Illinois Guardianship & Advocacy Commission

FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY-SPRINGFIELD REGION

REPORT 15-050-9008
PASSAVANT AREA HOSPITAL

INTRODUCTION

The Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving complaints of the care provided to an adult mental health patient within Passavant's Emergency Department in Jacksonville. Allegations were that the patient was detained and transferred without cause and authority.

Substantiated findings would violate rights protected under the Mental Health and Developmental Disabilities Code (405 ILCS 5).

An affiliate of the Memorial Health System, Passavant currently has no behavioral health program but its Emergency Department (ED) sees one to three patients with mental illness each day. Psychiatric response teams from a community mental health agency petition patients there when necessary and ED physicians employed by Midwest Emergency Department Specialists certify them. The matter was discussed with staff involved in this patient's care and their attorneys. Relevant policies were reviewed as were sections of the patient's record with proper authorization.

The complaint states in summary that the patient was detained at the hospital and then transferred involuntarily on two occasions. There were reportedly no appropriate reasons or authorizing documents to do so.

Two of four admissions will be reviewed here: May and July 2014, both with involuntary transfers.

FINDINGS

Interviews

Staff explained that their ED has a special room for patients with psychiatric needs which is arranged for safety. A camera observes at all times as does a sitter, typically an aide or nurse,

who attends to them. As the protocol goes, there is initial evaluation by a nurse who puts in lab orders; a supervisor is alerted, then a physician enters who assures medical clearance and then refers to the on-call psychiatric response team. All necessary documents and communications to proceed with an involuntary admission and transfer are generally handled by response team workers whom Passavant relies on to find available beds, fax petitions and certificates to admitting hospitals and ensure everything is in order.

A response team worker in both of these cases completed petitions based on their personal observations and interviews with the patient and family. ED physicians certified in the same manner and an area ambulance was summoned for transport to an available hospital; the response team worker would have assured that appropriate documents traveled with her.

The attending physician during the May visit told us that she approaches patients under certification exam by first talking with them in a calming manner about their circumstances and her concerns for them but does not advise their rights. She met face-to-face with this patient and based her decision to certify on personal observations and statements from her, the staff and her brother who was present. She recalled the patient well and verified the certificate's contents as true, saying the patient was ill indeed and that hospitalization was necessary.

Regarding Mental Health Code training in general, she said ED physicians are taught to fill out the form but not much else. They have some knowledge of laws but get nothing in the way of formal training. The hospital does not go over its psychiatric-related policies with them.

The attending physician during the July visit said that he approaches patients under certification exam in a caring manner and discusses the voluntary alternative with them in hopes they are agreeable and comprehend. He tells them what the exam is for and tries to remember rights advisements, but does not repeat them completely as on the certificate. He recalled this patient too and personally observed her behavior, like walking around naked, trying to flee and making bizarre statements. He met face-to-face with her and felt like she would be back again if not hospitalized and she did not realize how ill she was.

The physician said training was minimal as well, although he knows mental health by-laws and basic concepts pretty well. Physicians lean on the psychiatric response teams who are available at all times. Passavant has a manual for policies in general, but he was unsure if it included those specific to behavioral health.

Record reviews

May 2014

According to a petition in this record a response team worker wrote at 12:45 a.m. on Thursday, the 22nd that the patient displayed paranoid ideations and delusions, said someone was possessed and that she needed to provide protection "by any means". The attached certificate done an hour later included the ED physician's personal observation of similar delusions and a

rapid change of topics. The physician declared by signature of having advised appropriate rights before the exam occurred.

Documentation surrounding the patient's stay supports the petition and certificate information. Nursing records described her dramatic mood changes, rambling and rapid speech, difficulty in focusing and bizarre statements and delusions. She was transported by ambulance to an available bed in another town, along with the documents.

July 2014

According to this record a mental health worker petitioned at 11:30 p.m. on Tuesday, the 29th for involuntary admission because the patient was observed putting a necklace in her genitalia. She reported to have Jesus' blood on her and was unable to sleep or carry on conversation. An attached certificate done fifteen minutes later included another ED physician's personal observations of the same behavior. He added that she had religious delusions and could not care for herself. The physician also declared by signature of having advised appropriate rights before the exam occurred. A second petition was completed by a mental health worker at 11:10 a.m. on the 31st, while the patient was still awaiting transfer from Passavant. Much of the same reasons for involuntary admission were made but it also mentioned how she paced and sang for hours on end. The attached certificate for this one, done eighteen minutes later, included the ED physician's personal observations; he noted how she attempted to flee, refused to keep her clothes on and said that God wanted her to kill herself.

There is supportive charting in this record as well. A July 29 Uniform Screening and Referral Form completed at the hospital noted the patient's pressured speech, that she was talking loudly and in circles and was unable to focus. She continually paced and expressed religious preoccupation. The author signed as having observed these behaviors personally and concluded the form by listing contact with five hospitals, each without available beds. The same author returned on the 31st to rescreen. She observed nothing different and agreed with a physician to continue pursuing hospitalization.

CONCLUSION

Hospital policy on psychiatric evaluation and management states that patients requiring additional treatment will be cared for in a safe environment. Social workers or the psychiatric response team will assist in evaluation and referral. Original documents are to be sent at the time of transfer and the hospital is to keep copies in a complete record. The response team, a primary nurse and a physician collaborate to determine appropriate transportation arrangements. (#7250-011).

A person may be admitted as an inpatient to a mental health facility solely under the Mental Health Code. (405 ILCS 5/3-200).

When a person is asserted to be subject to involuntary admission on an inpatient basis and in such a condition that immediate hospitalization is necessary for the protection of such

person or others from physical harm, any person 18 years of age or older may present a petition…. The petition shall include…: A detailed statement of the reason for the assertion…including the signs and symptoms of a mental illness and a description of any acts, threats, or other behavior or pattern of behavior supporting the assertion and the time and place of their occurrence.

Knowingly making a material false statement in the petition is a Class A misdemeanor. (405 ILCS 5/3-601).

Petitions were completed at Passavant for involuntary admissions in May and July, each with an evaluator's assertion that the patient was appropriate for hospitalization based on personal observations of signs and symptoms of mental illness, including those that were potentially harmful. The evaluator signed each proclaiming that the statements were true to the best of her knowledge and that false statements have legal consequences.

The petition shall be accompanied by a certificate…which states that the respondent is subject to involuntary admission and requires immediate hospitalization. The certificate shall indicate that the physician, qualified examiner, psychiatrist, or clinical psychologist personally examined the respondent not more than 72 hours prior to admission. It shall also contain…clinical observations, other factual information relied upon in reaching a diagnosis, and a statement as to whether the respondent was advised of his rights under Section 3-208. (405 ILCS 5/3-602).

Whenever a petition has been executed…and prior to this examination for the purpose of certification… the person conducting this examination shall inform the person being examined in a simple comprehensible manner of the purpose of the examination; that he does not have to talk to the examiner; and that any statements he makes may be disclosed at a court hearing on the issue of whether he is subject to involuntary admission. …. (405 ILCS 5/3-208).

No person detained for examination under this Article on the basis of a petition alone may be held for more than 24 hours unless within that period a certificate is furnished to or by the mental health facility. If no certificate is furnished, the respondent shall be released forthwith. (405 ILCS 5/3-604).

Every petition, certificate and proof of service required by this Chapter shall be executed under penalty of perjury as though under oath or affirmation…. (405 ILCS 5/3-203).

ED physicians completed timely and thorough certificates to accompany each petition for the May and July admissions. They included their clinical observations and factual information in diagnosing illness and the need for hospitalization. They verified by signature on each that they personally conducted the evaluations and advised the patient of her rights beforehand, although in each case admitting in hindsight they had not recited the advisement. That missed step in the patient's due process is a <u>substantiated</u> rights violation.

In counties with a population under 3,000,000, upon receipt of a petition and certificate prepared pursuant to this Article, the Department shall make arrangements to appropriately

transport the respondent to a mental health facility [including with public or private entities]. (405 ILCS 5/3-605).

In both instances this patient was transported by a Department-contracted ambulance service with completed petitions and certificates in hand.

RECOMMENDATIONS

Conduct training with all MEDS physicians and potential qualified examiners on reciting patient rights before certification exams begin (405 ILCS 5/3-208).

SUGGESTIONS

As Passavant agents, MEDS physicians should familiarize with Passavant policies on psychiatric evaluation, management and safe, secure environments.

Since the hospital's authority to detain a mental health patient begins with a petition, ED staff should be trained in completing them in case of any evaluator's delayed arrival. (405 ILCS 5/3-601).

July admission records showed a second, unnecessary petition completed at Passavant on the 31st; that and an initial one from the 29th accompanied the patient to the admitting hospital where the second one was eventually filed in court, meaning the court was not alerted to when the patient's involuntary journey actually began. Although Passavant was not responsible for filing, it was responsible for the patient's detention from the 29th, and we encourage discussion with the response teams to avoid successive petitions which are not provided for under the Code (405 ILCS 5/3-600 et seq.).

The Mental Health Code states that any private hospital or section thereof that provides mental health treatment is considered a mental health facility (405 ILCS 5/1-114), treatment being examination, diagnosis, evaluation and pharmaceuticals (5/1-128). This patient was given Ativan and/or Haldol during both visits in addition to being evaluated under petition so the Code applies. Training on Code-specific treatment consents and refusals (5/2-102 a-5; 5/2-107; 5/2-111), restraint use (5/2-108) and rights restrictions (5/2-201) would benefit ED staff and ultimately patients, particularly in anticipation of Passavant's new psychiatric inpatient program opening soon. What applies there applies to the ED.

RESPONSE

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

Passavant
AREA HOSPITAL

MAGNET RECOGNIZED
AMERICAN NURSES CREDENTIALING CENTER

1600 West Walnut / Jacksonville, Illinois 62650 / 217.245.9541 / www.passavanthospital.com

June 21, 2015

James Bakunas, Chair Pro Tem
Human Rights Authority
Illinois Guardianship and Advocacy Commission
401 S. Spring St.
521 Stratton Building
Springfield, Illinois 62706

Dear. Mr. Bakunas,

This letter is a response for case #15-050-9008 to address the recommendation from the Springfield Human Rights Authority. The recommendation was to conduct training with all MEDS physicians and potential qualified examiners on reciting the patient rights before certification exams begin (405 ILCS 5/3-208). One-on-one education of the MEDS physicians and potential qualified examiners began on 6/18/2015. This education is being conducted by Beth Willlman RN, MSN, Emergency Department Educator. The education covers the responsibility of the MEDS physician and other qualified examiners to recite patient rights to the patient before beginning the certification exam. If you have any questions or need any further information please contact me at 217- 245-9541 Ext 3710.

Sincerely,

Leanna Wynn RN MBA, MSN
Director of Quality, Safety, and Organizational Improvement