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HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 16-030-9016

JOHN J. MADDEN 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 John J. Madden Mental Health Center (Madden). It was alleged that the facility did not follow Code procedures when it administered forced emergency medication and restrained a recipient. 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 and the Director of Nursing. Hospital policies were reviewed, and the recipient's clinical records were reviewed with written consent.

COMPLAINT SUMMARY

The complaint alleges that the recipient came out of his room and stated to another patient that they needed to stay away from a staff person (a unit nurse). The other patient allegedly threatened the recipient and security was called. The complaint indicates that the recipient was given an injection of Ativan from a technician and placed in restraints for two hours. The complaint also alleges other incidents of forced medication for no adequate reason.

FINDINGS

The record shows that the recipient was admitted to Madden on 3/03/16 with a diagnosis of Schizophrenia.

There are two emergency events described during the timeframe of this investigation:

1. 3/11/16 The record contains a Restriction of Rights Notice which indicates that the recipient was placed in a physical hold and administered emergency medication at 2:45 p.m. The reason given is "Pt was out in the milieu about to hit another peer with his fist, provoking another peer, threatening, very hostile and aggressive. Patient is not responding to redirection. Patient remains a threat for safety to self and others. Patient given Haldol 5 mg IM [intramuscularly] with Benadryl 50 mg 1 time and done." The recipient was also seen by a physician for "severe agitation, threatening behaviors" and "provoking and threatening other peers." The Restriction of Rights Notice indicates that the recipient wished for no one to be notified of the restriction.

2. 3/19/16 The record contains a Restriction of Rights Notice which indicates that the recipient was placed in a physical hold, placed in restraints, and administered emergency medication. The reason given is "Patient suddenly became very agitated, trying to hit other patient with chairs, threatening to harm staff. Says, 'I wanna kill all of you.' Patient is imminent danger to self and others. Lorazepam 2 mg IM given." The Restriction of Rights Notice also indicates that the recipient wished no one to be notified of the restriction. The progress notes include a physician note which indicates that the recipient was seen by the physician for aggressive behaviors and it notes, "Aggressive behaviors, probably related to responding to internal stimuli." There is a Nursing Note for this event which states, "Emergency medication with restriction of rights given Lorazepam 2 mg x 1 dose given. Patient was placed on full leather (4 point) restraints per order. Patient suddenly becomes very violent, extremely agitated, trying to hit other patient with chairs, threatening to harm staff. Says, 'I wanna kill all of you.' Patient is an imminent danger to self and others." A Restraint/Seclusion Flow Sheet is included for this event which indicates that it lasted for one hour and all Mental Health Code requirements for restraint were completed. The record also contains a Post-Episode Debriefing – Nursing Debriefing form for this event as well as a Physician 1 hour Restraint/Seclusion/Physical Hold note.

The record contains a Preferences for Emergency Treatment form. This form indicates that the recipient declined/refused to designate a preference for treatment should he require emergency intervention. The record also contains a physician statement that the recipient was examined and was determined to have the capacity to make informed decisions regarding his treatment, including medications.

The Medication Administration Record is included in the clinical record and it indicates by signature that a unit nurse administered the emergency medication.

FACILITY REPRESENTATIVES' RESPONSE

Hospital representatives were interviewed about the complaint. They indicated that for both of the instances that were investigated here, the recipient was in a state which threatened imminent physical harm. They reported that generally a recipient will be offered his preferences for emergency treatment, however in the present case the recipient was already escalated to the point where measures had to be taken for everyone's safety. They also stated that they generally start the intervention by offering the least restrictive measure and then proceed to more restrictive alternatives. The record indicates that this recipient may have been responding to internal stimuli, so there are fewer indicators when he is transitioning to aggressive behavior.

Staff also noted that sometimes when a recipient is threatening physical harm, security will be notified so that the recipient can be held safely for the administration of emergency medication and this is indicated on the Restriction of Rights document. They were asked if the recipients are generally given the right to refuse medication and they stated that all patients have the right to refuse and are not threatened with restraint or forced medication if they refuse their scheduled medication. The representatives also indicated that the recipient had refused all medication and eventually the facility pursued involuntary medication through a court order.

Hospital representatives were asked about the administration of emergency medication for this recipient. They stated emphatically that a Mental Health Technician would never administer a medication and that the Technicians never administer any medical service to the patients, even the most minor service. They indicated that Technicians do not have access to the medical room. Additionally, the staff signature on the Medication Administration Record shows that a nurse on duty at that time administered the medication.

STATUTES

The Mental Health Code guarantees all recipients adequate and humane care in the least restrictive environment. 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 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).

The Mental Health Code states that restraint may be used only as a therapeutic measure to prevent a recipient from causing physical harm to himself or physical abuse to others (405 ILCS 5/2-108). Restraint may only be applied by a person who has been trained in the application of the particular type of restraint to be utilized. In no event shall restraint be utilized to punish or discipline a recipient, nor is restraint to be used as a convenience for the staff. In no event may restraint continue for longer than 2 hours unless within that time a nurse with supervisory responsibilities or a physician confirms in writing that the restraint does not pose an undue risk to the recipient's health in light of their medical condition. Orders for restraint must include the events leading up to the need for restraint and the length of time the restraint will be employed, not to exceed 16 hours.

Restraint is to be employed in a humane and therapeutic manner and the person restrained must be observed by a qualified person as often as is clinically appropriate but no less than once every 15 minutes. The person must maintain a record of the observations. Unless there is an immediate danger that the recipient will physically harm himself or others, restraint must be loosely applied to permit freedom of movement. Also, the recipient must be permitted to have regular meals and toilet privileges free from the restraint, except when freedom of action may result in physical harm to the recipient or others. Every facility that employs restraint shall provide training in the safe and humane application of each type of restraint used. Whenever restraint is used, a member of the facility staff will remain with the recipient at all times unless the recipient has been secluded. A person who has been restrained and secluded shall be observed by a qualified person as often as is clinically appropriate but in no event less than every 15 minutes. Whenever restraint is used, the recipient shall be advised of his right to have any person, including the Guardianship and Advocacy Commission or the agency designated pursuant to the Protection and Advocacy for Developmentally Disabled Persons Act notified of the restraint.

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 provided their policy and procedure regarding Restraint and Seclusion (Number 02.02.06.030 Use of Restraint and Seclusion). It is a lengthy and inclusive document which comports with the requirements of the Mental Health Code for restraint.

CONCLUSION

The record supports the facility decision to administer emergency medication and place the recipient in restraints for his safety and the safety of the other patients and staff. Additionally, all the Mental Health Code requirements for both the administration of emergency medication as well as the application of restraints were met. The HRA does not substantiate the complaint that the facility did not follow Code procedures when it administered forced emergency medication and restrained a recipient.