FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY – NORTHWEST REGION
REPORT 15-080-9001
KISHWAUKEE HOSPITAL

INTRODUCTION

The Human Rights Authority (HRA) of the Illinois Guardianship & Advocacy Commission opened an investigation after receiving complaints of potential rights violations in the care provided to a patient at Kishwaukee Hospital in DeKalb. Allegations were that the patient received inadequate care, experienced mental and verbal abuse, and psychotropic medications were administered without the consent of the the patient.

Substantiated findings would violate rights protected under the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102(a), 102(a-5), Patient Rights (77 Ill. Admin. 250.260) and the Medicare/Medicaid Conditions of Participation for Hospitals (42 C.F.R. 482.13).

Kishwaukee Hospital is a private, not-for-profit, short term, general acute community hospital. It is affiliated with the KishHealth System, a community-owned health system with facilities throughout Illinois. Kishwaukee Hospital is a 98-bed-licensed facility that does not include an inpatient behavioral unit. Mental health patients who are presented at the hospital receive a medical examination as well as a mental health assessment which includes appropriate referrals or transfers to local mental health facilities.

To pursue the matter an HRA team met at the hospital and interviewed the following hospital staff: a manager of social services,

physicians, a medical director, a director of quality, a director of service excellence, a senior director of physician operations, a social worker, a discharge planner and a nurse. Policies were reviewed as were relevant sections of the patient's records with written authorization.

COMPLAINT SUMMARY

It was said that the patient fell out of a wheelchair while at home. A neighbor called the ambulance and the patient was taken to the hospital emergency room department by the ambulance. The complaint alleges that the doctors and nurses were rude, demeaning, and forceful and would not allow the patient to leave the hospital to follow-up with a primary care physician. The complaint concludes by saying that the hospital staff administered psychotropic medications without consent from the patient.

FINDINGS

Interviews

Reportedly, the patient was transported to the hospital by ambulance on 8/3/14 as the result of a fall out of a wheelchair. The emergency room physician stated that the patient was confused, agitated and experiencing some degree of alcohol withdrawal.

The nurse stated that she attempted to administer the ordered psychotropic drug Haldol to the patient, but in refusing the drug, the patient became aggressive, stood in the doorway of the room and began yelling that she wanted to leave and follow up with her primary care physician. Reportedly, the patient then physically pushed the nurse. The nurse remained calm and was successful in talking to the patient and calming her down, adding that she knew this was the best choice rather than to forcefully restrain and medicate the patient. The Haldol was not administered and the emergency room physician was so notified.

According to the nurse and the manager of social services, the nurse received MOAB (Management of Aggressive Behavior) training in dealing with these types of situations and the training is updated semi-annually. MOAB training presents principles, techniques and skills for

recognizing, reducing, and managing violent and aggressive behavior. The program also provides humane and compassionate methods of dealing with aggressive people both in and out of the workplace.

The manager of social services and the physicians stated that none of the hospital staff received complaints of abuse from the patient. Reportedly, nothing regarding physical or emotional abuse was observed by the hospital staff nor was there a report of such made by the patient. The manager of social services added that the patient was made aware of the grievance option upon being admitted to the hospital.

The emergency room physician and nurse both explained that the friend of the patient, who was also present in the hospital room, stated the patient was not able to take care of herself and has a severe alcohol problem. The physician stated that the patient was not aware of her environment, and her communication levels changed frequently from her being agreeable to the overnight hospital stay, to being non-agreeable. The patient was discharged out of the emergency room and admitted to an "observation telemetry bed" in the hospital on 8/3/14. Kishwaukee Hospital does not have a psychiatric unit.

Per the manager of social services, a Petition for Involuntary Admission was completed along with an Inpatient Certificate on 8/6/14 by a social worker and the attending physician. The patient was transferred from Kishwaukee Hospital on 8/6/14 to a local hospital that has a psychiatric unit.

Per the manager of social services, on 8/3/14 neither the emergency room physician nor the nurse had the patient sign a consent form for psychotropic medications. On 8/3/14, the psychotropic medication Haldol was ordered by the physician, but the manager of social services, the physician and the nurse all state that although the Haldol was ordered, the patient refused it and it was never given.

After the patient was moved to a medical floor in Kishwaukee Hospital, the Seroquel was ordered by the attending physician and administered to the patient who took it willingly on 8/4/14 and 8/5/14. No consent form was offered to the patient to sign per the manager of social services, the nurse and the attending physician.

The manager of social services and both physicians stated that the Seroquel was not used for psychiatric purposes, but to treat dementia and this is the reason they did not have the patient sign a consent form for psychotropic medications.

The attending physician stated that on 8/4/14, she verbally educated the patient regarding Seroquel, but did not have the patient sign a consent form for psychotropic medications. Neither the physician nor the nurse advised the patient in writing of the side effects, risks and benefits of the medication. The staff said that nothing in writing regarding psychotropic medications was ever provided to the patient.

In regard to whether the patient had the capacity to make a reasoned decision about the psychotropic medications, the manager of social services and the physician both stated, that it is their understanding that this requirement was fulfilled when the emergency room physician documented that the patient did not have the capacity to decide whether or not she should stay overnight in the hospital.

RECORDS

The emergency room record dated 8/3/14 denotes that the following diagnoses were determined by the emergency room physician: "acute confusion, dementia-etiology unclear, paranoid ideation, history of alcohol abuse and possible alcohol withdrawal hallucinosis and dementia".

The emergency room progress notes by the nurse dated 8/3/14 state "Tried to give patient ordered meds, patient refusing. Patient standing in doorway yelling at this RN, then pushed this RN". And then later, "Patient agreeable to admission. No Haldol or restraints given."

The nurse progress notes dated 8/3/14 state that the friend of the patient informed the nurse that the patient "drinks 1 gallon of whiskey per week" and is not able to care for herself. "Patient states that she is leaving and does not need to stay in the hospital". Notes by the physician dated 8/4/14 depict that the patient's "cognitive function is reduced, she is very tangential and her thought process is very disorganized". On 8/3/14 the emergency room physician wrote that "the patient has agreed to stay in the hospital as long as we get her something

to eat". "The patient resisted to be admitted, and eventually agreed." And on 8/4/14 the physician notes state that "the patient is in quite a hurry to go back home".

The physician and the social worker completed a Petition for Involuntary Admission and an Inpatient Certificate on 8/5/14. The physician neglected to complete the following portion of the Inpatient Certificate: "I base my opinion on the following (including clinical observations, factual information)". On 8/6/14 a new Petition for Involuntary Admission and a corrected Inpatient Certificate were completed and resubmitted to the judicial system.

On 8/6/14, the transferring physician and the nurse completed and signed the hospital transfer form to a local hospital's psychiatric unit. Discharge notes dated 8/6/14 by the physician state the following hospital course: "The patient continues to have hallucinations with the possibility of self-neglect with psychosis and hallucinations, dementia, she has been referred to inpatient psych. facility". The social worker progress notes written on 8/6/14 state that the patient was in agreement with the discharge to a local hospital that has an inpatient psychiatric unit, and the social worker contacted the friends of the patient per the patient's request. In addition, the social worker records that a representative from APS (Adult Protective Services) contacted her with information that they are involved with the patient due to a report that they received regarding self-neglect and financial exploitation.

On 8/4/14 the physician notes state that "The patient still has a considerable amount of agitation and I put her on a small amount of Seroquel this evening". The physician dictated on the 8/5/14 progress notes that "The patient seems to be less agitated this morning after getting Seroquel last night". An attending physician writes on the same day that "The agitation seems to be settled, calmed down a little bit with the Seroquel". The Medication Administration Summary dated 8/4/13 confirms that the patient received Seroquel. In addition, on 8/5/14 the Medication Administration Summary also states that the patient received Seroquel on this date.

The physician progress notes dated 8/4/14 state that "We talked about various drugs that can be used to enhance cognitive function in

patients who have a short term memory problem. We talked about medication used to reduce agitation".

Emergency room progress notes written by the physician on 8/3/14 denote the following: "I do not feel that the patient is competent to make this decision, whether she should stay or not at this time".

CONCLUSION

According to the KishHealth System Patient Rights and Responsibilities Policy dated November 2013, Kishwaukee Hospital "respects the rights of patients as an important element of patient care. Patients can expect to be treated in a kind and caring way, appropriate for their age and respectful of their personal dignity, values, beliefs and preferences".

The KishHealth System Patient Complaint/Grievance Policy dated January 2013, states that "Most immediate questions and concerns regarding patient care and patient rights can be resolved by discussion with the appropriate member of the patient care team. Patients are encouraged to discuss their concerns with the patient care team or the department director".

The Restriction of Rights Policy states that mental health patients who exhibit behaviors which are a danger to themselves and others will be detained. The physician will complete a medical/psychiatric screening exam and social services will complete a psychosocial assessment. The physician will complete a certificate and social services will complete a petition, including a medical clearance/transfer form.

The purpose of the KishHealth System's Psychotropic Medication Consent Policy dated January 2014, is to "gain informed consent for use of psychotropic medications that the patient will be given. The name of the medication, what the medication does, the side effects to expect, what to do if side effects occur and any concerns a patient may be having taking medications for their treatment will be discussed and provided to each patient".

The policy goes on to denote that "Patient education will be provided prior to obtaining the patient's signature on the Psychotropic Medication Consent form for all newly prescribed psychotropic

medications. Nursing staff will document in the patient's medical record that the patient has received printed information and has been advised of benefits and side effects of psychotropic medications. Physician will evaluate the patient and determine that the patient has the capacity to make a reasonable decision about any new psychotropic medication prior to obtaining the patient's signature on the psychotropic medication consent form".

According to the Code of Federal Regulations that governs the Conditions of Participation for Hospitals: Patient's rights (42 C.F.R. 482.13):

A hospital must protect and promote each patient's rights.

(a) Standard: Notice of rights

…(2) The hospital must establish a process for prompt resolution of patient grievances and must inform each patient whom to contact to file a grievance. The hospital's governing body must approve and be responsible for the effective operation of the grievance process and must review and resolve grievances, unless it delegates the responsibility in writing to a grievance committee. The grievance process must include a mechanism for timely referral of patient concerns regarding quality of care or premature discharge to the appropriate Utilization and Quality Control Quality Improvement Organization.

(b) Standard: Exercise of rights.

…(2) The patient or his or her representative (as allowed under State law) has the right to make informed decisions regarding his or her care. The patient's rights include being informed of his or her health status, being involved in care planning and treatment, and being able to request or refuse treatment. This right must not be construed as a mechanism to demand the provision of treatment or services deemed medically unnecessary or inappropriate.

Under the Medical Patient Rights Act 410 ILCS 50/3:

3. The following rights are hereby established:

(a) The right of each patient to care consistent with sound nursing and medical practices, to be informed of the name of the physician responsible for coordinating his or her care, to receive information concerning his or her condition and proposed treatment, to refuse any treatment to the extent permitted by law, and to privacy and confidentiality of records except as otherwise provided by law.

Per the regulations that govern patients' rights (77 Ill. Admin. 250.260):

… c) Patient Protection from Abuse

1) For purposes of this subsection (c):

Abuse - means any physical or mental injury or sexual abuse intentionally inflicted by a hospital employee, agent, or medical staff member on a patient of the hospital and does not include any hospital, medical, health care, or other personal care services done in good faith in the interest of the patient according to established medical and clinical standards of care.

Mental Injury - means intentionally caused emotional distress in a patient from words or gestures that would be considered by a reasonable person to be humiliating, harassing, or threatening and which causes observable and substantial impairment.

The Mental Health Code permits detention for evaluation and potential involuntary admission under petitioning and certifying processes (405 ILCS 5/3-600 et seq.).

According to the Mental Health Code (ILCS 5/2-102) regarding care and services; psychotropic medication; religion:

§ 2-102. (a) 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.

(a-5) If the services include the administration of electroconvulsive therapy or 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.

Complaint: The patient received inadequate care, and experienced mental and verbal abuse. The nurse documented on 8/3/14 that when she attempted to administer the drug Haldol that the physician ordered, the patient refused the drug and became angry and pushed the nurse aside, yelling that she wanted to leave and follow-up with her primary care physician. The nurse stated that she was able to talk with the patient and calm her down, resulting in the medication not being given on this particular day, and no restraints were necessary. The patient was not allowed to leave the hospital. The hospital policy denotes that mental health patients may be detained via petitions and certificates if they present a danger to themselves or others, which in this case were completed in compliance with the Mental Health Code (405 ILCS 5/3-600). The physicians and nurse stated that the patient did not request to file a complaint or grievance and none of the hospital staff were aware of any rude or demeaning treatment directed toward the patient. The hospital has a required grievance process in place, but the patient chose not to exercise it. It is therefore concluded, that the complaint is not substantiated.

Complaint: Psychotropic medications were administered without consent from the patient. The manager of social services and the physician stated that the patient was not offered a psychotropic medication consent form to sign because they were administering the Seroquel for dementia. This is not an accurate statement per the Medication Administration Summary dated 8/4/14 and 8/5/14 along with the physician progress notes for these same dates depicting that the medication Seroquel was administered to the patient for agitation. The Kishwaukee Hospital Psychotropic Medication Consent Policy states that signature of the patient will be obtained on the form prior to administering psychotropic medications. No written information regarding the medications was provided to the patient. Decisional capacity was not determined nor documented by the physician. Per

the hospital policy, the nursing staff must provide and document that the patient received printed information regarding psychotropic medications. In addition, the policy states that the physician will evaluate and determine whether the patient has the capacity to make a sound decision about the medication. Kishwaukee Hospital's policy does not state that the physician shall "state in writing" whether the patient has this capacity, as required under the Mental Health Code. The complaint is substantiated.

RECOMMENDATIONS

1. Change hospital policy to meet the standard of the Mental Health Code which states that 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 (405 ILCS 5/2-102 a-5).
2. Provide psychotropic drug information whenever they are used, voluntarily or involuntarily. (405 ILCS 5/2-102 a-5).
3. Train and require prescribing physicians to determine and state in writing whether patients have decisional capacity whenever psychotropic medications are proposed (405 ILCS 5/2-102 a-5).

RESPONSE

Notice: The following page(s) contain the provider response. Due to technical requirements, some provider responses appear verbatim in retyped format.

KishHealth System
Be Health Empowered.

Kishwaukee Hospital
Quality Department
1 Kish Hospital Drive | P.O. Box 707
DeKalb, IL 60115
t. 815.756.1521

June 29, 2015
Re:#15-080-9001

Dear Dr. Wade:

This letter is in response to HRA case #15-080-9001. We are requesting several corrections to the documented findings. On page 2, the interview starts with the term "Reportedly". The patient record includes the Genoa-Kingston Fire Protection District Ambulance Run sheet stating the patient was transported to the hospital by ambulance on 8/03/14 (see attachment A: Genoa-Kingston Fire Protection District Ambulance Run sheet). The term "reportedly" should be removed.
On page 3, the first paragraph referencing MOAB (management of aggressive behavior) training indicates the training is updated semiannually; this should be corrected to annually. On page 11 and 12, we are challenging the complaint; 'Psychotropic medications were administered without consent from the patient' as substantiated. We feel this was based on the physician's documentation regarding the patients decisional capacity. Page 7 should include two additional physicians who documented the patient's decisional capacity and these should be added to the interview . On 8/03/14 Dr. Gona dictated "At this point, I am unsure if the patient is capable of making decisions at this time. Will monitor tonight, reevaluate tomorrow". On 8/03/14 Dr. Ta dictated "Mental status change. I suspect that the patient probably has some underlying dementia".

Actions taken in response to recommendations:
Recommendation #1: While the Psychotropic Medication Consent Policy may not have stated at the time the physician's responsibility to document decisional capacity, the Mental Health Code standard was being met as evidenced by the 3 physicians who clearly documented the patient's decisional capacity within the medical record. It is also documented by the physician the patient was provided with a discussion on treatment options to include various medications and the recommended medication to enhance cognitive function in patients with memory loss. Therefore the only missing code standard was the completion of the psychotropic medication consent form. The policy Psychotropic Medication Consent has been updated to include the recommended verbiage (see attachment B: Psychotropic Medication Consent Policy).

Recommendation #2: Providing psychotropic drug information when patients show decisional capacity is part of the current practice in the health system. To assure all patients who will be

receiving psychotropic medication are provided with the drug information, whether voluntarily or involuntarily. We have added flags through our automated Pyxis medication distribution system for all psychotropic medication. This is to enhance the monitoring of compliance for completion of the psychotropic forms, which includes patient education, consent, physician assessment for capacity and clinical documentation. We have reviewed and rewritten if needed nursing documentation and interventions for mental health patients. All of the ED documentation/interventions will be electronic to include physician's orders. The inpatient units will have nursing documentation/interventions as electronic but the physician orders will remain paper to meet the time regulations. We continue to review all policies pertaining to mental health patients to ensure compliance is met and the policies meet the current practice. There has been, and continues to be, ongoing random chart audits, mental health education at various department meetings which also includes a review of the mental health binders on all units.

Recommendation #3: Training of physicians has occurred at the ED Department Meeting 06/18/2015 along with all medicine and medical staff meetings scheduled over the next quarter. This training and education will include the understanding of the current psychotropic medication list, education on the assessment for decisional capacity, documentation required and how to complete the psychotropic medication consent form. (see attachment C: Educational Documents).

If you have any further questions, please feel free to contact us.

Sincerely,

Karen E Black

Karen E Black RN
Director of Quality
KishHealth System
1 Kish Hospital Drive
DeKalb, IL 60115
815-756-1521