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HUMAN RIGHTS AUTHORITY – CHICAGO REGION

REPORT 19-030-9005
Loretto Hospital

INTRODUCTION

The Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission opened an investigation due to complaints of rights violations in the treatment of a patient in the Emergency Room Department of Loretto Hospital.

The hospital was built in 1923 and has been servicing Chicago's Austin neighborhood since its inception. The facility provides acute care to over 33,000 patients and services roughly 1,500 patients with mental illness diagnosis in the emergency department annually. The hospital also has an inpatient psychiatric unit that services roughly 600 patients annually.

Substantiated findings would violate protections under the Mental Health Code (405 ILCS 5).

COMPLAINT SUMMARY

It was reported that a patient was voluntarily admitted to the emergency department for psychiatric evaluation. Per the report, the patient was admitted due to being agitated after being robbed. After admission it was stated that the patient was restrained and given forced medication without reason. It is also alleged that the patient was not provided written notice of a restriction of rights form.

FINDINGS

Record Review

According to the record the patient arrived at Loretto's emergency department at 12:39 P.M. The patient arrived via transport by the Chicago Police Department (CPD) and the Chicago Fire Department. Per the Chicago Fire Department's notes, "… [patient] was speaking about people and things that were not there, [patient] is agitated and combative, CPD had handcuffed

[patient] and escorted him to ambulance." The notes also illustrate that the Fire Department was unable to secure the patient's vitals due to the patient being severely agitated and in handcuffs. The Fire Department notes also detail that they did not depart the hospital until 1:02 P.M.

The medical record details that once at the hospital, the patient was subjected to an immediate restriction of rights at 12:45 P.M. The notice regarding restricted rights of individuals indicates that the patient was placed in a physical hold, placed in restraint and administered emergency medication "to prevent harm to self and others and to collect blood and urine." The electronic case note accompanying the notice states "[patient] restriction of rights started at [12:45 P.M.], after [patient] became more aggressive toward staff." The note does not detail the patient's behavior or if the patient had capacity to consent to treatment for the blood draw or urine sample.

The record then indicates that a copy of the notice regarding restricted rights of individuals was given to the patient in English. The included medication administration record details that the patient was administered psychotropic medications at 1:15 and 2:30 P.M. The accompanying note for the second dosage states the following:

> Patient very psychotic, rambling on about events with no connection. Patient appears very dry in his mucus membranes are very dry. Patient offered water and fluids, which he refused, patient stated "I need you to drink out of my drink then I will drink after you!" Nurse tried to collect a urine specimen via foley with poor results, patient very dry no urine output. Assessing the patient for kidney output and collection of a urine specimen … patient pulling and jumping around and remain[s] in full restraints.

Therefore, during the second dosage the patient was still in restraints and seemingly uncooperative with the treatment being administered.

The record contains a notice regarding restricted rights of individuals. Per code requirements (405 ILCS 5/2-108) there is an accompanying "Restraint/Seclusion Flowsheet" which details that the patient was placed in restraints at 12:45 P.M. The initial entry indicates that the "[patient] is very hostile and combative toward staff." The patient's initial behavior listed is not detailed but the patient is checked every fifteen minutes. At every quarterly check the "Restraint/Seclusion Flowsheet" has notes that are largely the same until 2:21 P.M., when the patient was speaking with CPD. The "Restraint/Seclusion Flowsheet" details that the restraints were removed when the patient was sleeping at 3:30 P.M.

Lastly, the record illustrates that all admission paperwork is unsigned by the patient. The hospital's health care consent form that is given upon admission lists that the patient is in restraints on the line for patient signature or legal guardian signature. On Loretto's acknowledgement of receipt of Patient's Rights, it is indicated that the patient is in restraints. On the notice of privacy practices, it is indicated that the patient is in restraints. The record is also missing an application for voluntary admission and a statement of capacity.

Furthermore, the record details that the patient was discharged to family at 7:53 P.M. The discharge instructions for the patient includes following up with outpatient substance abuse treatment and maintaining self-care. However, the discharge packet is absent of any referrals to outpatient mental health treatment. The discharge packet does include a "Restraint Patient/Family Debriefing" form that indicates the patient did not request that anyone be debriefed about the treatment received. Yet, the debriefing form indicates that the patient was under sedation and unable to answer any questions.

Site Visit and Interviews

The HRA conducted an initial site visit at Loretto Hospital on February 13, 2019. During that meeting the HRA interviewed the emergency room director and the chief experience officer of the hospital. At the time of the initial meeting no other staff members were made available. The HRA members questioned the staff present on the typical admission process.

The emergency room director informed the HRA that the facility reviews the patient's behavior while in the emergency department to determine a plan of care. She explained that not every admission is similar, but the patient in question was brought in by the Chicago Police Department (CPD). She stated that the patient was "verbally and physically aggressive and brought in along with the Fire Department."

The director continued that if a patient is brought in by CPD or Chicago Fire Department (EMS), a blood and urine sample is ordered by the physician to rule out "PCP or influence of drugs." The HRA then questioned whether patient's give consent to treat before a blood draw or urine sample is obtained. The director informed the HRA that some patients do not have the capacity to consent for treatment, in that event, a treatment petition would be filed.

The HRA informed the emergency room director that the record states that the patient was transported to the facility at 1:14 PM but his restriction of rights notice starts at 12:45 PM. The emergency room director responded that the patient, "… was already in the emergency room for treatment, but it takes time to put information in the computer system … [.]" She added that the patient, after looking at the record, was verbally and physically aggressive.

The HRA then questioned the fact that the patient's restriction of rights notice states "to prevent harm to self and other and to collect blood and urine." The emergency director informed the HRA that she did not personally treat the patient. However, she agreed that a restriction of rights notice is not a consent to treat or provide medical services.

During the interview the HRA asked the staff present whether a file is maintained for restraints. The emergency room director informed the HRA that the facility maintains a file for all restraints and keeps them in a log in accordance with the Code. She further explained that the hospital also logs the information in the electronic medical record.

The HRA conducted a subsequent site visit on January 15, 2020. During this visit the HRA met with the hospital's general counsel and the emergency director. The goal of this interview was to provide more clarity about unasked questions that the HRA became aware of after a record review. The HRA opened the interview asking if the patient required restraints. The staff present responded that the patient was placed in restraints due to behavior and not to collect blood and urine. They furthered that not every patient receives restraints.

The HRA asked about alternatives to the utilization of restraints, such as giving a patient a private room to deescalate. The staff responded that the hospital personnel typically allow patients to return to "competence" in the least restrictive manner. The staff indicated that there is no set time frame for a patient to regain "competence," and informed the HRA that patients can go in and out of "competence" due to drugs. Finally, they informed the HRA that the usage of restraints is a medical judgement call, by the attending physician, based on the safety of all patients and staff.

The HRA asked about the hospital's process for ordering restraints. The emergency room director stated that "in emergency situations nurses make the call for the [restraint] order, the physician then writes the order, the patient is monitored every 15 minutes, and a physician does an assessment within the first hour to determine continued need." The hospital's general counsel concurred with the statement.

Finally, the HRA questioned the need for the second dosage of emergency medication. Per the record the patient was already in restraints and could not harm anyone. The HRA indicated that the record is lacking adequate notes for this issuance. The emergency room director looked at the record and stated that the patient was still combative.

Policy Review

The HRA reviewed Loretto's policy number 1102 "Patient Rights and Responsibilities." The policy has been in effect since September of 1992 and last revised in January of 2020. The policy details essential protected rights that each patient has upon arrival into the hospital. The policy states that each patient has the "… right to participate in the development and implementation of his or her plan of care …" which is in line with Code section 5/2-102. Loretto's policy further asserts that each patient has the right to participate in discharge planning as well.

Policy number 1102 also details that each patient maintains the right "to be free from restraints of any form that are not medically necessary or are used as a means of coercion, discipline, convenience, or retaliation by staff." Thus, the policy is in line with the Code as it states, "[in] no event shall restraint be utilized to punish or discipline a recipient, nor is restraint to be used as a convenience for the staff." (405 ILCS 5/2-108)

The HRA then reviewed Loretto's PCS – 1325.18 "Use of Restraints and Seclusion" policy. The policy was last revised in August of 2018. The policy emphatically states that "all alternative and least restrictive devices should be exhausted prior to placing the patient in restraints and

seclusion …" in the opening paragraph. The policy distinguishes between two types of reasons for restraints; one being medical due to recent surgery and the other being behavioral due to eminent danger to self or others.

The procedures for behavioral usage of a restraint include an assessment with the patient in person prior to the initiation of the restraint. During the initial assessment the staff is "to identify ways to help the patient regain control before a restraint or seclusion is applied, except in an emergency." The policy continues that in an emergency the patient may be placed in restraint and "then an order obtained within one (1) hour of the application …" The policy furthers that restraints "may only be used when less restrictive interventions have been determined to be ineffective to protect the patient … or others from harm and there is imminent risk of a patient physically harming himself/herself, staff or others." It adds that a "physician … must see the patient face-to-face within one (1) hour after the initiation of restraint or seclusion to evaluate …" which is in line with the Code requirement to evaluate a patient within two hours after the initial employment of the emergency restraint. (405 ILCS 5/2-108 (b))

Finally, the policy states that orders for restraint "must be discontinued at the earliest possible time, even if the order has not yet expired." This is in line with the Code as it ensures that services are provided in the least restrictive environment and that restraints are "used only as a therapeutic measure to prevent a recipient from causing physical harm to himself or physical abuse to others." (405 ILCS 5/2-108)

The HRA also reviewed Loretto's policy number PCS-1412 'Consent to Administer Psychotropic Medication.' The policy was last revised in November of 2018 and there has been no further review of the policy from Loretto. The policy informs all hospital personnel that medications, even psychotropics, cannot be given "without a completed and signed consent form and order from the physician." The policy also informs staff that every recipient has the right to refuse medication.

The policy further notifies staff that they must provide all recipients with written drug information. The policy then lists several procedures that staff must take to ensure that drug information is provided to the recipients timely and in language that can understand. Finally, the policy states that the only time "[medication] may be given without consent [is] if a threat of physical harm is documented …" Thus, this policy is in line with the mandates set in Code section 5/2-107.

Lastly, the HRA reviewed policy number ED-1407 "Care of the Behavioral Health Patient." The policy applies to all emergency department staff and crisis workers. The policy was last revised in May of 2014 and reviewed in December of 2016. This policy details that after a physician's medical evaluation a crisis worker will begin an assessment of psychiatric emergency.

The policy then sets forth steps to take if the patient is recommended for hospitalization or if the patient is recommended for outpatient follow-up. The policy indicates that it is the crisis workers' responsibility to "inform the ED Physician and nurse of the disposition …" and

document it "… in the patient's medical record." The policy finally illustrates that if a patient refuses treatment and is not in a certifiable condition, the patient should be discharged, and disposition should be noted in the record.

CONCLUSION

Patient was restrained and given forced medication without reason.

The Code details under section 5/2-107 that a "… recipient and the recipient's guardian or substitute decision maker shall be given the opportunity to refuse generally accepted mental health or developmental disability services, including but not limited to medication or electroconvulsive therapy. 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." Per the record the patient entered the hospital with police escort and within mere minutes was placed in restraints and administered forced medication. The notes detailing the interaction are scant and lacking detail. The notes state that patient became more aggressive toward staff, but because of the lack of detail the HRA is unable to ascertain if this behavior was serious and eminent.

Furthermore, the restriction of rights form indicates that the restriction was also ordered for the collection of blood and urine. This is a violation of the Mental Health code because in "no event shall restraint be utilized to punish or discipline a recipient, nor is restraint to be used as a convenience for the staff" (405 ILCS 5/2-108). Therefore, a rights violation is substantiated.

Patient was not provided written notice of a restriction of rights form.

The Code stipulates that when "… any rights of a recipient of services that are specified in this Chapter are restricted, the professional responsible for overseeing the implementation of the recipient's services plan shall be responsible for promptly giving notice of the restriction or use of restraint or seclusion and the reason." (405 ILCS 5/2-201) Per the record, this patient was given a copy of the restriction of rights notice in English. As such a rights violation is unsubstantiated.

RECOMMENDATIONS

The HRA recommends the following based on the substantiated findings:

1. Loretto Hospital must retrain all staff on Code requirements for emergency medication administration and restraint usage.

2. Loretto Hospital must retrain all staff to document all reasons for administration of emergency medications in detail in the case record. The HRA would recommend that all staff document all attempts to redirect patients.

3. Discontinue the practice of using restraints to provide unwanted medical treatment.

SUGGESTIONS

1. The HRA would suggest Loretto incorporate training on de-escalation of tense situations or dealing with difficult patients.

2. The HRA would suggest that Loretto secure voluntary applications from patients that request voluntary admission. If patients do not meet the need for inpatient care, then it must be documented in the record.