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HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 17-030-9005

JOHN J. MADDEN MENTAL HEALTH CENTER

Case Summary: The HRA did not substantiate the complaint that the physician breached confidentiality, however the HRA strongly suggested that undue pressure was placed on the recipient to include an outside party in her treatment.

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 a recipient's physician and social worker discussed her medical information with the recipient's mother without a release of information. If substantiated, this would violate the Mental Health and Developmental Disabilities Confidentiality Act (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 Acting Medical Director, the Director of Nursing, the Quality Manager, the Nurse Manager, the Health Information Administrator, the Social Worker and the treating Psychiatrist. Hospital policies were reviewed, and the recipient's clinical records were reviewed with written consent.

COMPLAINT SUMMARY

The complaint alleges that the recipient, who was admitted to Madden on a court ordered detention based on a petition completed by her mother, refused to sign a release for her mother to receive any treatment information. Nevertheless, the recipient's social worker and particularly her physician, continued to insist on the mother's participation in the recipient's treatment and made treatment decisions based on the input of the recipient's mother. The physician reportedly continued to insist on the mother's participation to the detriment of the recipient's care and treatment. The recipient is 35 years old.

FINDINGS

The record shows that the recipient in this case was admitted to Madden from 5/4/16 through 5/11/16. She was discharged to her father in Kansas with a plan to seek outpatient treatment for mental illness. The recipient then determined that she wished to seek outpatient psychiatric care in the Chicago area, her home, and she returned to her residence in Chicago. On 5/18/16 the recipient's mother attempted to see the recipient at her residence and the recipient then obtained a protective order against her mother. On 5/19/16 the mother then petitioned the recipient for involuntary psychiatric treatment and she was admitted to Madden on 5/21/16. The petition contains an attachment referred to in the signs and symptoms of mental illness section of the petition which says, in part, "...Currently, respondent is having auditory and visual hallucinations, suffers from delusional and paranoid thoughts, and is verbally abusive and physically aggressive. In regard to her hallucinations, Respondent has stated to her mother that she has seen people (that are not here in reality) following her. She has been responding to internal stimuli, talking and laughing to herself without provocation. She is suffering severely from paranoid and delusional thinking, with strange, fixed false beliefs: that Taylor Swift and other pop artists are stealing music from her; that people are stealing her thoughts,; that the government is conspiring against her and spying on her, all of which have no basis in reality. Although Respondent is about 5 foot, 1 inch tall, she has lost about 15 lbs. in the last two months, currently weighing about 85 lbs. Respondent does not bathe and sleeps irregularly. She looks disheveled and unkempt. She has dark circles around her eyes and seems haggard. She constantly paces, and talks with fast speed. She constantly uses profanities without reason. Her mother recently went to see her at her place of residence on May 1, 2016, and noticed that there was a foul odor coming from within and that her place was dark, cluttered with dishes and clothes strewn everywhere around the apartment. In this incident, she has stated to her mother that she has no heat, no electricity, and no gas. Her sump pump does not work, and she has done nothing to fix that for an unknown period of time. Her daughter refuses to allow her inside the apartment...."

The recipient's Psychiatric Evaluation, completed on 5/21/16, states in the Chief Complaint section: "I am fine. My Mom comes every few weeks. Makes her own decision to put me in psych treatment. I am fine. I work for a magazine. Has magazine online. I am not suicidal." Later, a statement in the Psychiatric Evaluation states, "Pt. doesn't allow her mother to enter her condo. Pt reports mother goes to court and writes whatever she thing [sic]." The recipient's Discharge Summary is included in the record and it indicates that the recipient challenged the statements made by the petitioner which resulted in her admission: "...The patient disputed the claims on the petition. She provided a written log of her activities prior to admission, including items she purchased from several grocery stores. She kept and provided this log as a claim to dispute her mother's reports on the petition. The patient states that she has chosen to live a simple lifestyle in order to pursue a business venture of a magazine. The patient reports that following her graduation she worked as an accountant and established a magazine on the side until she left her job as an accountant after 5 years. She reports working various jobs as she feels needed, and denies ever being terminated from a position. She denied today having any current involvement in the music industry or any concerns about song writing theft, though she had reportedly made contrary statements during her previous admissions. She also claims to be training as a boxer. The patient denies any auditory or visual hallucinations. She denies feeling that she is being stalked. She denies ever having any thoughts of harming herself or making

statements that she was going to kill herself, and states that her mother has contrived these statements.”

The Psychiatric Evaluation notes indicate a provisional diagnosis of Delusional Disorder and her treatment plan includes various therapies. Her medication section states, “Medications to include court process most likely. She has signed voluntary and five day and signed for bzds (benzodiazepines) and sleep aids but is refusing other psychiatric medications. Was explained the process of court hearing and need for collateral information, and is denying authorization to speak with any family members.” An Attending note is attached to this entry and it states, “Patient known to us from last admission. Essentially the patient ‘sabotaged the last discharge plan and now says she never wanted to go to Kansas but agreed as there was ‘a gun to her head.’ She insists that she is following her chosen lifestyle and wants to be a ‘free spirit’ and feels that she is working as needed and is mostly frustrated around what she perceives as unnecessary and intrusive involvement of her mother and is considering having an order of protection against her.”

Attending notes from 5/25/16 indicate that the Attending met individually with the recipient. Notes state, “Patient continues to express frustration with being admitted. Continues to decline medications and permission to speak with any family members as she believes they are being dishonest. Continues to examine and dispute findings in the original petition as filed by her mother. Does not understand why her voluntary status does not invalidate her mother’s petition and subsequent court order. Continues to actively pursue legal counsel. Collateral needed given reports of psychiatric deterioration, unusual and atypical choices with concern for detrimental effects on the patient’s health and safety, but collateral declined. Patient’s presentation concerning for delusional disorder that is threatening the patient’s well-being and ability to care for herself.”

Psychiatry Resident notes from 5/31/16 state, “Patient certified and petition filed for continued admission on involuntary basis. Patient continues to decline psychiatric intervention. Continues to decline staff permission to speak with family for collateral. Patient remains pleasant, friendly, approachable and social. Keeps an extensive journal that she rewrites often.”

Attending notes from 6/2/16 state, “Patient has been seen by resident today also met with her SW present. Earlier had discussed the case with GAC attorney. The patient is very much focused on the process of last petition and certificate and feels that she was not examined within the 24 hours of the first certificate and should be discharged. I explained that process and that if she has any issues with it she would have to discuss with her GAC attorney and with court. I tried to steer our session towards trying to step back beyond the ‘legal’ issues and focus on my role as physician and how we have made some assessments and as I tried to summarize it but then she quickly challenged my statements around what she told me and stated that they were lies and essentially walked out of the session....”

The record contains a letter written by the recipient’s physician to the recipient and dated 6/02/16. It states:

“This is to share with you that based on reports and interactions since your first admission here early last month, the team has come to the following recommendations:

1. You have a mental illness which has affected your thinking and which has led to certain lifestyle changes and decline in function to that point that you are considered now not able to function by yourself without help from family and have expressed suicidal thoughts. The working diagnosis I have is Delusional disorder, persecutory type.

2. We are recommending that you continue to be in this inpatient setting and we start you on treatment which includes medications along with adjunctive therapies: Individual, Group, and Milieu Therapy. The medication I would recommend is Risperidone.

3. We would like to work with you and your family towards a reasonable discharge plan.

4. Attached are two articles on delusional disorder and treatments which may be helpful for you and if you have more questions around it, please feel free to ask.

I understand that you do not agree with above and would like to be discharged as soon as possible. To that end you told us that you would like to go in front of a mental health judge and follow the legal process. That is of course your legal right and decision. I have explained that process to you and also shared with you that you are entitled to an independent evaluation which is part of the process. So the court processes are for two separate hearings: one for commitment and the other for involuntary treatment.”

Another physician note was entered on 6/03/16 indicating that the recipient refused to allow the staff to speak with family. She was then told that the family could be present at the mental health hearing. “Otherwise is generally in milieu and interacting appropriately and has not had any behavior issues as such.”

A Resident progress note from 6/07/16 states, “...According to the discussion during morning report a new certificate and petition will have to be filed as the old forms will no longer be valid after tomorrow because the patient was not informed of her Miranda rights at the time the forms were completed.”

A Physician note from 6/10/16 states, “Patient had refused to work with resident when assigned early this week. She had remained generally participatory in milieu. Two days ago, we had met with the patient around her admission and talked about trying to resolve issues. After much discussion, and clarification and education and strong recommendations, she had agreed to a family meeting via phone with at least her mother and she wanted to have some friends come. So we agreed that she would actually sign a voluntary and another five day so as to give us time for meeting on Friday. I cleared [sic] told her that on Friday after talking to the mother at least, we would have final decision around discharge vs. court. The patient had been sort of receptive, did become tearful again when talking about role of mother and how she has not even seen her much and how father was a drug user but finally agreed. She expressed frustration that they have not even called once. We had encouraged her to talk to family and not wait for them to call. I left the hospital with the understand [sic] that she was indeed going to sign the voluntary and then give a five day and set up the meeting for Friday. However SW called me later stating that the patient had talked to the mother and while we do not know content, it evidently did not go well as the patient refused to sign voluntary. So we met again with her yesterday am and while

she did not want to process much, was told that under the circumstances, we would go ahead and start the commitment process again.

That was done yesterday am.

So thus while in milieu with another patient, the patient called out and approached me with a note which I could not read in detail but essentially demanding that 'are you going to discharge me?' pointing to the note. Told her that we can talk about it but she replied, 'I don't want to talk with you' but then went on to say a few more things, and ask more questions so told her that it was hard to engage if she does not want to talk in this manner if I am working with another patient. So later on we invited her again to a meeting and she came in and stood at table, pointing at court order and when told she was already certified yesterday, she stated something about 'you did not go in front of the judge.' Not open to processing. Left the session. Angry and demanding discharge. Not appreciating that she has been petition and certified and that the 'court order' she is referring to is not valid."

A Psychiatric update note for 6/15/16 shows that the recipient was invited to a staff meeting. It states, "She listened to my comments about court process and then asked how I based my decision and I tried to explain how for psychiatric issues, we do rely on various variables including collateral information. She commented on how we were wasting state money and mentioned a figure. I reflect that we had met last week and I had essentially offered to work things out with a family meeting but that she had refused. She went back to my decision being based on observation here and as I again tried to explain that she got up and left session and left later to ask for copies so she will keep the patient copy for now.

Per staffing, since the second petition and certificate, the patient is now not attending any groups and psychologist mentioned how she had wanted to talk to her one time early but then has not come to groups and or to individual sessions. See also therapist notes for other interaction. Now seems more angry and upset about being here and is now refusing alternative treatments. Continue to proceed with court hearings for both commitment and involuntary treatment."

A Psychiatric update note from 6/21/16 states, "...In session with me she was calm, appropriate, and interactive and we started to talk again about the issues and I essentially tried to summarize the main concern and conflict and what we see and what mother reports and how to work that through. I also tried to reflect that if indeed all that she is telling me about her plans for the magazine etc are indeed as she describes, then would it not be reasonable to have a sit down frank talk with family and work through the differences. ...She mentioned how she has connections with various cities etc and how I should go to website to see for myself. I tried to explain the issue of this truth was a matter of discussion and core of problem as I see it but that this and other aspects of the writ would be something we would be able to resolve only with a family meeting. She says that she is past that and is going to sue her mother and does not understand what she did this (when I asked her why would family do all things and 'lie' about her on a legal document). The other important aspect was she told me that she is still willing to have her friends come for a meeting. That she knows her friends have been in touch with her much more than her mother and we can talk to them..."

Diagnostically, had a discussion with the psychologist and reviewed how in most ways, the patient comes as very logical and euthymic and interactive and appropriate but yet we have these two issues around family's ongoing concern and second effort to petition her for treatment and what we see is this non-bizarre delusion around the magazine and it has taken over her life and

that she has apparently lost insight but is smart enough to be able to justify her life and desire and plans as 'normal'. That, we have to wait for mother to clarify her statements even though we do not see too much evidence of that kind of psychosis referred to by mother."

A Psychiatric note entered on 6/29/16 indicates that a meeting was held between the recipient's friend (by phone), the friend's father, the recipient, and team members. Comments from later in the notes state, "From the diagnostic viewpoint, the brief comments from the friend's father implying paranoia now seems to point towards some confirmation of mother's comments and if that is true, then indeed her diagnosis now sways towards actually schizophrenia. We really need to get information from mother to pursue this diagnosis further. ...I was just informed that the patient has filed again for dismissal of petition and certificate and SA has been in touch with Therapist around new affidavit required. Will get opportunity to listen to mother tomorrow and then proceed to court accordingly."

After a court appearance on 6/30/16 at which time the recipient was made subject to involuntary admission but was not made subject to involuntary treatment, her physician developed a letter which was dated 7/01/16 and which outlined 8 points for her ongoing treatment at Madden. The seventh of the 8 points states, "An important aspect of our situation is the evident family conflict: esp. I guess with mother. Regardless of any conflicts or disagreements, your family is your family and they are there for you. Your mother has specifically stated that she is most willing to help towards your safety and wellbeing: from my perspective that requires some give and take from both your parts...."

FACILITY REPRESENTATIVES' RESPONSE

Facility representatives were present to respond to the complaint. The recipient's physician stated that he respected the recipient's wishes and never spoke with her mother until the court date on 6/30/16. He indicated that his suggestion that the recipient address her family issues was because the mother had twice completed a petition for involuntary admission for her daughter and that she obviously saw problems in her daughter's behavior that required treatment. The physician wanted to collect collateral information to determine the recipient's issues and ensure that it was safe to discharge her if that was the determination. The physician did not feel that he was unreasonably focused on the inclusion of the mother and indicated that the HRA would probably object if he **hadn't** tried to communicate with her.

STATUTES

The Mental Health Code guarantees all recipients 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, if any, or any other individual designated in writing by the recipient. The facility shall advise the recipient of his or her right to designate a family member or other individual to participate in the formulation and review of the treatment plan. 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 5/2-102a).

The Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110 et seq.) states that, "All records and communications shall be confidential and shall not be disclosed except as provided in the Act." The Act defines "recipient" as "a person who is receiving or has received mental health or developmental disabilities services." The Act defines "Confidential communication" as any communication made by the recipient or other person to a therapist or to or in the presence of other persons during or in connection with providing mental health or developmental disability services to a recipient. Communication includes information which indicates that a person is a recipient. The Act adds, "Records and communications may be disclosed: ... (ii) when, and to the extent, a therapist, in his or her sole discretion, determines that disclosure is necessary to initiate or continue civil commitment or involuntary treatment proceedings.... (740 ILCS 110/11).

FACILITY POLICY

Madden hospital policy comports with all Mental Health and Developmental Disabilities Confidentiality Act requirements.

CONCLUSION

The recipient's physician in this case confirmed that he never spoke with the mother of the recipient throughout the recipient's hospitalization. The HRA accepts this statement and appreciates that the physician felt that it was necessary to clinically explore the issue of the relationship between the mother and daughter to the extent that it affected the recipient's hospitalization and treatment, since the mother was the petitioner. However, the HRA also points out that the Mental Health Code requires an individualized treatment plan that is developed by the recipient and anyone else designated in writing by the recipient and that the facility must consider the views of the recipient concerning the treatment being provided, and not that of her family members unless so designated. In this case there appeared to be an unreasonable pressure on the recipient to include her mother in her treatment, even after she clearly indicated that she did not want her involved. The documentation suggests that the treatment plan was developed with the mother's input (in the form of the petition) rather than that of the recipient, and the recipient was called upon to confirm the mother's judgement instead of being diagnosed by her behavior in treatment. We respect the need to discuss the situation with the mother/petitioner for commitment proceeding purposes under 740 ILCS 110/11 but the apparent focus on the mother's input for treatment planning was an undue burden on the recipient who was willing to include several other people in her life in the planning process which is her right under 405 ILCS 5/2-102a. The HRA cannot substantiate the complaint that the physician breached confidentiality because we accept that he did not speak to anyone who was not authorized to receive medical information, however we strongly suggest that undue pressure was placed on the recipient to include an outside party in her treatment.

REMINDER

The HRA reminds the provider that there was no release of information to disclose information to the recipient's mother and even if the recipient had wanted her mother's involvement, a release is the precursor before any information about the recipient is disclosed.