VERMONT

AGENCY OF HUMAN SERVICES
DEPARTMENT OF DISABILITIES, AGING AND INDEPENDENT LIVING

Division of Licensing and Protection
HC 2 South, 280 State Drive
Waterbury, VT 05671-2060
http://www.dail.vermont.gov
Survey and Certification Voice/TTY (802) 241-0480
Survey and Certification Fax (802) 241-0343
Survey and Certification Reporting Line: (888) 700-5330
To Report Adult Abuse: (800) 564-1612

October 26, 2022

Ms. Anna Noonan, President COO
Central Vermont Medical Center
Box 547
Barre, VT 05641

Dear Ms. Noonan,

Enclosed is a copy of your acceptable plans of correction for the investigation survey conducted on August 5, 2022. Please post this document in a prominent place in your facility.

We may follow-up to verify that substantial compliance has been achieved and maintained. If we find that your facility has failed to achieve or maintain substantial compliance, remedies may be imposed.

Sincerely,

Suzanne Leavitt, RN, MS
State Survey Agency Director
Assistant Director, Division of Licensing & Protection

A 000 INTIAL COMMENTS

An unannounced on-site investigation of complaint #20992 was conducted on 8-3-2022 through 8-5-2022 by the Division of Licensing and Protection. The complaint was authorized by the Centers for Medicare and Medicaid Services to determine the Acute Care Hospital's compliance with sections of the 1866 and 1867 of the Social Security Act and the related regulations at 42.CFR 489.24, Responsibilities of Medicare Participating Hospitals in Emergency Cases (EMTALA). The following regulatory violation was identified.

A2406 MEDICAL SCREENING EXAM CFR(s): 489.24(a) & 489.24(c)

(a) Applicability of provisions of this section.

(1) In the case of a hospital that has an emergency department, if an individual (whether or not eligible for Medicare benefits and regardless of ability to pay) "comes to the emergency department", as defined in paragraph

(b) of this section, the hospital must-

(i) Provide an appropriate medical screening examination within the capability of the hospital's emergency department, including ancillary services routinely available to the emergency department, to determine whether or not an emergency medical condition exists. The examination must be conducted by an individual(s) who is determined qualified by hospital bylaws or rules and regulations and who meets the requirements of §482.55 of this chapter concerning emergency services personnel and direction; and

If an emergency medical condition is determined to exist, provide any necessary stabilizing treatment, as defined in paragraph (d) of this section, or an appropriate transfer as defined in paragraph (e) of this section. If the hospital admits the individual as an inpatient for further treatment, the hospital's obligation under this section ends, as specified in paragraph (d)(2) of this section.

(2) (i) When a waiver has been issued in accordance with section 1135 of the Act that includes a waiver under section 1135(b)(3) of the Act, sanctions under this section for an inappropriate transfer or for the direction or relocation of an individual to receive medical screening at an alternate location do not apply to a hospital with a dedicated emergency department if the following conditions are met:

(A) The transfer is necessitated by the circumstances of the declared emergency in the emergency area during the emergency period.

(B) The direction or relocation of an individual to receive medical screening at an alternate location is pursuant to an appropriate State emergency preparedness plan or, in the case of a public health emergency that involves a pandemic infectious disease, pursuant to a State pandemic preparedness plan.

(C) The hospital does not discriminate on the basis of an individual's source of payment or ability to pay.

(D) The hospital is located in an emergency area during an emergency period, as those terms are defined in section 1135(g)(1) of the Act.

(E) There has been a determination that a waiver of sanctions is necessary.

(F)

(ii) A waiver of these sanctions is limited to a 72-hour period beginning upon the implementation of a hospital disaster protocol, except that, if a public health emergency involves a pandemic infectious disease (such as pandemic influenza), the waiver will continue in effect until the termination of the applicable declaration of a public health emergency, as provided under section 1135(e)(1)(B) of the Act.

(c) Use of dedicated emergency department for nonemergency services. If an individual comes to a hospital's dedicated emergency department and a request is made on his or her behalf for examination or treatment for a medical condition, but the nature of the request makes it clear that the medical condition is not of an emergency nature, the hospital is required only to perform such screening as would be appropriate for any individual presenting in that manner, to determine that the individual does not have an emergency medical condition.

This STANDARD is not met as evidenced by: This STANDARD is not met as evidenced by: Based on interview and record review the hospital failed to provide an appropriate medical screening examination within the capability of the hospital's emergency department for 1 of 20 applicable patients (Patient #1) Findings include:

Per record review of an ambulance run sheet dated 7/26/2022, Patient #1 was brought to the Emergency Department (ED) with a suicide attempt and alcohol abuse and effects, altered mental status; overdose/abuse of other illicit drug or misuse of meds;

overdose of medication (intentional self-harm); psychiatric/behavioral problem. Patient #1 "stated multiple times that he wanted to die, and took medications and alcohol" and "The patient repeatedly mumbled about wanting to die on the way to the hospital until s/he went unresponsive".

Based on medical record review, Physician #1 wrote "Initially unresponsive...given naloxone (a medicine that rapidly reverses an opioid overdose) and became much more awake but still agitated, combatative, confused with strong odor of ethanol. Required two doses of 5 mg haloperidol (an antispychotic medication) to calm him/her enough to perform medically necessary procedures and imaging studies... Agitated and making suicidal statements on scene... Pt. unable to complete review of systems due to altered mental status". Per a nursing note dated 7/27/2022 at 4:57 AM "Patient admitted to taking 20 mg of clonopin (a benzodiazepine) to end his/her life last night. Sat and talked with patient about plan to have him/her screened after s/he is sober". Additionally the nurse writes "Patient requesting to speak to police as s/he does not remember their conversation or what s/he did last night. Again endorses that s/he 'attempted to end my life last night, I didn't want to hurt anyone, is everyone ok?'"

Per review of Physician #2's note at 7/27/2022 at 7:55 AM, "Patient told his/her nurse that s/he was trying to kill himself/herself by taking the clonazepam. Patient's care signed out to [Physician #3] at change of shift. Patient will need to be seen by WCMHS (Washington County Mental Health Services) and likely psychiatry prior to final disposition".

Per review of a WCMH Emergency Room Psychiatry Consultation note dated July 27, 2022 at 0845 AM, the screener wrote "Client presents to the ED after taking 20 or so klonipin and breaking into a house. Client reports that this was not a suicide attempt but was rather with the intention of getting high. Client discusses that this is not the first time s/he has done this. Client declines admission or any psych services nor does s/he meet criteria".

Per review of Physician #3's note of 7/27/2022 9 AM "Patient signed out to me at shift change.
Patient had an overdose of what was likely benzodiazepines in the context of alcohol, potentially opiates because s/he responded to Narcan prior to arrival. Patient now is clinically improved. Seen by WCMHS. States the overdose is recreational. Does not want services. They clear for discharge. I agree".

Per the ED events log, patient #1 was discharged on 7/27/2022 at 9:39 AM.

Per record review of a WCMHS Emergency Addendum note, which was not available to Central Vermont Medical Center staff, the Mental Health Screener or QMHP, (a master's prepared Qualified Mental Health Professional) created on 7/28/2022 at 6:31 PM, the screener consulted with the hospital psychiatrist via telephone. The QMHP writes "Writer contacted psychiatrist #1 around 8:20 AM to see if there was any way s/he could be there early to see client. Unfortunately, s/he was driving and could not see him/her before
9. Writer was asked by the emergency department to assess client due to the time sensitive nature of the court case and clients level of anxiety around it. Writer confirmed this plan with Psychiatrist #1 and conducted assessment. The QMHP comments "Client denies suicidality and states to writer that drinking alcohol and ingesting klonipin last night was not a suicide attempt, but related to substance use. The recommendation from the consult with Psychiatrist #1 is represented as "recommends discharge of client". The consultation summary/notes state "Recommends discharge of client. Does not feel client meets EE criteria".

Per review, the Hospital Policy "Evaluating Psychiatric Patients in the Emergency Department states "Regardless of status, the ED provider is responsible for decision making in consultation with the on call psychiatrist. WCMH screeners role is to assist ED providers in evaluation and disposition of patients".

Per interview on 8-3-2022, The ED Medical Director confirmed that the medical screening exam is conducted in the ED by physicians and physician's assistants and that the medical providers sign off on the patient's stability. The Medical Director also confirmed that during the day they do contract with WCMH screeners, but the relationship is "nuanced". During the day they use their own hospital psychiatrist, and the ED physician is the first evaluation, and then the patient may go onto further evaluation. The ED Medical Director further confirmed that it was the responsibility of Physician #3 to see and evaluate the patient prior to discharge.

Per telephone interview on 8-4-2022 Physician #3 stated "I took over for Physician #2, I did assume that an emergency medical condition existed.

Physician #2 summarized what brought him/her to the ED and recommended WCMHS and possibly psychiatry as well. From his/her initial presentation he was significantly clinically improved".

When the Surveyor asked if Physician #3 at any point assessed Resident #1 him/herself, Physician #3 replied "no". When the Surveyor asked Physician #3 if there was any thought to calling the psychiatrist, Physician #3 stated "WCMHS did a very thorough assessment as it was presented to me, it was extensive, an extensive conversation. There was no indication that s/he needed to see a psychiatrist. In the morning the nurses said s/he was up and around and s/he wanted to leave. This was prior to WCMHS seeing him/her.

Patient #1 was ready to discharge by the nursing assessment and from a psychiatric standpoint. The screener (WCMHS) I trust him/her evaluation very much."

When the Surveyor asked who made the decision that the patient was safe to leave, Physician #3 replied "Ultimately it was my decision. The decision was made by both WCMHS and nursing assessments. I did not see the patient myself".

Per interview on 8-4-2022, The Hospital Medical Director confirmed that Patient #1 was kept overnight due to intoxication and aggressive behavior, and for medical treatment. They were not able to know about the psychiatric condition until Patient #1 was awake enough as s/he would not have been able to answer questions until his/her intoxication had resolved.

Per interview on 8-4-2022, the ED Medical Director confirmed that the emergency medical condition included both the intoxication and a psychiatric event and that psychiatry was available at the time of Resident #1's admission. He also confirmed that there was no medical assessment of Patient #1 while s/he was sober.

Per review of ED notes, Patient #1 was brought back to the ED with "an apparent self-inflicted gunshot wound to the head" and was "declared dead at 11:20 AM".

Per interview on 8-5-2022, The Hospital Medical Director confirmed that a Quality Assessment of the situation was conducted through a Root Cause Analysis on 7-28-2022. The Team reviewed the facts of the case and determined that evidence of a follow up assessment of the patient by a medical provider credentialed and to conduct medical screening exams had not been completed.

The Medical Director and ED Medical Director put in place a plan to amend their policy to require emergency room medical providers or Licensed Independent Practitioners to assess psychiatric and medical capacity and decision making capacity to all patients presenting in the ED. On August 2, 2022, they sent an email to the ED team regarding the new policy. Immediate steps were put into place to educate all ED medical providers when they begin their shift in the emergency department with a plan that the education would be complete by the end of August, 2022. The final version of the policy was completed on August 4, 2022 and signed attestations were completed by 4 physicians on August 5, 2022.

Per review, the new policy developed entitled "Evaluating Psychiatric Patients in the Emergency Department" provided by the Medical Director on August 5, 2022, states "3. All patients who present to the ED will receive a Medical Screening Examination (MSE). The ED provider will determine if the patient's condition is primarily medical or psychiatric and whether the conditions requires further psychiatric consultation. 4. If a patient requires medical stabilization prior to psychiatric assessment, the ED Provider is responsible for on-going reassessment fot s/he patient's decision making capacity and the presence of high risk psychiatric conditions until such time as the patient's condition has stabilized, or the patient has been admitted or transferred to the next level of care. 5 The patient may be discharged after the emergent medical and psychiatric problem has been stabilized and the ED provider evaluates that patient and makes the clinical determination of the patient's safety and readiness for discharge. This may be done in consultation with the psychiatrist where appropriate".

ACTION PLAN: A2406 MEDICAL SCREENING EXAM CFR(s): 489.24(a) & 489.24(c)

Under the direction of the Chief Medical Officer and the Directors of the Emergency Department:

- The "Evaluating Psychiatric Patients in the Emergency Department" policy was revised to clearly indicate:
    a. Emergency Department (ED) providers are responsible for completing a Medical Screening Exam for all patients who present.
    b. ED providers are responsible for stabilizing patients medically prior to psychiatric assessment.
    c. The ED Provider is responsible for on-going reassessment of the patient's decision making capacity and the presence of high risk psychiatric conditions until such time as the patient's condition has stabilized, or the patient has been admitted or transferred to the next level of care.
    d. The patient may be discharged after the emergent medical and psychiatric problem has been stabilized and the ED provider evaluates that patient and makes the clinical determination of the patient's safety and readiness for discharge. This may be done in consultation with the psychiatrist where appropriate.

- Education regarding the revised policy and standardized documentation that supports the process was provided to all E.D. providers through a combination of electronic communications, individual discussion, and a provider staff meeting. The revised policy and standardized documentation that supports the process has been incorporated into the Emergency Department orientation for new providers.

- All Emergency Department providers reviewed the CVMC Emergency Medical Treatment and Labor Act policy, and it was reviewed at a provider staff meeting.

- All Emergency Department staff, as appropriate to their role, completed an Emergency Medical Treatment and Labor Act online training module.

- The Chief Medical Officer and Medical Director of the Emergency Department monitor compliance with the "Evaluating Psychiatric Patients in the Emergency Department" policy on a bi-weekly basis through a documentation review. Feedback will be provided on an individual level based on performance. Performance data will be shared at the Safety Adjudication Committee, co-chaired by the Chief Medical Officer and Chief Nursing Officer. Monitoring frequency will be reevaluated based on sustained performance by the Chief Medical Officer.

- All actions will be completed by 10/21/22.

accepted 10/24/2022 suzanne leavitt