



FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case # 19-090-9011
Advocate BroMenn

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving a complaint of possible rights violations at Advocate BroMenn Hospital. Complaints alleged the following:

1. Improper forced medication procedure.
2. Inadequate provision of prescribed medications while at hospital.
3. Communication Violation

If found substantiated, the allegations will violate the Mental Health and Developmental Disabilities Code (405 ILCS 5/1). The facility primarily covers McLean County. The hospital has an average of 29,000 visits to the emergency department (ED) per year. The hospital has a behavioral health unit with an addiction unit. The average length of treatment for an Emergency Department patient in need of mental health treatment is, for a patient is 7 and a half hours. The emergency department has 65 employees without including physicians. The HRA had a signed consent and was able to discuss patient specific details.

COMPLAINT STATEMENT

A patient was treated at Advocate BroMenn Hospital ED on November 29th and 30th and the facility failed to provide the patient with regular, prescribed medications for allergies, post-concussion syndrome, daytime drowsiness and ADHD. This patient was also not allowed to make a phone call. The patient was also told that she had to take the ordered psychotropic medications, or they would be given to her as a shot, so the patient took them orally. The allegation also states that a patient felt that the psychotropic medications were not necessary, and the patient was actually relaxing at the time the patient was told to take them.

Staff Interviews (6.19.19)

The HRA facilitated a site visit at Advocate BroMenn hospital in Normal, Illinois. The meeting was attended by hospital administrative and management staff. The visit started with a discussion of admittance procedure. Upon admittance, each patient receives a medical and mental health screening. Any patients showing signs of depression are triaged to the mental health area. When the provider examines the patient, bloodwork is ordered and the patient is asked to change into paper scrubs. The provider will then determine the medical stability of the patient and will rule out medical reasons before transitioning to mental health. The patient will then see a counselor or another qualified mental health professional. There is a crisis worker on call from 10am-6:30pm, Monday through Friday. For afterhours admissions or when the ED is busy, the facility partners with a local community mental health provider who screens the patient. The hospital also meets monthly with the leadership team of the community health provider. Once a patient is medically cleared they are transferred to the mental health unit. There are 19 beds for mental health patients. The patients have access to telepsychiatry if needed and care is driven by the ED physician. A crisis worker will evaluate them. A safety plan is screened at admission and at discharge that seeks to create the least restrictive environment for the patient's care. Regarding medication, the attending physician determines what medications to use. If a patient requests home medications, the physician would provide if appropriate. Generally, only acute medications are given in the ED and no maintenance medication will be delivered. Medications are given if a patient needs it and are often times delivered orally instead of intramuscularly. Medications are not forced unless patient is determined to be a threat to themselves or others. Examples include head banging, physical aggression, punching walls and threatening self-harm. Staff will present the needed medication to the patient and give the patient a choice. If the patient refuses, a rights restriction is discussed. The ED doctor will order it and an intermittent physical hold will take place and the medication will be given. This patient does not have any documentation in the chart indicated she was given forced medications.

The patient arrived at the ED on November 30. The patient arrived via airplane from California and EMS met her at the airport and transported her to the hospital. There had been prior communication with the patient's guardian and an order for Care and Custody was in effect. Patient had an involuntary admission petition and certification completed. The patient was given antipsychotic medications orally but was not forced and took the medication voluntarily. The patient was experiencing psychosis and was not eating or sleeping and had not cooperated with airport staff. The patient was then escorted by police to the ambulance. There was a court order for the patient to remain in the county to take medications. The patient's guardian provided the hospital with the patient's mental health symptoms.

Regarding patient communication procedure and access to a phone in the ED, it depends on presentation of patient. If patient is actively suicidal then a phone with a cord would not be given. If a patient frequently calls 911 then the phone would be taken away. A contraband policy for the behavioral health unit is applied for safety. Clothes, purses and cell phones are considered contraband. Patients can request phone calls and a nurse will permit them use of a phone. Patients have privacy for phone calls unless suicidal

thoughts have been observed. The hospital would issue a rights restriction to remove phone and would discuss it with patients. In this case, the patient's cell phone was taken away.

FINDINGS (Including record review, mandates, and conclusion)

Complaint #1 – Improper forced medication procedure.

The HRA was provided records of the patient's ED visit. The patient arrived at the ED on November 30, 2018 at 12:50 AM and was transferred to a behavioral health facility on December 1, 2018 at 4:23 AM. Medication Administration lists a couple psychotropic medications as having been administered. On 11/30/2018 at 5:15 PM, an OLANzapine tablet and a LORazepam tablet were ordered but were refused by the patient at 5:39 PM and were not administered. Later that same day at 8:20 PM, an OLANzapine tablet and a LORazepam tablet were ordered and were administered at 8:40 PM. The HRA found no record of a physician evaluating the patient's decision making ability or providing any written advice regarding the medication. The records also contained a Health Care consent form that was signed by the patient on 11/30/2018 at 12:53 AM that states "I, for myself (or the patient named below) and if applicable, any infant I deliver, hereby consent to such diagnostic procedures and medical treatment as necessary and appropriate for my condition or illness... The diagnostic procedures and medical treatment to be provided shall be determined by my physician(s) or other appropriate practitioners, as necessary or advisable at the time treatment is performed, and shall be provided at the hospital, by staff physicians on the hospital medical staff, nurses and other health care providers." The Behavioral Documentation Record lists the patient as "calm, cooperative" for the duration of the visit. There is no Restriction of Rights form in the records.

The HRA also reviewed hospital policy. The Patient Rights and Responsibilities form states that the patient has a right "To receive all the information you need to make informed choices about treatment, to be involved in planning your care, and to request, accept or refuse treatment."

The HRA also reviewed the Medication Management policy. The states that its purpose is "To describe the guidelines for safe medication administration, labeling and storage." The policy goes on to state that "The patient is educated regarding new medications." The policy then states, in regards to medication administration, that "Prior to administration, staff performs an independent double-check: A second clinician (RN, pharmacist, provider) performs an independent, separate verification of patient identification, provider order, medication record, syringe medication concentration, pump settings prior to initiation of therapy and documents verification in the medical record of the following: Alteplase (tPA bolus and infusion), argatroban, chemotherapy, epidural, heparin infusion, insulin, NMBA infusion, opioid infusion, PCA. The professional preparing the medication is responsible for administering it. If a Registered Nurse (RN) adds a medication to an IV, that RN labels and hangs the medication. (See linked policy

on "Aseptic Admixture of Medication on Nursing Units".) The patient's response is monitored according to the clinical needs of patient. This includes: a. Patient's perception of efficacy or side effects b. Utilizing medical record, lab results, clinical response and medication profile."

The facility does not appear to have a policy that addresses psychotropic medications or emergency medications.

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102a-5) states "If the services include the administration of electroconvulsive therapy or psychotropic medication, the physician or the physician's designee shall advise the recipient, in writing, of the side effects, risks, and benefits of the treatment, as well as alternatives to the proposed treatment, to the extent such advice is consistent with the recipient's ability to understand the information communicated. The physician shall determine and state in writing whether the recipient has the capacity to make a reasoned decision about the treatment. The physician or the physician's designee shall provide to the recipient's substitute decision maker, if any, the same written information that is required to be presented to the recipient in writing. If the recipient lacks the capacity to make a reasoned decision about the treatment, the treatment may be administered only (i) pursuant to the provisions of Section 2-107 or 2-107.1 or (ii) pursuant to a power of attorney for health care under the Powers of Attorney for Health Care Law or a declaration for mental health treatment under the Mental Health Treatment Preference Declaration Act."

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-107a) states "An adult recipient of services or the recipient's guardian, if the recipient is under guardianship, and the recipient's substitute decision maker, if any, must be informed of the recipient's right to refuse medication or electroconvulsive therapy. The 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. The facility director shall inform a recipient, guardian, or substitute decision maker, if any, who refuses such services of alternate services available and the risks of such alternate services, as well as the possible consequences to the recipient of refusal of such services."

CONCLUSION:

The HRA saw no evidence that the facility forced any medication on the patient. In fact, the HRA saw documented instances where the patient was not given medication after they refused. The HRA has no findings based off the lack of evidence and the compliant is **unsubstantiated**. According to the Mental Health and Developmental Disabilities Code, if psychotropic medications are going to be administered, the physician must provide the patient, in writing, of the side effects, risks, and benefits of the

treatment, as well as alternatives to the proposed treatment and must also evaluate the patient's ability to consent to the treatment in writing (405 ILCS 5/2-102a-5). Psychotropic medications were administered on 11/30/2018 at 8:40 PM but the HRA found no records of a physician discussing side effects, risks, benefits and alternatives being given or an evaluation of the patient's ability to consent to treatment. Because of this, the HRA **suggests** the facility:

- Create a psychotropic medication administration policy in compliance with the Mental Health and Developmental Disabilities Code (405 ILCS 5/1-100)
- Train staff in psychotropic medication administration in compliance with the Mental Health and Developmental Disabilities Code (405 ILCS 5/1-100)

Complaint #2- Inadequate provision of prescribed medications while at the hospital.

The HRA reviewed the records for the hospital visit on 11/30/2018. The records contained only one Medication Administration Record that notes the following information. The prescriptions at time of visit as Risperidone 1.5 Mg PO HS (taken once in the morning and treats mental disorders), Ocean Nasal Spray 1 Spray NA TID PRN (taken as needed and treats allergies), Saliva Substitute 1 Spray PO Q4H PRN (as needed for dry mouth), Metamucil 1 Pack PO DAILY PRN (as needed for constipation), Pseudoephedrine 30 Mg PO BID PRN (as needed for sinus drainage), Furosemide 10 Mg PO DAILY (taken once in the morning and reduces extra fluid in the body that is caused by heart failure, liver disease, or kidney disease), Cyanocobalamin 250 Mcg PO DAILY (taken once in the morning and treats vitamin B12 deficiency), Synthroid 100 Mcg PO DAILY (taken once in the morning and treats thyroid conditions), Fluticasone Nasal Spray (taken once in morning and once in evening and treats allergies), Cymbalta 30 Mg PO QAM (taken once in the morning and treats depression and anxiety), Donepezil 10 Mg PO DAILY (taken once in the morning and treats Alzheimer's Disease), Zyrtec Allergy 10 Mg PO PRN (as needed for sinus drainage). The patient's allergies as dust and aspartame. The Medication Administration Record notes "Treatment goal is mainly to restart pt on her medications and stabilize her." The Medication Administration Record does not note any of the medications on the prescription list as having been administered.

The HRA also reviewed hospital policy. The Patient Rights and Responsibilities form states that patients have a right "To receive health care that addresses your physical, emotional, and spiritual needs."

The Medication Reconciliation Policy defines medical reconciliation as "A systematic and interdisciplinary process by which all medications are deliberately continued, discontinued, or modified by a clinician at transitions of care." The policy also defines abbreviated medication history as "List of medications patient is actively taking, including names of prescriptions, over-the-counter medications, and herbals/vitamins/supplements. Does not need to include does, route, frequency, time/date last does taken or compliance information." The Emergency Department Patients Procedure section states "Emergency Department patients will have an abbreviated

medication history that is pertinent to the encounter obtained and documented in the medical record.”

The Medication Management policy states “Medication are entered in/on the Medication Administration Record (MAR) except medications ordered and given in procedure departments or those given during a Cardiac/Respiratory Arrest/Rapid Response.” The policy goes on to state “Patients may not have unsecured medications at the bedside for self-administration.”

The Medical Patient Rights Act (410 ILCS 50/3) states that “The following rights are hereby established: (a) The right of each patient to care consistent with sound nursing and medical practices...”

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102a) states that “A recipient of services shall be provided with adequate and humane care and services in the least restrictive environment, pursuant to an individual services plan.”

CONCLUSION:

The HRA reviewed the records and policy relating to the ED visit. While the records do list the patient’s current prescription list, none of the prescription medications are listed as being administered. There is also no documentation listing reasons as to why the prescriptions could not be administered. Because of this, the HRA finds this complaint **substantiated** and offers the following **recommendations**:

- Assure that when a patient enters a facility with prescribed medications, those medications are administered to the patient. The HRA requests evidence regarding facility implementation of this recommendation.

The HRA also offers the following **suggestions**:

- Amend the Emergency Department Patients section of the Medication Reconciliation Policy to include a policy regarding administration of prescription medications that contains a clause for prescriptions to not be administered if they conflict with the current care plan.
- In event of conflict between a patient’s prescriptions and their care plan, document the avoidance of administration of prescriptions and the reason behind it.

Complaint #3- Communication Violation.

The HRA reviewed the records for the ED visit on 11/30/2018. The records noted that “Meds, sharp objects, dangerous equip” were removed from the room. It goes on to note that the patient’s belongings and clothes were searched. The records do not explicitly state that the patient’s phone was removed. The Behavioral Documentation Record on 11/30/2018 at 2:00 PM states “Crisis is letting patient use phone had to locate

charger (in suitcase).” The following record at 2:15 PM states “Crisis said patient could use her phone had to plug phone in. Phone is plugged in at nurse’s desk and patient is sitting by tech using her phone.” The following record at 2:30 PM states “Crisis said patient could use her phone had to plug phone in. Phone is plugged in a nurse’s desk.” The HRA did not find any indication of the patient requesting her phone. Additionally, there was no other records of phone usage. The patient was assessed periodically to evaluate suicide risk but each assessment indicated low risk and the patient was not placed on suicide watch. There are no communication rights restrictions on file.

The HRA also reviewed hospital policy. The Identification and Removal of Contraband (Procedure) policy defines contraband as “Any item that could be used to cause harm to self or others, including but not limited to: 1. Firearms and ammunition or items intended to resemble such a weapon 2. Knives and other edged weapons, regardless of the length of the blade or items intended to resemble such a weapon 3. Items intended as weapons (brass knuckles, clubs, etc.) or items intended to resemble such a weapon 4. Sharp items that can be used as weapons (nail files, etc.) 5. Incendiary devices including any item that can start or sustain a fire 6. Chemical agents that are flammable or could cause harm if ingested 7. Alcohol 8. Drugs, including illegal, prescription, and over-the-counter medications.” The Screening Process section states “Wand all belongings to ensure hidden contraband is identified and removed. After determination that the clothing contains no contraband, return ONLY the underwear and socks (or non-skid footwear) to the patient.” The Inventory of Patient Belongings and Contraband section states “Separate contraband from personal belongings. Contraband should include any of the patient’s personal effects that could be potentially harmful. Place all contraband, except for firearms, in a contraband bag (a tamper-proof bag is recommended). Place all personal belongings in a separate bag (a tamper-proof bag is recommended).” The Management and Storage of a Patient’s Personal Belongings section states “Following assessment in the Emergency Department, if the patient is found to NOT be at imminent risk of harm to self or others, their personal belongings may be returned to them while they are in the ED.”

The facility did not have a patient communication policy.

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-103) states “Except as provided in this Section, a recipient who resides in a mental health or developmental disabilities facility shall be permitted unimpeded, private, and uncensored communication with persons of his choice by mail, telephone and visitation.”

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-103c) states “Unimpeded, private and uncensored communication by mail, telephone, and visitation may be reasonably restricted by the facility director only in order to protect the recipient or others from harm, harassment or intimidation, provided that notice of such restriction shall be given to all recipients upon admission.”

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-104) states “Every recipient who resides in a mental health or developmental disabilities facility shall

be permitted to receive, possess and use personal property and shall be provided with a reasonable amount of storage space therefor, except in the circumstances and under the conditions provided in this Section. (a) Possession and use of certain classes of property may be restricted by the facility director when necessary to protect the recipient or others from harm, provided that notice of such restriction shall be given to all recipients upon admission.”

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-202) “The Secretary of Human Services and the facility director of each service provider shall adopt in writing such policies and procedures as are necessary to implement this Chapter. Such policies and procedures may amplify or expand, but shall not restrict or limit, the rights guaranteed to recipients by this Chapter.”

CONCLUSION:

The HRA reviewed the records and policy relating to the ED visit. The records did not state whether the patient’s phone was removed but the staff interview indicated that the phone was removed on admission. In the middle of the ED visit, the patient was allowed access to their phone for a half hour. The records did not show that the patient requested access to their phone before or after the half hour of phone usage. Because of this, the HRA finds that the patient was allowed access to their phone. However, The HRA takes issue with hospital policy regarding communication. In the staff interview, it was indicated that it is hospital policy to remove phones on admission. However, phones are not mentioned in the facility’s contraband policy and the facility does not have a policy that deals specifically with that restriction or communication per the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-103, 5/2-103c and 5/2-104). Because of this, the HRA finds this complaint **substantiated** and offers the following **recommendations:**

- Amend the contraband policy to include a provision for phone restrictions in compliance with the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-103c, 5/2-104).
- Create a communication policy in compliance with the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-103).

The HRA also offers the following **suggestions:**

- In the event that a patient’s property is removed upon admission, document what items were removed.

RESPONSE

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

REGIONAL HUMAN RIGHTS AUTHORITY

HRA CASE NO. 19-090-9011

SERVICE PROVIDER: - Advocate BroMerrin

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.

Janet Blitzer
NAME

Rick Managin, Carl Domene Eireta
TITLE

8/26/2020
DATE

August 25, 2020

VIA CERTIFIED MAIL and EMail

Meri Tucker, Chairperson
Illinois Guardianship and Advocacy Commission
Human Rights Authority
401 Main Street, Suite 620
Peoria, IL 61602

Re: Case # 19-090-9011

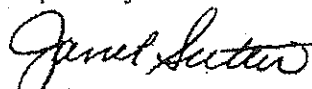
Dear Ms. Meri Tucker,

The purpose of this letter is to provide Carle BroMenn Medical Center's ("Carle BroMenn") [formally known as Advocate BroMenn Medical Center] formal written second response to your letter dated July 20, 2020 and the recommendations enclosed therewith. First, we would like to thank you and the Regional Human Rights Authority for providing Carle BroMenn with an opportunity to review the recommendation and respond accordingly. The recommendation has been thoroughly reviewed by the Carle BroMenn Emergency and Mental Health Departments' leadership teams.

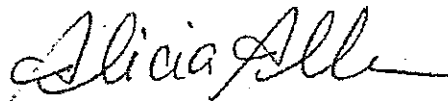
Based upon Carle BroMenn's review of the recommendation to develop a communication policy in compliance with the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-103) it was determined that reorganizing and amending the current Carle BroMenn policy "Mental Health Patient Care - ED Guideline" # 22559 would more clearly reflect the current practice in the emergency department and serve to comply with the above stated code and recommendations. The policy is attached hereto as Exhibit A.

We welcome an opportunity to speak with you and/or Erin Nowlan regarding this response and the attached revised policy. Should you have any questions regarding the content of this letter, please feel free to contact Janet Sutter at (309)268-5330 or Alicia Allen directly at (309)268-5503.

Respectfully,



Janet Sutter MSN-ed, RN
Manager
Risk Management



Alicia Allen, MSN, RN, BC
Director
Emergency Department, Critical Care, and
Cardiovascular Care Unit

cc: Erin Nowlan
Coordinator
Illinois Guardianship and Advocacy Commission
Human Rights Authority
401 Main Street, Suite 620
Peoria, IL 61602
Erin.K.Nowlan@Illinois.gov

February 17, 2020

VIA OVERNIGHT MAIL

Meri Tucker
IGAC
Peoria Regional Office
401 Main St., suite 620
Peoria, IL 61602

RE: Case #19-090-9011; Advocate BroMenn Medical Center

Dear Ms. Tucker

This letter is Advocate BroMenn Medical Center's (ABMC) response to the Report of Findings sent to us on December 3, 2019, which is due February 18, 2020. The Plan of Correction is set forth below and in the enclosed Policy entitled Guidelines for the Care of the Mental Health Patient in the ED.

In response to Complaint #2 - Inadequate Provision of Prescribed Medications while at the Hospital:

- ABMC implemented a new process for the administration of home medications to patients in the Emergency Department.
- The new process requires information regarding home medications to be collected for patients with a length of stay in the Emergency Department (ED) greater than 12 hours and reviewed by a physician within 24 hours of patient arrival to the ED. Following review of the home medication list, orders are provided by the physician for the home medications to be administered while the patient is in the ED, in keeping with the patient's plan of care. Physician review of time-critical medications is prioritized.
- Staff were educated regarding the newly established expectations during the week of February 10, 2020.
- A copy of the amended "Guidelines for Care of the Behavioral Health Patient in the ED" is attached as evidence of AMBC's implementation of the HRA recommendations.

In response to Complaint #3 - Communication Violation:

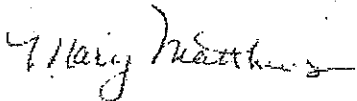
- ABMC's "Guidelines for Care of the Behavioral Health Patient in the ED" has been amended to clarify expectations related to communication, including the following:
 - The removal of and securing of cell phones and other electronic communication devices.
 - Implementation of a Restriction of Rights if the items noted above are removed involuntarily, and if phone privileges or visitation is restricted.
- Policy statement C and procedural statements A.4 and 5 speak to the way in which the rights of individuals receiving mental health and developmental disabilities services in the ED are maintained regarding communication.

AdvocateAuroraHealth

Also enclosed is the form which authorizes IGAC to include our comments in the public record.

I may be reached at mary.matthews@advocatehealth.com or 630-929-8150 if you have any questions.

Sincerely,



Mary Matthews
Associate General Counsel