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HUMAN RIGHTS AUTHORITY – NORTHWEST REGION

Case #18-080-9014

Javon Bea Hospital-Rockton

Introduction

The Human Rights Authority (HRA) of the Illinois Guardianship & Advocacy Commission opened an investigation after receiving complaints of possible rights violations involving care provided to a patient at Mercyhealth Hospital – Rockton. The complaint is that a patient was injected with psychotropic medication without proper consent or need.

Substantiated findings would violate rights protected under the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102 a-5, 2-107 and 2-201).

According to the website and administration account, Javon Bea Hospital-Rockton is a regional health system with over 750 employed physician partners, seven hospitals and 85 primary and specialty care locations throughout 50 northern Illinois and southern Wisconsin communities. The Rockton facility's emergency department on average sees 2-7 patients dealing with mental health issues daily which includes adolescents/children and adults; services provided are evaluations, admissions, discharges and transfers.

The HRA team met with the following hospital staff: the system's assistant general counsel and the behavioral health department director as well as an emergency room doctor and a nurse who were involved in the patient's care; all are employees of Javon Bea Hospital-Rockton system, and not contractual employees. Relevant policies were reviewed as well as the medical record with proper authorization.

Complaint Statement

It was stated that the patient was in the emergency department, due to being unresponsive in the home and combative when dealing with the emergency personnel, who transported the patient to the emergency department. Medical staff were trying to calm the patient down, who was upset that numerous people were coming in and out the room to assist with care. The patient reportedly stated to the staff that she could calm down and relax without the assistance of staff or medication. The medical personnel insisted that the medication (injection) would assist in calming and relaxing her. The patient was agitated, yelling, screaming and angry with the

situation during this time, but reportedly was not a potential risk of serious and imminent physical harm. The patient was allegedly provided with a “crisis cocktail” and physical restraints to calm down and reduce agitation anyway.

Emergency Room Records Review

The patient arrived at the hospital on April 2, 2018 at 8:21pm via emergency personnel, due to reports of unresponsiveness and possible drug overdose. She was admitted to the emergency department at approximately 8:22pm. According to the records, a petition was completed at 9:00pm and the initial certificate was written and issued at 9:15pm, 45 minutes after arrival in the emergency department. The documents stated that the patient was agitated, angry, yelling and required emergency medication.

The emergency department nursing notes, showed that at 9:16pm, the patient was unable to give a urine sample and was provided with more water to assist. The patient had a bedside attendant in the room at 9:49pm. She walked out of the room at 10:03pm demanding to have her belongings returned and security was called. At 10:05pm, the patient was more agitated, punched the wall and restraints were placed on her. Psychotropic medications Haldol, Ativan and Cogentin were ordered at 10:09pm, while the patient was still in restraints. Medications were administered at 10:16pm via intramuscularly. Per the nurse’s flowchart, the patient feigned a seizure at 10:27pm. Restraints were removed at 10:40pm, and according to the records, “patient is calm, cooperative, redirected well and went to the bathroom”.

An order for the restraints by the nurse stated that they were to be applied due to the imminent danger of harm to the patient and staff. Per the emergency room patient care timeline, the doctor ordered the medication, a “crisis cocktail,” to assist in calming the patient down, because she was “agitated and inconsolable”. Per the medical record, the medications were administered and given intramuscular. The record does not contain or refer to restrictions of rights notices for the restraints or the injections.

Interviews

Emergency Room Nurse

During the site visit, it was difficult to get an accurate understanding from hospital personnel on the precise definition and/or meaning of the term “agitated”. The nurse said that she did not recall this patient and had a quick look at the chart before our meeting. Asked to explain how the patient was agitated, angry, yelling, etc. as described on the petition and certificate, the nurse said she was punching the wall. She did not remember this specifically but looking at the record, it was possible the patient did not like hearing that she was going to be admitted. She said the crisis worker had been in with her, and that in the record it says she started getting angry at that time. Regarding security’s intervention, she said they had to be called to help calm her, “I assume she didn’t like that, she punched the wall after they came in. Restraints were needed for her safety.” The nurse said that all psychotropic medication is used

as the last resort in deescalating patients. They use verbal de-escalation techniques and attempt less restrictive means like redirections before medications. They try to have security help and keep everyone safe. Asked why the patient was given medication after she was restrained, the nurse said that she was probably still agitated, restless and verbally abusive. She did not recall completing a restriction notice.

Emergency Room Physician

The doctor told the HRA that he did not recall this patient and had not reviewed the chart before our meeting. He said that security is sometimes called to show a force and that he always finds them helpful rather than intimidating. He added that, “Security is not used to detain patients, but as a support to medical personnel”, and “mental health patients are not approached and/or handled the same, each is individualized”. Asked why the patient was given medication after being restrained, he said likely to assist in calming patient down, since the patient was still flailing around in the restraints. He said they want to prevent harm, even while in restraints and that the use of medication with restraints is not a protocol but an individual determination. The doctor was also not fully aware that patients’ rights need to be completed by a qualified examiner, prior to a certification exam for involuntary admission.

Behavioral Health Administrator

According to behavioral administrator, security staff along with behavioral health staff in the hospital are trained yearly in target alternative techniques in dealing with patients. The behavioral health administrator stated that all certificates are reviewed by behavioral health unit personnel (to ensure the documents were completed correctly), but the initial certificate is completed in the emergency department or wherever the patient is receiving initial services.

Hospital Legal Counsel

According to legal counsel and the behavioral health administrator, additional trainings on the Mental Health Code and restriction rights for emergency department personnel are being developed with outside counsel, will be reviewed and implemented.

Policy Review

The Javon Bea Hospital-Rockton Patients’ Rights and Responsibilities Policy dated March 2017, states that “our goal is to give you both high-quality and the safest possible care during your visit”.

The Physical Restraint use for non-violent/self-destructive behavior and non-violent/non-self-destructive behavior policy states the purpose is to “ensure the physical safety of the non-violent or non-self-destructive patient and the management of violent or self-destructive behavior that jeopardizes the immediate and psychical safety of the patient, a staff member, or others”. Per the emergency room nurse all psychotropic medication is used as a last resort, but the policy states “a medication is used as a restraint when it is given to control behavior or restrict the

patient's freedom of movement and is not standard treatment for the patient's medical or psychiatric condition".

Mandates

The Mental Health Code requires informed consent whenever psychotropic medications are given (405 ILCS 5/2-102a-5) unless it becomes necessary to prevent serious and imminent physical harm and no less restrictive alternative is available (405 ILCS 5/2-107). Restraints may be used to prevent physical harm (405 ILCS 5/2-108) and restriction notices must be completed whenever the right to refuse treatment and be free from restraint is restricted (405 ILCS 5/2-201).

Conclusion

Compliant: injected with psychotropic medication without proper consent or need.

There is sufficient evidence to show that restraints were necessary, but the injection of psychotropic medication was not necessary. The physician and nurse did not intend to seek the patient's consent for the medication, rather, they restricted her right to refuse them given the applied restraints and subsequent intramuscular injection. In addition, there was no documentation to support the need for the medications and no restriction notice was completed for either the restraints or the medications. The findings of the HRA are quite convincing, and thus the conclusion can be made, that the complaint is **substantiated**.

Recommendations

1. Develop emergency department policy and staff training specifically for handling/encountering mental health clients.
2. Ensure that all emergency department personnel follow Section 5/2-107, subsection b, regarding documenting the need for psychotropic medications appropriately in the patient's chart/medical record.
3. Complete restriction notices timely and in compliance with Section 5/2-201.

Suggestions

The HRA is concerned about the discrepancies on the petition and certificate from the emergency department. It seems that both forms cited the need for restraining and injecting the patient, although these actions occurred at least an hour or more after the completion of the forms. They were typed as opposed to handwritten, so either the information was added later, or they were not done at the time listed. At any rate, the contents as filed are not factual and Javon Bea Hospital-Rockton must review how petitions and certificates are being completed and processed to assure timely completion and accuracy.

Javon Bea Hospital should be sure to educate all physicians and other emergency department staff that only qualified examiners may conduct exams for involuntary admission

and explain rights before the exam begins. The Mental Health Code (405 ILCS 5/2-122) defines a “qualified examiner” as follows “ a clinical social worker as defined in this act, a registered nurse with a master’s degree in psychiatric nursing who has 3 years of clinical training and experience in the evaluation and treatment of mental illness, 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.”