

Negotiating compulsory treatment of eating disorders in hospital and the community

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Chair: Brooke Donnelly, Clinical Psychologist, Network Eating Disorder Coordinator



Overview

- Professor Jan Russell - case vignettes concerning compulsory treatment
- Associate Professor Tim Wand – duty of care & considerations of the Mental Health Act
- Dr Fran Wilson – assessment of capacity
- Christine Morgan – the consumer experience
- Kensley Brydson (OPG) – how orders are made & limitations
- Q&A



Professor Russell



Case vignette 1



Case vignette 2



Dr Fran Wilson: Capacity



Associate Professor Tim Wand



Duty of care considerations and principles
of the Mental Health Act



Medico-legal considerations

- The justification for medical treatment against the will of a patient is the **common law** duty of clinicians to provide whatever care is needed in an emergency to preserve life.
- Treatment against a patient's wishes in an emergency is justified using the principles of urgent necessity or 'best interests'.



Duty of care

- Duty of care involves both *acts* and *omissions* meaning that liability can arise as much by a failure to perform a particular act as it can by doing it and doing it badly.
- Any claims of legal liability or negligence will always be based on-
 1. Whether a duty of care existed
 2. The standard of the duty and
 3. Whether it was breached



Balancing care with control

- A person's right to self-determination takes priority in law over the *duty of care* that health care professionals feel obliged to practise.
- People (with mental capacity) have a right to make what we think are the wrong decisions.
- We can't control everybody.



The Mental Health Act

- Emphasises treatment with the *least restrictive* option available and respect for individual rights, dignity and freedom.
- Based on historical evidence that unmonitored state or medical beneficence can pose a threat to individual freedom.
- The MHAs' purpose is for the treatment of people in a designated mental health facility.



Principles of mental health law

- Emphasis on voluntary access to care.
- Violations of rights to be kept to a minimum.
- Involuntary hospitalisation as a last resort.
“every effort shall be made to avoid involuntary admission” (UNHCHR 1991)
- Access to representation, advocacy and procedural fairness and an independent review for both detention and certain forms of treatment (WHO 1996).



And be mindful....

- Perceptions of coercion have a negative impact on individual experiences of mental health care and consequently people are less likely to access services out of fear of coercion (Lilja & Hellzen 2008; Katsakou et al., 2010).



Christine Morgan



Compulsory Treatment – from the Consumer Perspective

- Life saving = **critical**
- In the **best interests of the patient**
BUT
- One overarching message bringing together the principles and practices that people with eating disorders believe help to support their recovery
“Help me to feel safe”



The experience of a Community Treatment Order

- University of Sydney – VELiM study 2009-2012
- N=11: 5 consumers, 6 carers in-depth interviews
- Five themes emerged from the interviews: ‘access’, ‘isolation’, ‘loss and trauma’, ‘resistance and resignation’ & ‘vulnerability & distress’
- The distress associated with a CTO was indistinguishable from the distress of the severe illness that necessitated it
- Both consumers and carers identified problems of communication and understanding of the processes involved
- Results indicate the core experience is that of distress, emerging from the distress of the illness, communication gaps, difficulty accessing services and the perceived benefits of a CTO

Community treatment orders: the lived experience of consumers and carers in NSW (2013).
Centre for Values, Ethics and Law in Medicine, University of Sydney.



Feeling Safe

- Professional practice - compassion, calmness, honesty, caring
- Listening to the distress without negotiating with the ED
- Being firm but empathetic as to what constitutes appropriate behaviour in the treatment setting
- Environment - physically warm, comfortable, relaxing
- Offer maximum privacy

A service culture and language that makes a person feel valued, important, welcome and safe, communicates positive expectations and promotes hope and optimism is central to recovery-oriented practice and service delivery

National Framework for Recovery Oriented Mental Health Services



Language Matters

- Person-first language - acknowledging the person as more important than the ED
- Positive and motivating language that builds hope
- Substitute 'try' and 'could' for 'should' and 'must'
- Descriptions that accurately reflect what is happening for the person – avoiding simplistic labels such as 'non-compliance'

*Promoting a culture and language of hope and optimism, encouraging strengths and positive outcomes rather than deficits
Supporting personal recovery - fostering belief in their capacity for growth*



Finding Identity

- Recognising the patient as a person - their interests, hobbies, likes and talents.
- Helping reconnect the person to their interests
- Building a strong therapeutic alliance

Person-centred treatment, care and recovery support includes viewing the person in the context of their whole self - their personal recovery is the process of working towards wellness

Actively supporting the person to recognise and draw on their strengths to build recovery skills



Integrating Choice

- Empathise with their unique situation
- Clear meaningful reasons for treatment and other decisions
- Where choices are constrained for safety reasons reinforce empathy and explain clearly
- Build in choices in areas unrelated to eating behaviour
- Avoid coercive language
- Provide access to palatable healthy food - when eating is a goal of treatment food needs to be desirable

The physical, social and cultural environment of a service inspires hope, optimism and humanistic practices



Healthy Support for Community Treatment

- Make it as safe as possible for the person
- Provide what choice you can
- Keep the dialogue as open and transparent as possible
- Reinforce to them that they matter
- Engage family, friends and loved ones = healthy support

Promoting a culture and language of hope and optimism means modelling positive and supporting behaviours among service staff and practitioners as an important adjunct to supporting people's recovery



Kensley Brydson



Reflections or questions for the panel

