrist and writer explained to pt and her brother that if her sister- who may actually visit this PM- wants to come as well that would be fine."

The clinical record (progress notes) indicate that a belongings check was completed for the recipient on 11/26/14. The following day the progress notes show that the recipient was anxious about her belongings: "Pt was very anxious, agitated, demanding to get her bag from the back, trying to sneak to the nurses' station behind the staff, not following the redirection." The issue of the recipient's missing belongings does not appear again in the record until 12/17/14 where social work notes state, "The past several days have been rather difficult for Pt, who although insisting that she was taking her meds as Rx'd [prescribed] has been both shown not to have, moreover the resultant lack and further loss of self-control thus precipitated resulted in 2 instances in which she was given IM meds with ROR [restriction of rights notice]: both on 12/11 when she threatened and attempted to attack staff; and again on 12/15, when she spat out her medication in front of the charge nurse, became agitated, kicked garbage can, was throwing things in her room (maintained that someone stole her earing , etc., she and her friend have been repeatedly advised to limit the amount of clothing and jewelry here on the unit), …" Discharge notes entered on 1/2/15 state that the recipient received her personal belongings upon discharge.

The record contains a Valuables list completed on 11/26/14. There are items listed which were then sent to the Trust Fund, including, "2 hair jewelry in clear plastic bag, 2 cell phones, 1 pair ear studs, 2 McDonald cards, 1 phone charger, 1 purple laptop, 2 dollars coin, …(illegible)." This list also includes "hair beads" which has been crossed out by the writer. The list includes three items which were sent to the pharmacy, and a long list of clothing and personal items which went with the recipient to the unit. The items sent to the unit with the recipient also include "hair beads." The Valuables list is signed by the recipient and two witnesses on 11/26/14 and a copy of the list is included in the record and stamped "Jan 2 2015" and next to the date is the recipient's signature indicating that she accepted her belongings at discharge. The list is difficult to read and staff as well as HRA members were unable to decipher several of the entries.

The complaint had indicated that the recipient had her hair cut after she was subdued with psychotropic medication, and thus, the HRA reviewed her emergency medication events as described in the progress notes and Restriction of Rights Notices. The recipient was issued 15 Restriction of Rights Notices for emergency medication and one incident of restraint and a physical hold. All of the Restriction of Rights Notices show that the recipient indicated "No Preference" for emergency treatment. All Notices indicated that the recipient wanted no one notified of the restrictions.

11/27/14

9:00 a.m. Administered forced emergency medication for "pt was very agitated demanding to get her bag from storage, trying to get into the nurses' station by following the staff. Not listening to verbal redirection."

5:55 p.m. Administered forced emergency medication for "Agitated, manic, going to other pt's room taking their things, taking off her clothes, confused, disorganized, unable to respond verbal redirections. Dr. notified IM meds given with ROR."

10:20 p.m. Administered forced emergency medication for "Manic, climbing on the ledge, jumping off the ledge, going to other pts' rooms, taking their belongings, unable to respond to verbal redirection, very unpredictable. Dr. was notified. IM meds given with ROR."

11:50 p.m. Administered forced emergency medication for "Pt is manic, confused, agitated, jumping off the ledge, when staff tried to redirect her she is kicking, scratching, staff unable to redirect. IM meds were given twice during the shift."

11:50 p.m. Placed in physical hold for "Pt is very manic, agitated, jumping off the ledge when staff tried to redirect her kicking staff unable to redirect, IM medication twice given during the shift."

11:55 p.m. Recipient placed in full leather restraints at 11: 55 p.m. and released at 12:55 a.m. and administered forced emergency medication for "Pt is very manic, jumping off the ledge when staff tried to redirect her kicking and scratching staff, unable to redirect. Emergency meds were given twice earlier, getting into bed with another female peer, confused."

11/28/14

8:00 a.m. Administered forced emergency medication for “Pt. presents with recurrent episode of poor impulse control, intrusive behavior and aggression directed towards others (i.e. pt yesterday went into FLR after pt. started kicking and scratching staff after being verbally redirected).”

9:50 a.m. Administered forced emergency medication for “pt was very psychotic, [illegible] up her room, taking off her clothes in front of other pts, not responding to the emergency medication given earlier. Pt is not responding to verbal redirection.”

9:00 p.m. Administered forced emergency medication for “Agitated, taking off her clothes, manic, psychotic, jumping on the bed, unable to respond to verbal redirections, scheduled IM meds given with ROR per order.”

11/29/14

1:45 a.m. Administered forced emergency medication for “Shouting loud, very agitated, disturbing other patients while asleep. Up and down from her bed and restless. Unable to listen to verbal redirection. Dr. made aware given lorazepam 2 mg IM.”

8:45 a.m. Administered forced emergency medication for “pt agitated, threatening staff, trying to bite staff, trying hitting head on walls, not listening to verbal redirection. Imminent danger to self and others.”

1:45 p.m. Administered forced emergency medication for “pt increased agitation, threatening taking off her clothes, very psychotic, bizarre behavior, jumping on bed, not listening to verbal redirection, imminent danger to self and others.”

11/30/14

8:35 a.m. Administered forced emergency medication for “pt agitated, bizarre behavior, psychotic, getting undress in dayroom, not listening to verbal redirection. Imminent danger to self and others.”

11:35 a.m. Administered forced emergency medication for “Pt agitated, threatening staff, getting naked in dayroom, not listening to verbal redirection, Imminent danger to self and others.”

7:00 p.m. Administered forced emergency medication for “pt. agitated, kicking wall, getting undressed in the dayroom, not listening to verbal redirection, imminent threat of danger to self and others.”

12/01/14

10:00 a.m. Administered forced emergency medication for "Pt was increasingly agitated, restless, kicking on the wall, refused to take oral medication. Pt. is very unpredictable and unable to follow redirection."

12/11/14

9:30 a.m. Administered forced emergency medication for "pt was very upset, agitated, acting bizarre, threatening behaviors, attempt attack the staff, unable to follow redirection and de-escalation, pt.'s behavior is imminent risk to harm self and others."

12/15/14

8:00 p.m. Administered forced emergency medication for "Kicking garbage can, writing on the wall, taking other patient's belongings, spit out medications, agitated, unable to respond to redirection, Dr. notified IM meds given with ROR."

On 1/22/15 the HRA Coordinator visited the recipient in the milieu of her unit. The recipient, it was noticed, had a very loud speaking voice even when not upset, but was able to ask and answer questions relating to her hospitalization. While she was speaking she indicated that a staff person was nearby who had witnessed her hair being cut. This staff person approached the HRA Coordinator and stated that the recipient's hair had indeed been cut, not by her, but by a Mental Health Technician, because the recipient's hair "had toothpaste in it." This staff person stated that she had no knowledge of any jewelry which had been removed when the hair was cut. The HRA did not ask her to identify herself since she was speaking openly in front of other staff and patients, and thus it was assumed that everyone was aware of the event. Later, facility staff revealed to the HRA that no one had any knowledge of this event and could not identify the reporter or the technician who was referred to. The HRA reported the allegation to the Illinois Office of the Inspector General (OIG) and we are awaiting the completed report.

FACILITY REPRESENTATIVES' RESPONSE

Facility staff were interviewed about the complaint. They indicated that staff would never, under any circumstances, cut a recipient's hair. Staff indicated that in order to do this, the issue would have to be addressed as a clinical concern and would require a physician's order and a Restriction of Rights Notice, as well as documentation in the record- none of which were present in this recipient's file. Staff were asked about the fact that a staff member had spoken with the HRA Coordinator the day that the complaint was filed, and indicated that it wasn't her that cut the hair, but a Mental Health Worker. Staff thought that the recipient had received assistance from staff in washing her hair because it had a white, glue-like substance in it, and perhaps the staff person who spoke with the Coordinator had misinterpreted this to mean that she

may have cut it. Staff stated that they had asked the staff on the unit and no staff had any knowledge of a recipient's hair being cut. Another theory was that perhaps the recipient had her hair cut while she was at the hospital where she was seen in the emergency department before coming to Madden. In any case, staff were adamant that the recipient did not have her hair cut while at Madden. Pictures of the recipient were reviewed and the HRA staff indicated that the picture taken at the time of the recipient's intake did not look like the recipient as she was on the day the complaint was filed. The recipient's hair on the day she was interviewed appeared to have been cut in a random, unprofessional manner.

Facility staff were interviewed about the recipient's jewelry, which she had alleged was removed from her hair and not returned to her. They indicated that the recipient's jewelry, along with other valuables, were placed in a bag in the presence of the recipient as well as two other staff members, who all signed off on the items and placed them in a sealed bag which was then locked in the vault. The vault is not accessible to staff members, as only security has the key. When the patient was discharged she personally received the same sealed bag and then checked that all the items were present. The list of belongings was signed by the recipient, indicating that she had received her property, and the inventory was then stamped with the date. Madden staff indicated that the process for securing recipients' belongings had been studied and revised in response to an earlier HRA case and that all requirements had been met in this case. Additionally, Madden had instituted camera surveillance of the Trust Fund property process, however the tapes are kept for only 30 days.

STATUTES

The Mental Health and Developmental Disabilities Code states that: "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 a). Adequate and humane services are described as "…services reasonably calculated to prevent further decline in the clinical condition of a recipient of services so that he or she does not present an imminent danger to self or others" (405 ILCS 5/1-101.2).

"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 Code describes the requirements for the administration of psychotropic medication and its refusal:

"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 a-5).

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 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 states that, "Every recipient who resides in a mental health or developmental disabilities facility shall be permitted to receive, possess, and use personal property and shall be provided with reasonable amount of storage space therefor, except in the circumstances and under the conditions provided in this Section [to protect the recipient or others from harm]…. When a recipient is discharged from the mental health or developmental disabilities facility, all of his lawful property which is in the custody of the facility shall be returned to him" (405 ILCS 5/2-104).

FACILITY POLICY

Madden policy (Section 200 Patient Rights) affirms the Mental Health Code right of patients to refuse medications. Madden Mental Health Center policy (#230 Refusal of Services/Psychotropic Medication) states that adult patients are to be given the opportunity to refuse generally accepted mental health services, including but not limited to medication. If such services are refused, the policy states that they are not to be given unless such services are necessary to prevent the patient from causing serious and imminent physical harm to self or others. A physician’s order for the medication must accompany an order for emergency medication. Also, the nurse shall document the circumstances leading up to the need for emergency treatment in the patient's record along with the rationale. Policy also dictates the completion of the Notice of Restricted Rights of Individuals document.

Madden policy (Section 200 Patient Rights) (231 Patient Property- Intake through Discharge) outlines the policy and procedure for handling patient property. It states that "It is the policy of MMHC to safeguard Patient Personal property and protect patient's rights. Patient valuables and property shall be kept secured in a locked area until the patient is discharged from the facility." Valuables are described as cash, checks, jewelry, wallets and contents, cell phones and laptop computers. These valuables are to be placed in the Trust Fund in the facility safe/vault. A properly completed IL 462-0001 form must accompany each envelope/container, and the original placed in the patient's chart.

At Intake, two Nursing staff and one security staff (when available) will complete an itemized Personal Property form for each admitted patient in the presence of the patient. All patient property will be inventoried and listed as being either sent to Facility Storage, Pharmacy, sent to the Trust Fund, kept by the patient, or sent to the pavilion with staff. Nursing staff as well as the patient then sign the form. All cash is to be listed in denominations.

When a patient's items exceed the amount that may be adequately stored on the unit, Intake Nursing staff will place the excess items in a plastic bag and enter "Stored in Facility Patient Personal Property Storage Room" on the identification card. Personal property is reviewed and inventoried again by Pavilion staff

CONCLUSION

The HRA has no evidence that the recipient's hair was cut by staff against her will. What we know is that the recipient, on the day she was interviewed by the HRA, identified a staff person on the unit who the recipient said knew of the hair cutting because she was present at the time. This staff person voluntarily approached the HRA Coordinator and stated that she did not cut the recipient's hair but that it was cut by a Mental Health Technician. The HRA Coordinator did not obtain the identity of this person because her candor and openness about the incident, in front of all those present in the milieu, gave the impression that everyone there was aware of what had happened. Later, it became clear that no staff remembered what had happened and all staff denied that the recipient's hair was cut. Additionally, the facility staff have not been able to identify the person responsible. Without more identifying information the allegation is unsubstantiated, however it is not discredited, and the HRA will review the OIG report when it is issued for further input. Also, the HRA cannot substantiate the complaint that jewelry was taken as a result of this hair cutting or during an emergency medication event, as the recipient confirmed by her signature that she had received all valuables upon her discharge.

SUGGESTION

1. Remind all staff that cutting a recipient's hair without their consent is considered inhumane by the HRA and violates the Code's prescription for services reasonably calculated to prevent further decline in the clinical condition of the recipient.

2. Much of this hospital record is illegible (Even the Discharge Notes indicate that the physician attempted to read the Intake notes but struggled). Remind staff of the importance of communicating legibly.

3. The HRA is concerned about the number of injections of forced emergency medication for this recipient. Although some instances of emergency medication appear to address an imminent threat of physical harm, others do not. The record indicates that the recipient had no preference for emergency treatment, however it seems appropriate that alternative and less restrictive means to control her behavior might have been attempted (such as seclusion in her room). Also, emergency medication and restraint necessitates the intervention of available security personnel, which may be traumatic for a recent rape victim (for instance, to be held down by a male officer while being injected or restrained). The HRA realizes that many mental health recipients have experienced trauma in their past, however we ask that Madden review their response to victims of recent traumatic events, and plan for strategies which might lessen the amount of force used on these vulnerable victims.

4. The recipient in this case expressed to the HRA that she had a difficult hospitalization while at Madden, however this was not fully understood until her record was reviewed. The record indicates, particularly on 12/02/14, that the recipient was "punched by another individual" in her eye, that she was the "victim of sexual harassment" by another patient, that she was "focused on by a male psychotic patient", and she suffered an injury to her eye when she was "accidently pushed into a door during an altercation the other patient was involved in." On 12/17/14 the record indicates that the recipient alleged that someone had stolen her earings. The Madden staff have indicated that these incidents were investigated and Incident Reports completed. The HRA asks that staff review this recipient's record and ensure that these investigations have been completed and all steps are taken to prevent these occurrences when possible.