



FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY-NORTHWEST REGION

REPORT 18-080-9012
SWEDISHAMERICAN HOSPITAL

INTRODUCTION

The Human Rights Authority (HRA), a division of the Illinois Guardianship and Advocacy Commission, reviewed potential rights violations in the care of a mental health patient at SwedishAmerican Hospital's Emergency Department (ED) in Rockford. The complaint is that the patient was involuntarily injected without need and then asked to sign papers after the medication took effect. The patient's rights are protected under the Mental Health and Developmental Disabilities Code (405 ILCS 5).

The hospital is part of the University of Wisconsin Health system. Contracted ED physicians and the rest of the department's staff evaluate and treat behavioral health patients almost daily. An Assessment and Referral team is available for screening mental health needs on a twenty-four-hour basis. The HRA met with representatives from administration and those involved in this patient's care. Relevant policies were reviewed as was the medical record with proper authorization.

COMPLAINT SUMMARY

The patient was reportedly given an injection without an appropriate reason while he was detained by a deputy sheriff and in handcuffs, and he was not told why or what he was given. He was then allegedly asked to sign several papers as the medication took effect and he did not remember what was said or explained to him, except being told to sign or face court.

FINDINGS

According to ED physician and nursing reports, the patient arrived at 12:43 p.m. by law enforcement with complaints of confusion and irrational behavior after refusing to leave jail. Entries state that at 12:48 p.m. he appeared in no apparent distress and was uncooperative, although he complied with taking vitals in the meantime. A nurse wrote at 1:57 p.m. that the police escorted him to another room; he was alert but rambling and did not make sense. He made poor eye contact, was becoming more agitated and a physician's assistant was alerted. Orders for Haldol and Ativan injections were received and given, and the patient agreed to take them per the notation. There was no indication of whether he was still in handcuffs at that time or of when the deputy fully released him to the hospital's care.

The deputy completed a petition at 2:30 p.m. and the patient spent the rest of the day and night under various evaluations, including one to complete a certificate, and he was noted throughout to be delusional, rambling and repetitive in his speech or sleeping. There appeared to be no other psychotropic drug administrations through his stay in the ED and there was no restriction of rights notice in the record provided.

An Assessment and Referral counselor initiated a voluntary admission application in the ED, which she and the patient signed at 2:10 p.m. the following afternoon, some twenty-five hours after his arrival. She declared by her signature that the patient had been evaluated and found suitable for the admission, that he had the capacity to consent to it and that she went over the entire form with him including the related admittee rights. A recipient's rights form was signed by each at the same time as was a four-page consent form that covered general treatment, assignment of insurance benefits, authorization to disclose information, privacy practice and advanced directives. The patient made his way to the behavioral health unit shortly thereafter.

Regarding the injections, the physician's assistant said he did not recall why they were given specifically but most likely for agitation. He remembered however that the handcuffs were off at this time and that the patient was resting in his room. He said they always tell patients about the medications as their conditions permit, which he was sure occurred in this case. The administering nurse recalled in more detail how the patient's behavior was bizarre and delusional; rocking, banging his head and hitting his fists on the wall trying to remove the handcuffs. She talked to the assistant and then gave the injections. Asked whether the patient had a choice or opportunity to refuse, she said that at this point no, and there were no less restrictive options. The nurse also said she completed a restriction notice. We pointed out that none of this was reflected in the record and that the accounts seemed to contradict. The nurse commented that with a new computer system she was not sure where to enter a narrative, and administrators acknowledged the need for Mental Health Code-specific training and that currently, most training is on-the-job as patients come in. New physicians and mid-level practitioners undergo three months of shadowing, which includes caring for psychiatric patients.

On the matter of completing documents without explanation and being told to sign or face court, the program manager spoke on behalf of the counselor involved who was unavailable during our interviews. She described their intake/admission process and then insisted that she trains her staff against using threats or implying threats of court action toward a reluctant patient. She has never heard them threaten anyone in this way. She also expects all counselors to thoroughly cover the application and rights information and to ask if there are any questions.

They proceed only with those who have the capacity to consent to the admission. She was unaware of any struggle between this patient and this counselor as alleged.

CONCLUSION

Pursuant to the Code, a recipient shall be given the opportunity to refuse medication, and if refused, it shall not be given unless necessary to prevent serious and imminent physical harm and no less restrictive alternative is available. (405 ILCS 5/2-107). Whenever a right is restricted, the facility must complete a restriction notice that details the reasons and provide notice to any person or agency the recipient designates. (405 ILCS 5/2-201).

With conflicting documentation versus statements, it remains questionable whether the patient was handcuffed and truly agreed to the injections. What is not questionable is the lack of recorded need to prevent serious and imminent physical harm, the nurse's statement that the patient had no choice and the lack of informed consent otherwise. So, the injections were involuntary and unjustified. A violation of the patient's rights is substantiated.

The program's voluntary and involuntary admission policies are Code-compliant and include requirements to thoroughly explain admission and discharge rights and to provide timely copies respectively.

Under the Code, the recipient, not the staff, chooses the voluntary route if he or she is suitable and has the capacity to consent. Contents of the form are to be orally explained to the recipient and a copy is to be given. (405 ILCS 5/3-401). All recipients of services shall be given an oral and written explanation of their rights on admission. (405 ILCS 5/2-200).

Since the counselor who handled the admission documents with the patient was unable to speak to the situation, the complaint is not discredited. But, based on the manager's explanation of training and the admission process and on our review of the completed required documents, a rights violation is unsubstantiated.

RECOMMENDATION

SwedishAmerican has scheduled Mental Health Code training for ED physicians and staff in response to findings in another case reviewed along with this one (see #18-080-9008). The HRA recommends that psychotropic medications and restrictions be included in that training. (405 ILCS 5/2-102a-5; 2-107 and 2-201).

SUGGESTIONS

Notes showed that at 7 a.m. the patient asked why he was still there as he was held involuntarily in the special unit of the ED, which was 18 hours after his arrival. The nurse explained his status but did not give him a copy of his petition. We contend that after that amount of time he should have been given a copy.

Various Mental Health Code-related ED policies were reviewed except for one on involuntary treatment specifically. The hospital should ensure one is in place and is Code-compliant following the scheduled training.



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. 18-080-9012

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:

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.

Beverly Merfeld
NAME

Director, Risk Management
TITLE

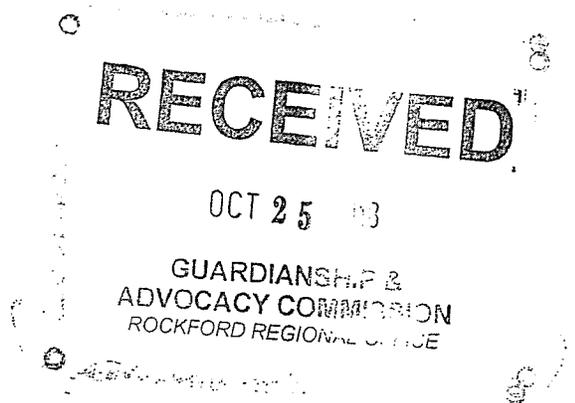
10/22/2018
DATE



October 22, 2018

Via Certified Mail

Colleen Parks, Chair
Human Rights Authority
Guardianship and Advocacy Commission
4302 N Main St, Suite #108
Rockford, IL 61103



RE: #18-080-9012 Swedish American Hospital

Dear Ms. Parks:

This serves to acknowledge receipt of your correspondence dated October 12, 2018. Per your request, enclosed are the applicable policies and the response to posting of our response. The Mental Health Code training of our ED providers and staff is being arranged at the present time. We will be utilizing the expertise of Laurel Spahn.

Sincerely,

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

BJM: hm