FOR IMMEDIATE RELEASE

REPORT OF FINDINGS
INGALLS MEMORIAL HOSPITAL — 16-040-9012
HUMAN RIGHTS AUTHORITY— South Suburban Region

INTRODUCTION

The Human Rights Authority (HRA) has completed its investigation into allegations concerning Ingalls Memorial Hospital. This general hospital has an adult and adolescent psychiatric unit. The complaint stated that the hospital administered psychotropic medication without informed consent and in the absence of an emergency. Additionally, the complaint alleged that the recipient sustained injuries due to the medication side effects. If substantiated, these allegations would be violations of the Mental Health and Developmental Disabilities Code (the Code) (405 ILCS 5/100 et seq.).

METHODOLOGY

To pursue the investigation, the hospital's Associate General Counsel, the Attending Psychiatrist, the Director of Social Services and a Registered Nurse were interviewed. The complaint was discussed with the adult recipient and sections of her record were reviewed with consent. Relevant hospital policies were also reviewed.

COMPLAINT STATEMENT

The complaint stated that the recipient was hospitalized for listening to music from an overhead radio in a store. It was reported that psychotropic medication was administered without justification or informed consent. She had side effects from the medication. For example, it was reported that she fell and hit the back of her head because of the medication given.

FINDINGS

Information from record, interviews and program policies

According to the record, the recipient was a direct admission to the hospital's unit on January 24th, 2016. In other words, she was not seen in the admitting hospital's emergency department. A petition and a certificate, dated January 23th, documented that she had been seen in the transferring hospital's emergency department due to bizarre behavior in a store. According to the involuntary hospitalization documents, the recipient was uncooperative, combative and violent toward the emergency department's staff. She had refused to answer

questions and exhibited catatonic behavior. The petition and the certificate asserted that the recipient needed immediate hospitalization because she was reasonably expected to engage in physical harm to self or others. Her record documented that she had refused to sign any of the admission forms upon her transfer to the receiving hospital. She was diagnosed with Schizophrenia and she had some physical problems. She was seen by the psychiatrist routinely but was only willing to talk to selective staff. She was very paranoid and refused to attend therapy groups and usually stayed in her room. Her insight, judgement and hygiene were poor.

According to the Medication Administration Records (MARs), Haldol 2 mg orally or Intramuscular (IM) and Ativan 1 mg orally or IM every six hours and Cogentin 1 mg orally as needed (PRN) every four hours were ordered on the admission day. Medication for her physical problems was also ordered. A "Psychotropic Medication Education" form documented that the recipient had refused to give consent for the admitting medication. According to the MARs, Prolixin 5 mg orally or IM twice daily, Zyprexa 10 mg orally at night and Ativan 1 mg IM three times daily were ordered on January 25th and the 26th. However, there was no mention of Zyprexa and Ativan on the Psychotropic Medication Education form reviewed and a line was drawn through Prolixin on the document. Zyprexa and Ativan orally were discontinued on the orders' dates above because the recipient had refused to accept the scheduled medications when they were offered. The medication record documented that dosages, frequencies and method of administration were changed and that long-lasting psychotropic medication was ordered during her hospital's stay. There was no a physician's written statement of the recipient's decisional capacity at the time medications were ordered and before the petition.

For January 26th, the progress notes and the medication record documented that the recipient ate all of her dinner and accepted her nightly injections as scheduled. According to the MARs, Prolixin and Ativan IM were administered on that night, and she was allowed to refuse scheduled dosages of both medications from January 27th through the 31st. Her record indicated that emergency medication was administered twice in one day. On the 27th, the psychiatrist wrote that the recipient was mute and did not respond to his questions. She was described as pacing, preoccupied and responding to internal stimulus. A nursing note indicated that she was pacing, laughing inappropriately, and refused to eat and to accept medication. Haldol 5 mg and Ativan 2 mg IM were administered at 9:30 a.m. for threatening her roommate. Later, she was yelling, intrusive, combative, and redirections failed. Haldol 5 mg and Ativan 1 mg IM were administered on or around 5:30 p.m. for hitting a staff person. Her record lacked restriction of rights notices for the emergency medications administered above.

On January 28th, a social worker documented that the recipient did not respond when the mental health court procedures were explained to her. The psychiatrist wrote that the recipient was catatonic, mute, paranoid, and refused all care from the staff. Her oral intake was limited but she was willing to drink liquids. He wrote that the hospital was waiting for the court petition. Her record contained a petition, dated January 29th, for court ordered Prolixin Decanoate 50 to 200 mg IM monthly and alternative medications such as Risperdal and tests. According to the petition, the recipient was paranoid and refused to talk to the hospital's psychiatrist and staff and was suspicious of food being poisoned. She was refusing to eat and was not getting adequate nutrition and hydration. The petition documented that the recipient was not able to make a reasoned decision about treatment due to psychoses and paranoid thoughts.

For February 1st, the progress notes and the medication record documented that the recipient had refused meals and drank water throughout the day. Prolixin 5 mg IM was administered and Ativan 1 mg IM was given twice on that same day. On the 2nd, Ativan 1 mg IM was administered for threatening a nurse and a peer who had bumped her. It was documented that medication information concerning Haldol, Prolixin, Thorazine and Risperdal was provided but the recipient gave the medication pamphlets back to the nurse. She was not compliant with all scheduled medications on that same day. She told the staff that she had fallen and a small bruise on her right elbow was noted. She was monitored for falls. On the 3rd, the recipient was agitated, shaking and demanded to see a physician immediately. Haldol 5 mg and Ativan 1 mg IM were administered at 10:21 a.m. Again, there was no restriction of rights notice found in her record. She reported that she was feeling dizzy about twenty minutes after medication was given. Her vital signs were taken and she was assisted back to her bed. Prolixin 10 mg IM twice daily and a Computed Tomography were ordered. The scan showed no abnormal findings inside her head. On the 6th, she walked up to the nursing station while medication was being passed and demanded medication information. She said "I want them now" and blocked the door to prevent the nurse from going out on the milieu. A behavioral health technician was called to redirect the recipient to her room. Once there, she was reportedly pacing and did not refuse IM medications when they were offered. Another dose of Prolixin 10 mg IM was administered as scheduled on that next morning. Ativan IM was refused and the medication was not given. She refused to eat breakfast, laboratory tests, and to have her vital signs checked. Also, she was allowed to refuse her nightly medications.

For February 9th, Prolixin Decoanate 100 mg IM monthly was ordered because the recipient was refusing oral medication. She reportedly was allowed to refuse her scheduled medications on that same night. Later, she went to the nursing station and requested Ativan and 1mg orally was given. On the 10th Prolixin Decoanate 100 mg IM was administered, and the psychiatrist wrote that the petition for court order medication was still pending. Later, the recipient told a social worker that she did not need any medication and wanted to go home. She said that she had fallen and might have a concussion. Another note indicated that the recipient was sometimes confused and that she ate dinner on that same evening. On the 12th, the psychiatrist wrote that the recipient was still very paranoid, suspicious and noncompliant with medications. Her oral intake was still limited and the court hearing was still pending. He was unable to check her [sic], electrolytes and albumin levels to determine if she was dehydrated. And, he was concerned about her medical condition, but he could not do much about it without a court order.

For February 15th, the psychiatrist wrote that the recipient was now talking and said that he was not her doctor. Cogentin 1mg orally twice daily for possible medication side effects was ordered. On the 16th, it was recorded that the recipient was compliant with medication, but she refused to eat breakfast and to take a shower. Later, she was argumentative and uncooperative and redirections failed. Haldol 5 mg and Ativan 1 mg IM were administered around 1:00 p.m. On the 24th, Prolixin 10 mg IM at night, and Haldol 5 mg orally every four hours or 5 mg IM every six hours and Ativan 1 mg orally or IM every six hours as needed were ordered. The "Psychotropic Medication Education" form documented that the "pt. refused to sign" for the administration of the medications above. On that same night, a nursing note indicated that the recipient closed her eyes tightly and folded her arms in front of her when medication was

offered. She did not open her eyes or "give implied consent" for Prolixin IM and Cogentin orally. She shook her head "no" and the medications were not administered.

For March 9th, the psychiatrist wrote that the recipient was still paranoid, responding to internal stimuli and was talking to invisible people. She reportedly was eating more food now. However, she was selective because she believed that the food might be poisoned. He wrote that she was accepting Cogentin to address possible medication side effects. A nursing note indicated that Prolixin Decanoate 100 mg IM was administered without any problems on that same day. She was discharged from the hospital on the 14th before the court hearing for involuntary commitment and medication scheduled for the 15th was held. According to a discharge note, the recipient was given a copy of her discharge instructions, medication prescriptions, and medication information was explained to her. She was informed that she should go to the nearest emergency department if she hears voices or feels like harming self or others. She reportedly verbalized that she understood the information provided.

The hospital's Associate General Counsel first responded to the complaint by letter stating that the recipient was mute, noncompliant and exhibited severe psychomotor retardation upon her admission to the hospital. Her thought process, insight and judgement were poor. She had refused to answer any questions concerning her medical history. Her provisional diagnosis was Schizophrenia. She refused to sign the "Psychotropic Medication Education" and the "Emergency Treatment Information" forms. A psychiatric evaluation completed on that next day documented Schizophrenia with catatonic features. Prolixin as needed for aggression was ordered. According to the hospital's letter, the recipient initially had refused medication and meals and would not participate in therapy groups. She was threatening toward her roommate and continued to exhibit aggression and combative behaviors. Haldol was administered for hitting a staff person. She sometimes refused medication and the medication was not given.

When the complaint was discussed with the hospital's staff, a nurse told the HRA that the recipient was initially admitted to the hospital's geriatric unit and was later transferred to the behavioral health unit. She said that the recipient would sometimes accept medication and she would sometimes refuse medication. Also, she would approach the staff and asked for medication by injections. She told the investigation team that as needed medication was given regularly. According to the Assigned Psychiatrist, the recipient was not eating or drinking and was catatonic-like. He explained that medication was given to bring her out of her catatonic state. He said that a person who does not eat or drink fluids for three or four days might die. He was concerned that the recipient would die because of her prolonged unresponsive condition. The hospital's Associate General Counsel acknowledged that dosages of psychotropic medications were administered without the recipient's informed consent as reflected on the Psychotropic Medication Education form and in the absence of an emergency. She said that the staff should have made another attempt to obtain the recipient's consent for medication or documented that she was willing to accept medication but was unwilling to sign the consent form. She reported that the hospital had started retraining staff on documentation in March or April of 2016 and that newly hired staff receive training on this subject during orientation. The Code does not allow the hospital to accept a recipient's consent for medications based on decisional capacity while at the same time have a petition filed asserting that she lacks capacity. It's one or the other.

The hospital's "Psychotropic Medication Education" policy states that information concerning the proposed medications will be provided prior to administration. It states that the recipient, guardian or legal representative will be informed in language that they can understand why the medication is necessary in the presence of continuing symptoms, the potential benefits, side effects, harm, consequences of non-compliancy with medication and other alternatives to the medications ordered if any. The form must be signed by both the nurse and the psychiatrist. Also, the patient must sign the form to acknowledge his or her understanding of the psychotropic medications listed on the document. The policy reviewed lacked a need for a capacity determination statement to be documented in the recipient's record as required under Section 5/2-102 (a-5) of the Mental Health Code.

CONCLUSION

According to Section 5/2-102 of the Mental Health Code,

> (a) All recipients of services shall be provided with adequate and humane care and services, 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 recipients' substitute decision maker, if any, or any other individual designated in writing by the recipient.
>
> (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 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 designee shall provide to the recipient's substitute decision maker, if any, the 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 Section 5/2-107 ….

Section 5/2-107 states that,

> An adult recipient of services…must be informed of the recipient's right to refuse 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 harm to the recipient or others and no less restrictive alternative is available …. psychotropic medication or

> electroconvulsive therapy may be given 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.

According to Section 5/2-201 of the Code, whenever any rights of a recipient of services are restricted, the recipient shall be promptly given a notice of the restriction.

The Authority substantiates the complaint stating that the hospital administered psychotropic medication without informed consent and in the absence of an emergency. The recipient's record contained many entries supporting this, which was verified by the Associate General Counsel. Also, her record documented that she was allowed to refuse non-emergent medication sometimes and that dosages of emergency medication were given at least four times. In the first instance, a nursing note indicated that the recipient was threatening toward her roommate on January 27th, but there was no documentation of the specific threats to support the need for emergency medication found in her record. In the second instance, a nursing note documented that redirections failed and that she hit a staff person on the 27th. This meets the need for emergency medication and shows that redirection or lesser alternative measures were attempted prior to administering the medication. In the third instance, she reportedly threatened a nurse and a peer on February 2nd, but the exact threats were not mentioned and these behaviors by themselves do not justify the need for emergency medication. In the fourth instance, agitation and demanding to see a physician on the 3rd does not meet the criteria for emergency medication. In the fifth instance, argumentative and uncooperative and redirections failed on the 16th; again these behaviors by themselves do not support the need for emergency medication. The psychiatrist told the HRA that the court process was too slow. He said that he was concerned that she might die because she was refusing to eat. Her record documented that involuntary hospitalization and court ordered medications were pursued by the hospital but she was discharged from the hospital before the process was completed.

The hospital must not give or offer scheduled and non emergent medications if she has no decisional capacity per the petition. In four of five instances, the hospital failed to clearly document behaviors to support the need for emergency medications. Also there were no restriction of rights notices for the emergent medications administered found during the record review. The hospital violates Sections 5/2-102 (a-5), 5/2-107 and 5/2-201 of the Code and program policy.

The Authority is unable to substantiate the complaint stating that the recipient sustained injuries due to the medication side effects. A progress documented that the recipient told the staff that she had fallen because of the medication given. However, the HRA cannot determine whether or not her fall was related to the medications administered. A Computed Tomography of her showed no abnormal findings. Cogentin was prescribed was for possible side effects.
The HRA find no violation of Section 5/2-102 of the Code.

RECOMMENDATIONS

1. Follow Section 5/2-102 (a-5) of the Code and the program policy and make a determination concerning whether or not a recipient has the capacity to make a reasoned decision about the treatment prior to the administration of the first medication dosage.

2. Stop the practice of offering and giving voluntary medications to a recipient who lacks capacity per filed medications petitions.

3. Review psychotropic medication consent forms with recipients when their mental status improves if they accept non-emergent medication but initially refuse to sign the form.

4. Revise the program "Psychotropic Medication Education" policy to reflect that a capacity statement must be documented in the recipient's record per Section 5/2-102 (a-5) of the Code.

5. The hospital shall follow Section 5/2-107 (a) requirements that emergency medication should only be given if there is a risk of serious and imminent physical harm documented in the recipient's record.

6. Complete restriction of rights notices when emergency medication is administered under Section 5/2-201.

RESPONSE

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

AT THE FOREFRONT
UChicago Medicine
Ingalls Memorial

February 5, 2018

Via Facsimile (708) 338-7505
and Regular Mail

Ms. Judith Rauls
Chairperson
Regional Human Rights Authority
West Suburban Regional Office
P.O. Box 7009
Hines, Illinois 60141-7009

Re: HRA No. 16-040-9012

Dear Ms. Rauls:

Ingalls Memorial Hospital ("Ingalls") is in receipt of your letter dated June 13, 2017 regarding the above-referenced complaint. We have had the opportunity to review the report of findings and are writing to you to respond to the recommendations and comments on the findings.

Response to Recommendations and Suggestions:

1. The hospital's Psychotropic Medication Education policy has always required that education pertaining to the use of psychotropic medication be provided prior to the first administration of such drugs and that the patient be competent or have sufficient capacity to generally understand and appreciate the nature of his/her condition, the nature of the proposed treatment, and the alternatives to and risks inherent in the proposed treatment. As the Commission is aware, the hospital recently revised its Psychotropic Medication Education policy to specifically address the need to determine whether a recipient has the capacity to make a reasoned decision about the treatment prior to the administration of the first medication dosage. A copy of the revised policy is attached. The revised policy now requires the physician or designee to include a capacity statement in the medical record. In addition, the policy was also amended to include the following requirement: "In the event the patient lacks decisional capacity, routine medications will not be given. Once the patient's medical status improves, the patient will be educated and sign the medication education sheet prior to the first administration of medication." In February of 2017, staff was also re-educated at the Inpatient Directors Meeting on the need to place any and all new medications on the Psychotropic Medication Education Form, to provide education and to obtain the physician's signature for each medication. One of the

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Actions/Outcomes identified was the responsibility of the nurses to assure that consent for all antipsychotics are listed on the form. (A copy of the minutes from that meeting is also attached.)

2. The above measures, including the revised Psychotropic Medication Education policy, on-going staff training and re-education, and the need for the physician to document a capacity statement in the patient record will seek to ensure the discontinuance of those incidents where voluntary medications are offered and given to a recipient who lacks capacity per filed medications petitions.

3. The revised Psychotropic Medication policy now specifically provides that "[i]n the event the patient lacks decisional capacity, routine medications will not be given. Once the patient's mental status improves, the patient will be educated and sign the medication education sheet prior to the first administration of medication." Staff and physicians have been notified of this revision to the policy and the hospital will ensure on-going training and re-education of the staff and the physicians to ensure compliance.

4. See the Hospital's response to recommendation no. 3 above along with the attached policy including the requirement that a capacity statement be documented in the record.

5. Hospital staff and the physicians who have privileges to care for the behavioral health care unit patients are aware that emergency medication should only be given if there is a risk of serious and imminent physical harm documented in the record. The hospital respectfully disagrees with the Commission's findings that this patient received emergency psychotropic medication in the absence risk of that serious and imminent physical harm. However, staff will be re-educated on the need to include "exact threats" and more specific language of the actions or wording that constitute the threat and harm. More specifically, staff will be advised that more detailed information is required than the reference to argumentative, uncooperative and threatening behavior to support the use of emergency medications.

6. Staff will continue to be re-educated and monitored for compliance through periodic audits on the completion of the restriction of rights notices when emergency medication is administered under Section 5/2-201 of the Mental Health Code.

AT THE FOREFRONT
UChicago Medicine
Ingalls Memorial

As always, if you have any questions or comments to the above responses, please do not hesitate to contact me directly at [redacted].

Sincerely,

Linda B. Conway
Associate General Counsel

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