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HUMAN RIGHTS AUTHORITY-SPRINGFIELD REGION

REPORT 16-050-9002

Andrew McFarland Mental Health Center

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving complaints at Andrew McFarland Mental Health Center in Springfield. Allegations are that a patient's family visits were not private, her right to refuse medication was restricted without cause and her personal property was destroyed.

Protections under the Mental Health and Developmental Disabilities Code (405 ILCS 5) apply.

McFarland is a Department of Human Services hospital with civil and forensic units. The issues reviewed here concern a patient on the forensic side where they were discussed with staff involved in her care. Relevant policies were reviewed as were sections of her record with authorization.

FINDINGS

The first complaint states that the patient, her mother and a brother were being watched by particular staff persons during visits and that they were listening in on the family's conversations.

Two staff persons named in the complaint explained that they would never stand next to the visiting area to intentionally eavesdrop. In fact, there had been recent directives from administration prohibiting that and any documentation of what might be heard outside of something harmful. One recalled a time however when the patient grew loud and angry with her family and he and another staff stood by to observe, ensuring there were no further problems. They were trying to provide safety, not a chance to listen to or impede on their time together and had no idea what the argument was about. Nothing came of it and there was probably no reason to document. They said that the patient had no restrictions on her visits but remembered her having some issues using the phone inappropriately.

A chart review covering the alleged timeframe revealed nothing connected to the complaint. As suggested, there was a three-day restriction from dialing independently for calling

911 numerous times, after which she made more attempts and the restriction was extended. She was never prohibited from making or receiving any other calls according to the accompanying restriction notices.

McFarland policy (HR 126) recognizes a patient's right to private visits with persons of his or her choice. Suitable and private areas are to be arranged for visits unless safety calls for supervision, in which case restriction notices must be completed.

The Mental Health Code states that all recipients shall be provided unimpeded, private and uncensored visits and that space is to be made available. Private visits may only be restricted to prevent harm, harassment or intimidation. (405 ILCS 5/2-103).

Staff recalled a potential incident where they observed the patient following her argument with family. They insist that the visit remained unimpeded, private and uncensored and there is no evidence to suggest otherwise. The complaint is unsubstantiated.

According to the second complaint, the patient was forced medicated when she was not harmful to anyone and had no opportunity to refuse.

The staff remembered an instance or two when emergency injections were necessary. The patient's treatment was eventually court-ordered and she improved well enough to be discharged soon after. They had nothing to add to their supportive documentation of the events.

The record provided three incidents in question. The first noted the patient picking a fight with a peer and then turning on staff, yelling profanities and threats and then throwing ice water and other objects at them. She kicked a door and continued to throw "things" over the window of the nurses' station. She failed to calm when encouraged and emergency orders for injections were received and given. A corresponding restriction notice verified the same. In the second, court-ordered treatment was being offered in oral form a few days later when the patient refused. The nurse tried explaining the need to take the medication as the patient yelled at her that she would bash her teeth in. She proceeded to the phone and dialed the police; a code was called; she was given another chance to take the pill but refused and was then held for an injection. A notice was completed for the physical hold and the medication, which referenced the same justification. In the third a nurse described how the patient tore down the curtains in her room, went into other rooms to pick fights, calling everyone foul names and when redirected she went at the nurse yelling that she was going to bash her head in. A code was called and when help arrived she took the injection without a struggle. A thorough restriction notice was completed. All notices marked that they were given to the patient and that she wanted no one else to be notified.

McFarland policy and procedures (#02.06.02.020) defines an emergency as a mental condition that calls for immediate action to protect from harm or prevent further deterioration. Refusing medications in itself does not constitute an emergency but they are given when necessary to prevent serious and imminent physical harm. Nurses in consultation with physicians can determine whether an emergency exists based on personal examination. Procedures from there must follow 5/2-107 of the Code.

Under the Code, all adult recipients have the right to refuse medications. They shall be given opportunities to refuse and not be given them unless it is necessary to prevent serious and imminent physical harm and no less restrictive alternative is available. (405 ILCS 5/2-107). Restriction notices must be given to the patient and anyone so designated. (405 ILCS 5/2-201).

The documentation is compelling enough to say that the patient was in need of forced medications when she was harmful and that in each case was given sufficient opportunity to refuse and calm when less restrictive alternatives were attempted. A rights violation is unsubstantiated.

SUGGESTION

DHS/McFarland policy and procedure (#02.06.02.020) defines an emergency as a mental condition that calls for immediate action to protect from harm *or prevent further deterioration*. Preventing further deterioration makes for an appropriate treatment petition under 2-107.1 but does not meet the requirement to prevent serious and imminent physical harm when no less restrictive alternative is available under 2-107. That part of the definition must be changed.

The last complaint states that the patient's only pair of underwear were thrown away although she preferred them over of the ones provided at the hospital.

The staff were surprised at the specific complaint since the patient had accused them and other patients of stealing her underwear, not throwing them away. She would typically make that and other strange statements when she was having trouble. Two of the staff said they remembered her saying this a few times and helping her look for them, never coming up with anything.

Admission, property and nursing records make no mention of the patient's own underwear. Her treatment plan cited an altered thought process as a problem and reflected within progress sections that she continued bizarre behaviors at times, making odd declarations that people had stolen her underwear, that they had knives and machetes and that patients were being used for experiments.

Program policy (PS128) states that individuals are responsible for maintaining their clothing in their rooms and have rights to their property as provided in the Code.

Pursuant to the Code, all recipients are allowed to possess and use personal properties, which may be restricted only to protect from harm. Properties in a facility's custody must be returned on discharge. (405 ILCS 5/2-104).

There is no evidence that the patient's underwear was destroyed, thrown away or stolen and no evidence that her right to possess and use such property was violated. The complaint is unsubstantiated.