FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY-NORTHWEST REGION

REPORT 18-080-9008
SWEDISHAMERICAN HOSPITAL

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation into potential rights violations at SwedishAmerican Hospital in Rockford. The complaint is that a behavioral health patient was provided with inadequate admission, assessment and discharge procedures, substantiated findings of which would violate protections under the Mental Health and Developmental Disabilities Code (405 ILCS 5).

A division of the University of Wisconsin Health system, SwedishAmerican's Emergency Department (ED) sees about 70,000 patients each year, some 14,000 of whom are evaluated for mental health care. ED physicians are employed by an outside emergency medicine group, and the hospital has an inpatient psychiatric program. The HRA met with representatives from each of those departments and administration. Relevant policies were reviewed as was the patient's record with authorization.

COMPLAINT SUMMARY

It was reported that the patient was kept in the hospital involuntarily for several days without authority since neither of his certificates for inpatient admission were done by qualified examiners or psychiatrists. His petition for involuntary/judicial admission was dismissed because of the errors. This review centers on whether the practice occurred and is routine.

FINDINGS

Records:

Charting showed the patient's arrival in the ED by sheriff escort at about 8:00 p.m. on Monday, October 16 with complaints of suicidal ideation and overdose. The deputy completed a

petition minutes later asserting the patient's statements of wanting to hang himself and die. Medical clearance was soon underway and the patient was meanwhile evaluated by a counselor, who, after phone consultation with a psychiatrist, determined at 1:48 a.m. that he needed an involuntary psychiatric admission for suicide risk and safety. The physician's assistant who treated and monitored the patient followed with a first certificate at 3:00 a.m., in which he declared to advise the patient of his rights prior to the exam and that his certification was based on personal observations.

The patient was admitted to the psychiatric unit at 3:45 a.m., October 17, where later that morning a second certificate was completed by an advanced practice nurse instead of a psychiatrist. A copy of the petition was given to the patient, although the time of his admission and the time the petition was shared was left incomplete, according to the record. All involuntary documents were filed timely.

A status change notice was sent to the courts on Thursday, October 19, the day of his scheduled hearing. The notice informed the courts that the patient had been discharged that morning, just over three days from his arrival.

Interviews:

The physician's assistant who completed the first certificate explained that he was previously unaware of not being qualified to conduct certification exams. He said he does not get Mental Health Code-specific training and that he is unfamiliar with the Code's involuntary process for the most part, including the rights advisement required before the exams, which he said he recites in part. He is also unfamiliar with the hospital's related policies.

The nurse who completed the second certificate was unavailable during our visit, but administrators from the programs acknowledged the errors and assured us that they occurred before the patient's attorney provided training on the involuntary admission and assessment procedures in December. The ED staff were not in the training, and that department's director agreed that Code training along with hospital policy reviews for his group seemed necessary. He also confirmed that although a contracted entity, they are accountable to hospital policies.

CONCLUSION

SwedishAmerican policy, Involuntary Detention for Psychiatric Evaluation in the ED, states that it applies to all professional personnel working in the department. Petitions must be completed to detain a patient for up to 24 hours for evaluation during which time a certificate is to be done. Additional policy, Proper Execution of Inpatient Certificate for Involuntary Admission, reflects the Code's limitations to physicians, psychiatrists (who must do at least one), clinical psychologists, clinical social workers and registered nurses with master's degrees in psychiatric nursing as allowed to complete certification exams.

Under the Mental Health Code, when a person is asserted to be subject to involuntary admission and immediate hospitalization is necessary for protection, a petition may be presented that includes a statement of the reasons for the assertion, including signs and symptoms of mental illness and a description of acts, threats and other supportive behaviors. (405 ILCS 5/3-601). A person may be held for no more than 24 hours unless within that time a certificate is furnished. (405 ILCS 5/3-604).

The petition shall be accompanied by a certificate executed by a physician, qualified examiner, psychiatrist, or clinical psychologist which states that the respondent is subject to involuntary admission on an inpatient basis and requires immediate hospitalization. The certificate shall indicate that the physician, qualified examiner, psychiatrist, or clinical psychologist personally examined the respondent not more than 72 hours prior to admission. It shall also contain the physician's, qualified examiner's, psychiatrist's, or clinical psychologist's clinical observations, other factual information relied upon in reaching a diagnosis, and a statement as to whether the respondent was advised of his rights under Section 3-208. (405 ILCS 5/3-602).

Whenever a petition has been executed…, and prior to this examination for the purpose of certification of a person 12 or over, the person conducting this examination shall inform the person being examined in a simple comprehensible manner of the purpose of the examination; that he does not have to talk to the examiner; and that any statements he makes may be disclosed at a court hearing…. (405 ILCS 5/3-208).

As soon as possible but not later than 24 hours, excluding Saturdays, Sundays and holidays, after admission…the respondent shall be examined by a psychiatrist. The psychiatrist may be a member of the staff of the facility but shall not be the person who executed the first certificate. …. If, as a result of this second examination, a certificate is executed, the certificate shall be promptly filed with the court. …. If the respondent is not examined or if the psychiatrist, physician, clinical psychologist, or qualified examiner does not execute a certificate pursuant to Section 3-602, the respondent shall be released forthwith. (405 ILCS 5/3-610).

'Qualified examiner' means a person who is: a Clinical social worker…a registered nurse with a master's degree in psychiatric nursing who has 3 years of clinical training and experience…a licensed clinical professional counselor with a master's or doctoral degree in counseling or psychology…a licensed marriage and family therapist with a master's or doctoral degree in marriage and family therapy…. (405 ILCS 5/1-122).

The physician's assistant who completed the first certificate is not a qualified examiner and he said he recited only part of the patient's rights before the exam. The counselor who completed the second certificate, regardless of whether she is a qualified examiner, is not a psychiatrist who must complete one of the certificates, meaning the patient's involuntary stay beyond the allowable 24-hour petition time was unauthorized and violates his right to the mandated involuntary admission, assessment and discharge route within the Code and hospital policies. The complaint is substantiated.

RECOMMENDATIONS

1. SwedishAmerican immediately invited training to its behavioral health staff following this error but the ED staff were not included. While the ED medical staff are contracted, they are still subject to following the Mental Health Code and hospital policies and must undergo training on both. (405 ILCS 5/1-122; 5/3-208; 5/3-600 et seq, and SwedishAmerican policies).

SUGGESTIONS

It is noted in the ED record that at some point during the patient's evaluations he became physically aggressive, threw equipment around and required sedation. The ED staff should be reminded that this constitutes a restriction of his right to refuse medication unless necessary to prevent serious and imminent physical harm and that a restriction notice was to be completed and forwarded to anyone of his choosing. (405 ILCS 5/2-107; 2-201).

The petition and the first certificate were left incomplete without the times of completion and locations noted on the documents. These are not mere details but crucial facts that may impact a patient's treatment course and the staff who complete these must be reminded to do so thoroughly. (405 ILCS 5/3-600 et seq.).

RESPONSE

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

NORTHWEST REGIONAL HUMAN RIGHTS AUTHORITY

HRA CASE NO. 18-080-9008

SWEDISHAMERICAN HOSPITAL

Pursuant to Section 23 of the Guardianship and Advocacy Act (20 ILCS 3955/1 *et seq.*), we have received the Human Rights Authority report of findings.

IMPORTANT NOTE

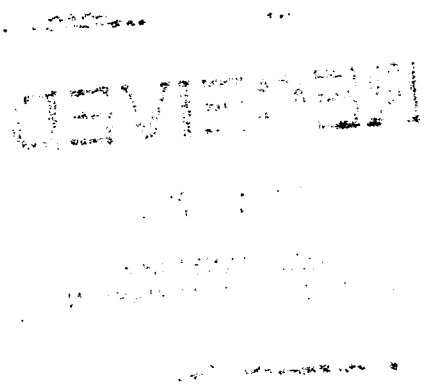
Human Rights Authority reports may be made a part of the public record. Reports voted public, along with any response you have provided and indicated you wish to be included in a public document, will be posted on the Illinois Guardianship and Advocacy Commission Web Site. (Due to technical requirements, your response may be in a verbatim retyped format.) Reports are also provided to complainants and may be forwarded to regulatory agencies for their review.

We ask that the following action be taken:

X We request that our response to any recommendation/s, plus any comments and/or objections be included as part of the public record.

_____ We do not wish to include our response in the public record.

_____ No response is included.



[signature]
NAME

CHEIF MEDICAL OFFICER
TITLE

24 AUG 2018
DATE

SWEDISHAMERICAN
A DIVISION OF UW HEALTH

August 24, 2018

Via Certified Mail

Dr. Erin Wade, Chair
Human Rights Authority
Illinois Guardianship & Advocacy Commission
4302 N. Main St., Suite #108
Rockford, IL 61103

Re: **Case #18-080-9008**

Dear Dr. Wade:

In response to your correspondence dated July 31, 2018, we will be following your recommendations to educate our Emergency Department staff with regard to Mental Health Code and Hospital policy requirements.

We will be seeking a presentation from Laurel Spahn, attorney with your Legal Advocacy Service, to be given to our Emergency Department staff.

Sincerely,

Beverly J. Merfeld

Beverly J. Merfeld, MJ, BSN, RN, CPHRM, CPHQ
Director, Risk Management
SwedishAmerican – A Division of UW Health