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HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case #18-080-9010
Mercyhealth Hospital – Rockton Avenue

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving complaints of possible rights violations involving services at Mercyhealth Hospital - Rockton. The allegations state that a patient received inadequate care regarding admission and assessment procedures. If found substantiated, the allegations would violate The Mental Health and Developmental Disabilities Code (405 ILCS 5/3). The facility has a 14-bed inpatient behavioral health unit that averages 11 patients per day. They have 30 staff including RNs, mental health technicians, and assessors.

Complaint Statement

The complaints state that the patient said he signed a document agreeing to voluntarily work with a physician on medication and consent to medication but did not know that he was signing a document to be voluntarily admitted to the facility. The physician allegedly explained to the patient that if he wanted to work with the physician, he would need to sign the document. Later, a CNA brought the patient the document to sign but did not communicate patient rights.

The allegations also state that that the first examiner relied on a chart review as the basis for the certificate as opposed to an in-person exam.

Interview with staff (5/2/2018)

Staff stated that when the patient presented to the facility, he started in the emergency department (ED) and then transferred to the medical floor. On 12/10, the patient was examined by the psychiatric assessor who obtained all the collateral information and completed a full assessment. The care determination was that the patient needed inpatient psychiatric care. The patient had overdosed. The psychiatric unit contacted the assessor and said that they had made a mistake on the petition and certificate. The first petition was completed incorrectly so a second petition was completed, but the second petition and the certificate were completed on the same assessment as the first petition. Staff explained that if someone moves between departments, the documentation generally is scanned and follows the patient, but in this case, the original petition and certificate were not scanned. Generally, the petition and certificate are completed by the psychiatric assessor and physician. In this case, the patient went to a different medical floor. The

ED nurse and physician completed the first petition, then the patient was moved to the medical floor, and the petition was then redone when the patient was transferred to the behavioral health unit because of the errors.

If there is a petition and certificate on the chart, then it follows the patient when they go to a medical floor. Staff explained this was an anomaly and usually mistakes are caught in the moment. The error on the petition was caught but then they made the mistake of redoing the petition, but they usually restart the evaluation process. The patient was assessed only three hours prior and that is why they used the chart review for the second petition. The petition and certificate were dismissed in court. The patient had signed for voluntary admission prior to court but that admission was also dismissed in court.

It was explained to the HRA that all staff have been educated that they cannot complete an assessment for the petition without it being face-to-face, even if it is only an update. Staff explained when you take over a case as a staff member; you must assure it is done face-to-face. With this assessment, the person who completed the first petition was gone from the facility when the error was realized, otherwise they would attempt to address with the original source whenever possible.

As far as the voluntary admission process, the patient signs the admission application after two explanations are provided by the hospital. The physician explains the process to the patient, then the application is read verbatim to the patient and a signed copy is placed in the chart. The rights are on the voluntary form, so in signing the document, the patient signs his/her understanding of voluntary admission rights. Staff ask if the patient wants anyone notified about the patient's hospitalization. The registered nurse reviews the form a second time with the patient. In this case, the physician documented the process in his progress notes.–The patient's capacity was intact on admission, but they did not have him initially sign in voluntarily because he was not safe. Staff said that the resident signed the voluntary admission the next day after being brought to the facility. He wanted to go to work on Thursday and this was a Tuesday. The patient did not ask to leave the facility until the commitment was dismissed. He presented to the ED on 12/9, entered the behavioral unit on 12/10, the involuntary was filed on 12/11 and the patient signed voluntary admission on 12/11. There was a change of status filed on 12/11 and there was discharge on 12/12.

Explaining the rights depends on who is there when the voluntary commitment is started. The psychiatric assessor may start the admission but then the nurse reviews the patient's rights. If the admission is involuntary, they wait for a physician to make the determination if they need to complete a voluntary admission or pursue involuntary commitment. Staff said that sometimes the patients enter the medical floor with a petition or certificate. A small percentage are on the medical floor first and almost all of those have an overdose diagnosis. Behavioral health can provide some basic medical care. With this case, the physician identified that there were errors with the petition and certificate and asked if the patient wanted to sign a voluntary form after the patient talked to his attorney. Then after that was completed, the patient then said that he did not understand and wanted to leave. Staff said that the attorney talked to the patient after the voluntary had been signed, and then made decisions about the voluntary and took the petitions and certificates into court. The petitions and certificates had already been filed. She argued in court that the voluntary and involuntary admission needed dismissed. They physician offered the voluntary because he felt like the patient still needed to be at the facility.

FINDINGS

The discharge summary, written by the physician, reads "The patient was initially admitted on an involuntary status, but later on review of legal documents showed that the patient's petition was not done correctly. The second certificate was not addressed at the time of the initial evaluation. I started working on 12/11/2017 and at that point I noticed the error on the petition. I talked to the patient and offered him that we cannot commit him against his will but if he is willing to sign voluntary paperwork, he has that option. I explained the voluntary paperwork and the patient was also provided all the information about voluntary paperwork at in [sic] written form which the patient agreed and signed it … The patient advocacy commission representative talked to the patient and she brought the case in front of the judge, but I was told that the judge gave the order to discharge the patient from the hospital unless the patient chose to stay in the hospital. I discussed with the patient and told him about the judge's orders and offered him informal admission which the patient refused. He stated that he wants to go home as soon as possible." The narrative states that the physician explained his reasoning for the recommendation that the patient stay at the facility, which included monitoring dose titration and side effects from the medication.

The HRA reviewed a progress note dated 12/10/2017 written by the LCPC (Licensed Clinical Professional Counselor) which reads "Contacted by unit, as patient's Petition and Certificate had errors. Partnered with nursing staff to correct errors on Petition and Certificate."

There were two groups of petitions and certificates provided to the HRA. The second petition, which was electronically filed on 12/11/2017 states that the petitioner based the assertion that the individual is in need of immediate hospitalization "Per chart review, patient took a half a bottle of Trazodone and 2 Xanax and texted his daughter that he did not want to live anymore. Patient admits being depressed from recent divorce." Additionally, the certificate filed with the second petition states "Per chart review, patient overdosed on Trazodone and presents with relationship stressors." The first and second petitions were signed by two different staff, the first petition does not appear to have been filed, and the rights of the admittee on the first petition do not appear to have been signed. There is also no signature indicating that a copy was provided to the respondent.

The HRA reviewed a progress note written on 12/10 by a facility physician that reads "Pt states he is doing ok. No arrhythmias overnight. Labs ok. Pt is medically stable. I consulted [Physician] form psychiatry to see and assess if pt requires further inpatient care. Pt states he wants to go home. He seems to be in denial of the seriousness of his overdose at this point."

The HRA reviewed an application for voluntary admission that was signed by the patient. The form states that the patient has "… been informed of the 'Rights of Voluntary Admittee' as explained on the second page [of the form]. I have been given a copy of the 'Rights of Individuals' which states in detail my rights as an individual receiving services. I understand that a copy of this form will be given to me on admission. I further understand that a copy of this form will be given to anyone who accompanied me and to any parent, relative, or attorney whom I indicate." The form also states: "I certify the following; that the above person has been examined and is considered clinically suitable for voluntary admission, that the individual has the capacity to consent to voluntary admission, that he/she is able to understand that he/she is being admitted to a mental health facility and that he/she may request discharge at any time by placing the request in writing and that the change is not automatic, and that he/she understands that within 5 business days of receiving the written request for discharge a facility must either

discharge or initiate civil commitment proceedings." The HRA reviewed a copy of the "Rights of Individuals" form that was signed by the patient.

The HRA reviewed the facility policy titled "Involuntary Admission of Adults to Behavioral Medicine Unit – Admission Pursuant to Petition and Certificates" which requires that the petition for involuntary admission shall be accompanied by a certificate and "The physician, qualified examiner, or clinical psychologist must personally examine the recipient not more than 72 hours prior to admission. The certificate shall indicate that the physician, qualified examiner, or clinical psychologist did so." The HRA also reviewed a policy titled "Declination of Voluntary Admission on the Behavioral Medicine Unit" which states the purpose of the policy is to "… admit persons as voluntary patients/recipients only if they meet the criteria under the Mental Health and Developmental Disabilities Code and have the capacity to consent to such admission." The policy then states that "In order to be admitted to the Behavioral Medicine Unit as a voluntary patient/recipient, the applicant must be clinically suitable for admission as a voluntary patient/recipient and have the capacity to consent to voluntary admission. 1. Capacity to consent means that in the professional judgement of the facility director or his or her designee, the person is able to understand that: (1) he or she is being admitted to a mental health facility; (2) he or she may request discharge at any time. The request must be in writing, and discharge is not automatic; and (3) within 5 business days after receipt of the written request for discharge, the facility must either discharge the person or initiate commitment proceedings." The policy also states that it must be documented that the individual is suitable for voluntary admission.

The Mental Health and Developmental Disabilities Code states that "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).

The Code reads "Any person 16 or older, including a person adjudicated a person with a disability, may be admitted to a mental health facility as a voluntary recipient for treatment of a mental illness upon the filing of an application with the facility director of the facility if the facility director determines and documents in the recipient's medical record that the person (1) is clinically suitable for admission as a voluntary recipient and (2) has the capacity to consent to voluntary admission. (b) For purposes of consenting to voluntary admission, a person has the capacity to consent to voluntary admission if, in the professional judgment of the facility director or his or her designee, the person is able to understand that: (1) He or she is being admitted to a mental health facility. (2) He or she may request discharge at any time. The request must be in writing, and discharge is not automatic. (3) Within 5 business days after receipt of the written request for discharge, the facility must either discharge the person or initiate commitment proceedings" (405 ILCS 5/3-400).

CONCLUSION

The facility admitted to having updated a second petition and certificate "per chart review" which is in conflict with the Code (405 ILCS 5/3-602) and the facility's own policy

which states that the patient must be examined in person. Additionally, the HRA reviewed the petitions and certificates which stated that the updated assessments were made from the chart review versus an in-person assessment. Because of this, the HRA finds the complaint **substantiated** and **recommends** that the facility train all staff on Code and policy compliance regarding the assessments for involuntary commitment or provide proof of training that may have already occurred.

Regarding the complaint that the patient was unaware of consenting to voluntary admission and that the patient rights were not explained to the patient, the HRA reviewed the physician's notes that indicated the admission was discussed with the patient. There was also other documentation that indicated the process was explained to the patient, including a signed individual rights document and a statement on the admission application stating that the patient's admittee rights were explained and the physician determined the patient had the capacity to understand admission. Due to lack of evidence, the HRA finds this complaint **unsubstantiated** but has concerns regarding the admission. Although there is not enough evidence to substantiate the findings, the HRA questions as to why the patient was adamant about leaving when the case was dismissed in court after he had signed a voluntary admission application. Also, it is documented on 12/10 in the progress notes that the patient wanted to leave the facility, but the voluntary admission was signed on 12/11. The HRA questions whether the patient had capacity and understood the situation. The decision to not continue with treatment appeared to be made very abruptly by the patient. The HRA **suggests** the facility review this case to assure that they are making the best possible determinations about patient understanding of the admission process and that they are fully explaining the process to patients in a way that is completely understood.
