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HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 17-030-9025
University of Illinois Hospital

## INTRODUCTION

The Human Rights Authority of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving a complaint of possible rights violations at University of Illinois Hospital. It was alleged that a recipient was court ordered to be treated with Haldol, however the facility treated her with Haldol Decanoate, despite no authority to do so.

If substantiated, this would violate the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.).

University of Illinois Medical Center is part of the largest health sciences center in the country, housing the largest medical school and one of only four comprehensive health science centers in the United States per the medical center website profile. The Behavioral Medicine Department offers a full range of general psychiatric services as well as five specialty programs, and the inpatient program serves up to 39 adult patients and in a separate unit, 9 pediatric patients.

To review these complaints, the HRA conducted a site visit and interviewed two Attending Physicians, the Director of Risk Management, the Clinical Nurse Consultant, the Director of Patient Care, the Assistant University Counsel, the Director of Accreditation, the Chief Operations Officer, the Resident Physician, and the Clinical Nursing Specialist. Relevant hospital policies were reviewed, and records were obtained with the written consent of the recipient.

## COMPLAINT SUMMARY

The complaint alleges that the recipient was court ordered to be treated involuntarily with Haldol, however she was then administered Haldol decanoate (the long acting version which is given monthly) despite there being no court authority to do so. The recipient allegedly suffers from stomach aches, decreased appetite, and loss of sleep from the shot which is also painful when administered. Additionally, the recipient allegedly did not receive written information on

the side effects, risks and benefits of the medication and there was no testimony in court regarding the decanoate version of the medication.

FINDINGS

The record contains the Court Order for the Administration of Authorized Involuntary Treatment (2017 COMH 000406) issued 2/21/17. In the adjoining Addendum, the medications for which the psychiatrist and his designees are authorized to administer are listed, and among them is Haloperidol (Haldol) 1 mg- 30 mg PO (orally) or IM (intramuscularly) daily.

The Medication Administration Record (MAR) is included in the record. It shows that the recipient received Haldol decanoate 30 mg IM once daily on 3/10, 3/11, 3/12, 3/13, and 3/14. The "Decanoate" designation indicates a drug is long-acting, in higher doses, and given every 3-4 weeks, not daily as is indicated on the court order for Haldol.

The record contains Inpatient Progress Notes for this period of the recipient's treatment episode. Relevant (and partial) excerpts from these notes reflect on the decisions made with regard to the recipient's medication:

1. 3/07/17 In the Assessment and Plan section of the progress notes it states, "Continue Haloperidol 10 mg PO each 12 hours. Administer IM if patient refuses PO (medication is court ordered). Likely plan for Haldol dec, first dose, 100 mg IM, tomorrow 3/8 (ordered)."

2. 3/09/17 In the Assessment and Plan section it states, "…Dosing required for typical Haldol dec injection not on court-ordered med list (range of 1-30 mg/day approved) attempting to have pt sign agreed order if willing. Other options: -give Haldol dec injection 30 mg IM x 5, while briefly stopping additional Haldol in order not to exceed 30mg/day limit, - make amendment to med petition which will require a new court hearing…"

3. 3/10/17 In the Subjective section notes state, "Declined again to sign order for Haldol LA 150 mg, stating the dose is too high, and continues to decline PO medications." These notes also indicate the presence of "intermittent lower lip and jaw tremor." Notes in the Assessment and Plan section state, "D/c PO Haldol and short-acting IM Haldol x 5 days (3/10 -3/14) due to limitations on Haldol dosing by med petition. Dosing required for typical Haldol injection not on court-ordered med list (range of 1-30 mg/day approved). Plan for Haldol decanoate 30 mg IM daily x 5 days, while briefly stopping additional Haldol in order to not exceed 30 mg/day limit. S/p Haldol dec 30 mg x 1 on 3/10, planning for 30 mg dec daily for the next 4 days (last dose to be given 3/14).. Administer even if patient refuses (medication is court ordered)…No extra Haldol between 3/10 and 3/14."

4. 3/11/17 In the Subjective section notes state, "Patient discusses she will not take PO medication because it will harm her stomach yet when she gets it in the shot it is ok. She reports on and off lower lip tremor, denies any other side effects to Haldol. Patient amenable to following with writer upon discharge. Denies current AVH [auditory verbal hallucinations]. Discussed patient's medical medications, reports she will continue to refuse."

4. 3/13/17 In the Subjective section notes state, "… On discussion with writer later, pt declines to comment directly on Haldol dec to ask, 'how would you feel if you were getting shot up every day?' Reports difficulty sleeping for the past three days and attributes this to LA – as she begins to fall asleep, she has the sensation of falling and jerks back awake… Endorses intermittent cramping in her right side, as well as stiffness and burning in her feet and hands. Declines medications for side effects."

The record contains an Affidavit (No. 2017 CoMH 406) filed by the recipient on 3/16/17 which states,

*"Now comes the respondent, and after first being duly sworn upon oath, states as follows:*

*1. I am the Respondent in this cause of action. On February 21, 2017 I was present at a trial to administer involuntary psychotropic medication to me. I have also received a copy of the court order entered that day for up to ninety days, including Haldol (generic:haloperidol) 30 mg, daily by injection. A copy is attached.*

*2. Immediately after that order was entered I began receiving Haldol by injection daily and sometimes up to three times a day.*

*3. Dr… of the University of Illinois hospital administered Haldol decanoate (long-acting version of Haldol) to me involuntarily by a painful shot for five days in a row starting on March 10, 2017 and ending on March 14, 2017.*

*4. Before Dr… began administering Haldol decanoate, I questioned Dr….'s authority to do so because I read my order and determined that Haldol decanoate was not on the order. Dr…. stated to me that he talked to the judge who told him he could give this to me against my will.*

*5. The injection for Haldol decanoate was much more painful than the Haldol injection. Additionally, for the five days I was involuntarily receiving Haldol decanoate, my stomach hurt, I could not sleep and I could eat very little food.*

*6. I have received Haldol and Haldol decanoate by injection in the past."*

The record contains a Motion to Reconsider and Vacate the Order for Involuntary Treatment (no. 2017 CoMH 406), filed by the recipient's attorney, which asserts that UIC hospital exceeded its authority when it administered Haldol decaoate. In the Argument, the respondent's counsel points out that on the day of the hearing for involuntary medication, there was no testimony regarding the long acting version of Haldol, and the recipient did not receive written information for the decanoate version.

<u>HOSPITAL REPRESENTATIVE RESPONSE</u>

Hospital representatives were interviewed regarding the complaint. The attending physician indicated that the recipient was extremely ill and very paranoid throughout her hospitalization. He explained that the judge's order included Haldol IM up to 30 mg a day and that it was his interpretation that the long acting formulation could be administered over the course of five days based on the order (that both Haldol and Haldol decanoate were authorized under the court order). The physician felt that this would decrease the number of injections the recipient would receive and also help her to stabilize before discharge. The physician indicated that the recipient had consented to the medication and that she had been given the risks, benefits, and side effects of the medication along with alternatives. He also noted that that the decanoate version of the medication has the exact same side effects as the Haldol that the recipient was successfully taking and that she would receive the same amount of the medication but in long acting form. The physician indicated that on 3/09/17 he had met with four other staff members and the recipient's attorney and he had indicated that the recipient was responding to the Haldol and that the next step was to administer the long acting formulation of the medication. He and the staff present confirmed that that the attorney did not disagree with this plan or the interpretation of the order. He also indicated that if there had been any objection to the plan, that he would not have gone forward with the alternate medication. The physician was asked if he had prepared a new court order for the decanoate version or had spoken with a judge about the revised plan, and he indicated that he had not.

STATUTES

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). Section 2-107 (g) states, "Under no circumstances may long- acting psychotropic medications be administered under this Section."

The Mental Health Code allows the recipient and the recipient's guardian or substitute decision maker to refuse generally accepted mental health treatment except in the following situation:

(a5) Notwithstanding the provisions of Section 2-107 of this Code, authorized involuntary treatment may be administered to an adult recipient of services without the informed consent of the recipient under the following standards:

(1) Any person 18 years of age or older, including any guardian, may petition the circuit court for an order authorizing the administration of authorized involuntary treatment to a recipient of services. The petition shall state that the petitioner has made a good faith attempt to determine whether the recipient has executed a power of attorney for health care under the Power of Attorney Health Care Law [FN1] or a declaration for mental health treatment under the Mental Health Treatment Preference Declaration Act [FN2] and to obtain copies of these instruments if they exist. If either of the above –named instruments is available to the petitioner, the instrument or a copy of the instrument shall be attached to the instrument as an exhibit. The petitioner shall deliver a copy of the petition, and notice of the time and place of the hearing, to the respondent, his or her attorney, any known agent or attorney- in- fact, if any, and the guardian, if any, no later than 3 days prior to the date of the hearing. Service of the petition and notice of the time and place of the hearing may be made by transmitting them via facsimile machine to the respondent or other party. Upon receipt of the petition and notice, the party served, or the person delivering the petition and notice to the party served, shall acknowledge service. If the party sending the petition and notice does not receive acknowledgement of service within 24 hours, service must be made by personal service….

(4) Authorized involuntary treatment shall not be administered to the recipient unless it has been determined by clear and convincing evidence that all of the following factors are present. In determining whether a person meets the criteria specified in the following paragraphs (A) through (G), the court may consider evidence of the person's history of serious violence, repeated past pattern of specific behavior, actions related to the person's illness, or past outcomes of various treatment options.

(A) That the recipient has a serious mental illness or developmental disability.

(B) That because of said mental illness or developmental disability, the recipient currently exhibits any one of the following (i) deterioration of his or her ability to function, as compared to the recipient's ability to function prior to the current onset of symptoms of the mental illness or disability for which treatment is presently sought; (ii) suffering, or (iii) threatening behavior.

(C) That the illness or disability has existed for a period marked by the continuing presence of the symptoms set forth in item (B) of this subdivision (4) or the repeated episodic occurrence of these symptoms.

(D) That the benefits of the treatment outweigh the harm.

(E) That the recipient lacks the capacity to make a reasoned decision about the treatment.

(F) That other less restrictive services have been explored and found inappropriate.

(G) If the petition seeks authorization for testing and other procedures, that such testing and procedures are essential for the safe and effective administration of the treatment.

(5) In no event shall an order issued under this Section be effective for more than 90 days. A second 90 day period of involuntary treatment may be authorized pursuant to a hearing that complies with the standards and procedures of this subsection (a-5). Thereafter, additional 180-day periods of involuntary treatment may be authorized pursuant to the standards and procedures of this Section without limit. If a new petition to authorize the administration of authorized involuntary treatment is filed at least 15 days prior to the expiration of the prior order, and if any continuance of the hearing is agreed to by the recipient, the administration of the treatment may continue in accordance with the prior order pending the completion of a hearing under this Section.

(6) An order issued under this subsection (a-5) shall designate the persons authorized to administer the authorized involuntary treatment under the standards and procedures of this subsection (a-5). These persons have complete discretion not to administer any treatment authorized under this Section. The order shall also specify the medications and the anticipated range of dosages that have been authorized and may include a list of any alternative medications and range of dosages deemed necessary…."

HOSPITAL POLICY

The University of Illinois Hospital provided the policy and procedure for Involuntary Commitment and Involuntary Medication of Patients on 8 East (No. CLPSY 1C). It states that "Medication may be administered involuntarily to patients on a voluntary basis as described in the Mental Health Code. Patients felt to be incompetent but not meeting the standard for emergency involuntary medication may have a petition for involuntary medication filed with prior approval of team attending and the Patient Care Director. This may also be filed at the same time as a petition for involuntary commitment or may be done independently if the patient is on a voluntary basis." The procedures for involuntary/judicial admission and authorized involuntary services all comply with the standards set forth in the Mental Health Code and Court policy and procedure.

CONCLUSION

Under the Mental Health Code, a specific distinction is made with regards to long-acting psychotropic medication since long-acting medication is expressly prohibited as emergency medication and can only be given by court order (405 ILCS 5/2-107). Additionally, the court order stated *Haloperidol 1-30mg PO/IM daily*. The record shows that the recipient was treated with Haldol from the time of the court order until 3/10/17, when she was then administered Hadol decanoate, without a modification of the court order. Additionally, the record reflects the physician's acknowledgement that a revised court order was necessary. The HRA substantiates

the complaint that a recipient was court ordered to be treated with Haldol, however the facility treated her with Haldol decanoate, despite no authority to do so.

RECOMMENDATION

1. Train all physicians to adhere to court mandated treatment orders and to seek court authority for any revisions of the ordered treatment.