FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY-SPRINGFIELD REGION

REPORT 19-050-9001
Andrew McFarland Mental Health Center

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving complaints of potential rights violations at Andrew McFarland Mental Health Center, a Department of Human Services (DHS) hospital in Springfield that cares for adult civil and forensic patients. The allegation is that a patient was restrained and medicated in violation of the Code.

Substantiated findings would violate right to refuse protections under the Mental Health and Developmental Disabilities Code (405 ILCS 5) and DHS policy.

An HRA team interviewed the psychiatrist and nurses involved in this patient's care. Relevant policies were reviewed as was the medical record with authorization.

Complaints say the patient was restrained and injected shortly after his arrival for improper reasons. He allegedly asked for explanations but was given none, and except for having a few verbal arguments with staff, he displayed no physically aggressive behaviors.

FINDINGS

The record revealed data on a thirty-seven-year old male who was found unfit to stand trial for theft and trespassing charges. Admitted on June 8, he was described as loud, delusional, paranoid and repetitive and he refused to engage through the intake process. He initially rejected psychotropic medications and had three emergency episodes early on but there was no documented use of restraints within the two-month record sample, only momentary physical holds to allow some of the injections. Two of the emergency episodes are in question.

The patient was noted to be increasingly delusional, loud and agitated in the days leading to the first emergency on June 12. He seemed to create a tense scene around him with angry

outbursts toward the staff, calling them profane names as they tried to help him relax before emergency medications were ordered. According to nursing entries at 4 a.m., the patient screamed into the air and then at the staff, calling them "bitches". He was soon telling them to shut up, threatening to slap them. This went on all morning and by 11 a.m. he said he wanted to kick their asses or kill them as he paced around the nurses' desk. A code blue was called and "EFM's x24 hrs." was ordered, meaning emergency forced meds for twenty-four hours. The written order stated the same with directives to be given right then, another at 10 p.m. and again at 8 a.m. the following morning. The patient was lying on his bed when approached at 9:45 p.m. for the second emergency dose of the order. He remained calm throughout, required no help from security and was thanked for his cooperation per the note. He proceeded to take down the staffs' names and fill out a complaint form. The record showed the third emergency dose given at 8 a.m. the following morning and the only entry from that day was at 6:30 a.m., by a nurse who said the patient remained with an altered thought process, agitation and threats and had slept through the night because of the medicine. A rights restriction notice was completed for each dose. The first stated that medications were given because of the patient's manic pacing and threats to kill them, the second and third simply referenced the 24-hour order and no needs to prevent serious and imminent physical harm. The patient indicated no intervention preferences nor anyone to be notified of the restrictions.

A second 24-hour emergency order was carried out on June 25. The chart stated that all morning the patient paced around the desk and made vulgar comments, and around 11 a.m. he took a posturing stance, called the staff foul names and said he would give them head wounds and rape them. A "24-hour EFM" order was entered, and he was to be given a dose right then, at 10 p.m. and at 8 a.m. the following morning. An entry corresponding to the 10 p.m. dose stated again that the patient was on his bed, tolerated the injection well and did not require a physical hold, and for the third dose at 8 the following morning, that he took it without incident. A restriction notice was completed for each administration. The first stated that medications were given because of the patient's posturing, threats and challenges for staff to fight him. The second simply stated "Administration of scheduled EFMs", and the third "Imminent risk…threatening aggression"; no needs to prevent serious and imminent physical harm were included on the subsequent two. There were no indicated intervention preferences, nor anyone designated to be notified according to the forms.

A petition for treatment was eventually filed but the patient consented and scheduled medications were provided through the remainder of his time at McFarland.

Asked for her recollection of the patient and these incidents, the psychiatrist described how violent his threats and actions were. She and the nurses verified the need to force medicate with the first doses in both situations and explained that a full 24 hours of treatment was necessary given his constant aggressions. The HRA pointed out that the second and third doses in each were given while the patient relaxed on his bed, and they were puzzled when asked where the circumstances for need were documented and what less restrictive alternatives were attempted before the mediations were given. They said that DHS has policy to allow 24-hour orders, which is only used for extraordinary measures such as in this case.

CONCLUSION

McFarland's procedural guide for Emergency and Involuntary Treatment with Psychotropic Medication (#MD311) states that forced medication may be used when a patient is determined to need immediate medication to prevent serious and imminent physical harm. Staff will document having explored alternative options to contain the emergency. Emergency medication may be prescribed for a 24-hour period, and the circumstances demonstrating the need will be documented in the record. Similar DHS policy (#02.06.02.020) calls for documented need and attempted alternatives as well and adds that if the order is for more than one administration within a 24-hour period, the prescriber shall document the rationale for divided doses.

The Mental Health Code states that a patient must be given the opportunity to refuse treatment, and if he refuses, treatment may only be given pursuant to an emergency or court order. It provides just one standard to force medications in an emergency, which is to prevent serious and imminent physical harm and no less restrictive alternative is available. (405 ILCS 5/2-107 a). "Psychotropic medication…may be administered under this Section for up to 24 hours only if the circumstances leading up to the need for emergency treatment are set forth in writing…." (405 ILCS 5/2-107 b). Whenever the right to refuse treatment is restricted, a restriction notice detailing the reason must be given to the patient and to anyone he so desires. (405 ILCS 5/2-201).

By all accounts, this patient was quite potentially harmful indeed and we respect the staffs' concern for everyone's safety. There were a few instances where he initially needed medication, but his right to refuse after that was violated. For the second and third doses in each instance here, this patient was not given an opportunity to refuse, he was relaxing or calm when approached and he surrendered to them without the need to prevent serious and imminent physical harm, there were no less restrictive attempts to contain the "emergencies" and the accompanying restriction notices referenced the initial event or the 24-hour order as reasons to force medicate him. In addition, the prescribing psychiatrist failed to document her rationale for writing two 24-hour orders with divided doses. Violations of the Code and DHS policy are substantiated.

The DHS/Division of Mental Health medical director responded during the course of our review and provided a copy of his memo to all Department facility medical and nursing staff reeducating them on the proper steps for administering emergency medications. It correctly reinforced that each time the patient is approached the nurse must determine need and document it in the record, which may not reference the initial event. Subsequent doses within a 24-hour order may not be given if the patient does not meet criteria of need. McFarland verified that the medical director's memo was discussed with medical staff but we have no certainty that it was shared with all nursing staff.

RECOMMENDATION

Provide verification that the medical director's memo reached all nursing staff as listed on the memo.

SUGGESTIONS

DHS should review the practice of writing 24-hour emergency orders since they direct nurses to administer all the medications and, as in this case, sets them up to skip a patient's opportunity to refuse unless necessary to prevent serious and imminent physical harm and no less restrictive alternative is available. One-time orders based on redetermined need as outlined in the Code and the medical director's memo is better practice.

The term, Authorized Involuntary Treatment is used throughout McFarland/DHS policy and should be revised to Psychotropic Medication and Electroconvulsive Therapy since the former was repealed years ago.

RESPONSE

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

JB Pritzker, *Governor*

Illinois Department of Human Services

Grace B. Hou, *Secretary Designate*

McFarland Mental Health Center
901 Southwind Drive • Springfield, IL 62703

April 2, 2019

Tara Dunning, Human Rights Authority Chair
Illinois Guardianship and Advocacy Commission
#521 Stratton Building
401 S. Spring Street
Springfield, Illinois 62706

Re: Case #19-050-9001

Dear Ms. Dunning,

This letter is in response the report of findings for case #19-050-9001 dated March 21, 2019 which included a substantiated rights violation regarding a patient's right to refuse medications.

Our current policy outlines the ability for physicians to write Emergency Forced Medication orders spreading several administrations throughout the 24-hour period. The ordering of 24-hour Emergency Forced Medication is infrequently utilized when significant risk of danger to patient or others is determined.

Your recommendation to ensure all physicians and nursing staff have received re-education regarding the proper steps for administering emergency forced medications has been reviewed and completed. An email was sent to McFarland nurses and physicians on March 28, 2019 with the memo from Dr. Brad Hughes, DHS Statewide Medical Director attached. The memo outlines the requirements of the Mental Health Code regarding the requirement of the nurse to redetermine the continuing need for the medication and document. If the patient no longer meets criteria for the administration, it is not to be given and the physician is to be notified (see attached).

Your suggestion to review the current McFarland Policy and assess the use of 24-hour medication orders is currently being completed as well.

Thank you for the opportunity to address systems issues that allow us to improve performance and ensure patients' rights are maintained.

Sincerely,

Dana Wilkerson, LCSW
Interim Hospital Administrator