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HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 16-030-9004
JOHN J. MADDEN MENTAL HEALTH CENTER

The HRA substantiated the complaint that the facility did not follow Code procedures when it administered medication which the recipient had refused because of an allergy to it, but it did not substantiate the complaint that the facility put the recipient in danger by not removing a cord from the recipient's waistband during admission.

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 it administered medication which the recipient had refused because of an allergy to it, and that staff did not remove a cord from the recipient's waistband at admission, which put him in danger of suicide. 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 Associate Medical Director, the Director of Nursing, the Quality Manager, and Pavilion Psychiatrist. Hospital policies were reviewed, and the recipient's clinical records were reviewed with written consent.

COMPLAINT SUMMARY

The complaint alleges that the recipient clearly indicated during his Intake that he was allergic to Haldol, however despite this notice, the staff administered the medication during an emergency medication situation. Also, the complaint alleges that at Intake the recipient was allowed to keep a cord in the waistband of his pants which put him in danger of suicide.

FINDINGS

The recipient was admitted into the Intake Department at Madden on 7/19/15 after having been seen at a local hospital. The recipient's Comprehensive Psychiatric Evaluation: Intake Unit was completed on 7/19/15 and it states, "….Patient was brought by a friend who he had met the day before in a Walmart in Wisconsin. This man drove the patient and a female friend of his across state lines to Illinois due to the patient not being able to get mental health care in Wisconsin and the man's knowledge of Madden MHC. The patient complained of poor sleep for 3 days and history of bipolar disorder/schizophrenia. He also had poor appetite, 1 meal/day. The patient claimed his meds don't work and that the only thing that works is Ativan. He is homeless and expressed paranoid ideation [at a local hospital] that someone stole his identity and disability check. He had labile affect with laughing and crying and denied any suicidal/homicidal ideation. The patient revealed questionable judgement, coming to Chicago with man he met at Walmart the day before and then requesting that this man become his power of attorney. The patient states he got a SSDI check of $1700 and that some man who looked like him emptied his account. He stated that he notified the FBI and the bank. At one point, he blamed his parents for stealing his car, emptying his bank account, stealing his identity. The patient also made statements about aliens out to get him and needing a helicopter to the White House…." On 7/21/15 a Comprehensive Psychiatric Evaluation was completed on the Inpatient Unit. It states in part, "The patient is a 38 year old single white male on SSDI, living with his parents in Wisconsin but apparently was brought to Madden as this 'friend/social worker' knew of Madden and thought he would get help here. He was medically cleared at [an area hospital]. He was seen as paranoid and disorganized. Per ED notes the patient had come for Outpatient help but the friend/social worker had concerns around his behaviors…" The recipient was given a provisional diagnosis of Behavior Disorder with Psychosis and a history of Attention Deficit Hyperactivity Disorder. The Evaluation identifies several medication allergies: Latuda, Depakote, Haldol, Geodon, Risperdal and Zyprexa (Olanzapine). There is no informed consent for these medications. A Drug Alert for the recipient is also included in the record and it identifies a drug sensitivity to the above medications with the exception of Depakote. The recipient's Initial Psychiatric Nursing Assessment is included in the record. It indicates that the recipient is allergic to Latuda, Depakote, Haldol, Geodon, Risperdine, and Zyprexa (Olanzapine). The type of reaction caused by the medications is listed as "Distonia" (A disorder characterized by involuntary muscle contractions that cause slow repetitive movements or postures and can result from exposure to certain types of medication. This type of dystonia often ceases if the medications are stopped quickly: National Institute of Neurological Disorders and Stroke). The recipient's informed consent for medication is also in the record and it shows that he consented to Quetiapine, Diphenhydramine, and Lorazepam for his regularly scheduled medication. This form does not contain an area for the physician statement of decisional capacity and a capacity statement is not included in the clinical record.

The record does contain a Designation of Emergency Treatment Preference form and it indicates that the recipient identified restraint as his preference in an emergency situation. The recipient's Restriction of Rights Notice indicates that his individual preference for emergency treatment was utilized, however he was not placed in restraints.

The recipient's Medication Administration Record (MAR) is included in the record and it shows that the recipient received an injection of Zyprexa (Olanzapine) at 9:35 a.m. on 7/21/15. The record contains a Notice Regarding Restricted Rights of Individuals completed on 7/21/15 at

9:35 a.m. for this forced medication. The reason for the emergency medication states, "Patient extremely agitated, threatening staff, verbally abusive, patient verbalized that 'I am going to shoot you and sue you'. Unable to redirect with verbal redirection. Patient imminent danger to self and others. Olanzapine 1 mg IM [intramuscularly] given." The Notice indicates that the recipient's preference for emergency treatment was utilized. Nursing Notes entered throughout the day of 7/21/15 indicate that the recipient was on frequent observation (15 minute checks) for unpredictable behavior and elopement precaution. He was active on the unit "Patient ate dinner and was compliant with medications. Patient up at nurses' station every few minutes with request for medications, food, and various items. Patient got PRN [as needed] Lorazepam P.O. [orally] for agitation. [Pt.] anxious, needy, and intrusive. Continue to monitor patient on frequent observation for unpredictable behavior and elopement precaution as ordered by physician."

The record contains a Personal Property Receipt which was completed on the day of Intake. It shows that the only property the recipient took with him to the unit from Intake was a checkbook, a hard drive, a car remote, and a key chain. The recipient's clothing was not described.

FACILITY REPRESENTATIVES' RESPONSE

Facility representatives were interviewed about the complaint. The recipient's physician explained that the recipient actually had a sensitivity to the Zyprexa medication and not an allergy and this is reflected in the nursing assessment. This means there is a possibility that the recipient could suffer side effects from the medication but not an allergic response, which would be more serious. Staff indicated that patients who have dystonic reactions can still be prescribed a medication and the medication would not be contraindicated for them. Additionally, there are medications to treat the dystonic effects. It is the physician's decision to weigh the benefits of the medication against the possible risks, and in this case, although the recipient's preferences were given a priority, the physician felt that the medication was warranted and safe for one administration. Also, the recipient had a list of many medications that he was sensitive to so there were fewer choices when the emergency need arose. The recipient's physician stated that he then saw the recipient shortly after the injection and the recipient did not experience any of the side effects of the medication and tolerated it well. The following day the recipient attended his staffing to address his request to be moved to another pavilion at the hospital and he presented with no side effects or complaints from the administration of the medication. Hospital staff were asked about the statement of decisional capacity which is a Code requirement for the administration of psychotropic medication, and they indicated that the Illinois Department of Human Services made this form available since this case opened and that it has been in use since August, 2015. HRA staff indicated that Madden staff have been asked for this Code requirement for a very long time and that we hope it is in fact a part of the clinical record at this time.

Staff were interviewed about the cord inside the recipient's waistline. They stated that all patients are searched at Intake. A this time they are also assessed for suicidal/homicidal risk and this recipient, although he was placed on an elopement precaution, was on no precaution for suicide. Staff indicated that if the recipient had been a suicide risk the cord would have been removed or he would have been given hospital clothing.

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. 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… 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." (405 ILCS 5/2-102 a).

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).

FACILITY POLICY

Madden provided their policy and procedure regarding Refusal of Services/ Psychotropic Medication (Section No. 200 Patient Rights Specific). It states, "In compliance with the Illinois Mental Health and Developmental Disabilities Code and Department of Human Services directives, an adult patient (age 18 and over), or a patient's guardian of person, if any, are to be given the opportunity to refuse generally accepted mental health services, including but not limited to medication. If such services are refused, they are not to be given unless such services are necessary, based upon clinical judgement of an MD or RN, in order to prevent the patient from causing serious and imminent physical harm to self or others or are court ordered. The patient or guardian who refuses such services is to be informed of the clinically appropriate alternate services available and the risks of such services, as well as the possible consequences to the patient of refusal of such services."

Madden policy (Section 200 Patient Rights) (231 Patient Property- Intake through Discharge) outlines the policy and procedure for handling patient property. It states that 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.

CONCLUSION

Although the HRA defers to the physician for all medical decisions, the Code makes clear that in determining whether care and services are being provided in the least restrictive environment, the facility must consider the views of the recipient, if any, concerning the treatment being provided. In this case the record shows numerous instances where the recipient clearly identified medication which, whether he was allergic to it or he suffered side effects from it, was a health concern for the recipient. Given the number of psychotropic medications available to address those instances when recipients may need an emergency intervention (such as the other instance when the recipient received Ativan for agitation), it seems reasonable that the recipient's medication concerns could have been honored. Also, the recipient's preference for emergency treatment is identified as restraint in his Treatment Plan and the record does not indicate that this option was ever considered. Additionally, the clinical record is missing one of the Code required components for the administration of psychotropic medications and that is the physician statement of decisional capacity. Although the facility representatives indicated that this form has been developed and implemented since the extant case, the HRA had requested this statement for a very long time, and regardless of when forms are being developed, the statement has been a statutory requirement for a very long time as well. The HRA substantiates the complaint that the facility did not follow Code procedures when it administered medication which the recipient had refused because of an allergy to it.

The record and staff interview show that the facility followed its standard Intake protocol when the recipient was admitted into the facility. Since the recipient was not assessed to be a suicide risk, it seems reasonable that he would be allowed the clothing that he presented with, even with the cord in his waistband. The HRA does not substantiate the complaint that staff did not remove a cord from the recipient's waistband at admission, putting the recipient in danger of suicide.

RECOMMENDATIONS

1. Remind physicians and nurses they must respect the preferences of recipients for their treatment/medication even in emergency situations.

2. Include a physician statement of decisional capacity whenever psychotropic medications are prescribed.

SUGGESTION

1. Evaluate the facility contraband list for ligature items such as shoelaces, belts of any kind, etc. and if waistband cords are not included, add this to the list and have them removed at Intake whether or not the recipient is a suicide/homicide risk.