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Mental Health Review Tribunal – new decision form

DEAR SIRS

I was alarmed to see that the above forms were initially incorrectly worded as to the reasons for a patient's detention under the Mental Health Act 1983. That is, they asked the question whether the Tribunal was satisfied that, "it is not necessary for the patient to be detained for his 'health *and* safety' instead of for his 'health *or* safety' ". Since this error was pointed out, the decision forms have been correctly worded. However, I am concerned about the persistence of this fundamental mistake within the Mental Health Review Tribunal system and believe it reflects a widespread lack of clarity in the understanding and use of the Mental Health Act 1983.

I would suggest that consideration should be given to the relevant wording being changed throughout the Act to read:

> This ought to be so detained (i) in the interests of the patient's own health, or (ii) in the interests of the patient's own safety, or (iii) with a view to the protection of other persons.

I feel it is unfortunate to have such an obvious confirmation of the need for the Secretary of State for Health's investigation in relation to the MHA 1983 into whether "the present legal powers are being used sufficiently effectively".

ALISON ABRAHAM

The Princess Royal Hospital
Haywards Heath
West Sussex RH16 4EX

Charges for advocacy

DEAR SIRS

A patient admitted when manic appeals against a Section 3 detention and engages a legal representative. On the day of the tribunal, with a greatly improved mental state, he withdraws the appeal but naturally is still charged by the solicitor. The fee amounts to several hundred pounds.

In general I would counsel my patients against entering into a formal contract and incurring expenditure at this level while their judgement was impaired. Clearly in this case it would be improper to seek to dissuade a person from obtaining independent legal advice.

In April of this year eligibility for legal aid became more restrictive. Many more patients will be charged for legal advice at tribunals. Is it not time to consider an independent advocacy service, at no charge to detained patients?

J. C. BARNES

Phoenix House Acute Unit
Priory Park
Wells, Somerset BA5 1TH

The nominated deputy

DEAR SIRS

Section 5(2) of the Mental Health Act, 1983, provides for the responsible medical officer to nominate one deputy to act on his behalf, whereas no such provision existed in the 1959 Act. However, a national survey has revealed wide differences between health districts as to who acts as the consultant's nominated deputy during the daytime, although not at night (Cooper & Harper, 1992). We suggested that the on-call junior psychiatrist is the most suitable doctor to fulfill this role, and hence determined to study whether the outcome of section 5(2) is affected by who signs the form. We wish to report out findings.

Psychiatric services are provided on three main hospital sites in Leicestershire. Junior psychiatrists receive training in the purpose and provision of section 5(2) as part of an induction course, and are obliged to discuss cases with the responsible medical officer or on-call consultant prior to implementation of the section. The records of patients detained under section 5(2) at the three sites, during the year 1991, were scrutinised. The doctor implementing each section was noted, as was his status. Outcome of section 5(2) was recorded in terms of application for admission under sections 2 or 3, or reversal to informal status.

During 1991 there were 142 detentions under section 5(2) for which the signatory of the form and outcome of the section could be elucidated. Of the 28 patients detained by the responsible medical officer, 12 were subsequently admitted under section 2 of the act, five under section 3 and 11 reverted to informal status. Of the 114 patients detained by the on-call junior psychiatrist, 45 were subsequently admitted under section 2, 17 under section 3 and 52 reverted to informal status. Hence outcome was no different whether the section was implemented by the responsible medical officer, or by the on-call senior house officer/registrar, acting as the nominee.

Section 5(2) is an emergency provision. For the majority of hospitals the doctor most readily available to deal with emergencies is the resident on-call junior psychiatrist. If the on-call senior house officer/registrar was nominee to each consultant during the daytime as well as at night, this would provide for one doctor to be nominated as deputy for each 24 hour period. Analysis of outcome of section 5(2)s in Leicestershire supports the view that the