LEGAL ISSUES IN MENTAL HEALTH

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N232

Required Reading

- Townsend (8th ed.) Chapter 5, 16
- www.lasuperiorcourt.org/mentalhealth

Objectives

- Discuss the legal rights of patients hospitalized in psychiatric facilities
- Differentiate between voluntary and involuntary admission to a psychiatric facility
- Identify the major purpose(s) and nursing roles of :

Objectives

- Community Mental Act of 1963
- Lanterman-Petris-Short Act of 1968
- Riese Decision
- Tarasoff Act
- Realignment Act of 1991

Test Your Knowledge

Test Your Knowledge

A 50 year old client was brought in by her pastor to a Psychiatric Emergency Room. Her pastor reported she hasn't been sleeping well, was talking to self and wasn't eating. Upon admission, it was determined by the evaluating provider that she is gravely disabled (GD). The admitting provider will....

Test Your Knowledge

a. Ask the patient to be put on voluntary hold
b. Put the patient on 5150 hold
c. Put the patient on 5250 hold
d. Discharge the patient

Test Your Knowledge

- She is admitted to the Psychiatric inpatient. The 5150 hold is up at 0800 and the psychiatrist determined she needed continued monitoring because she remained a gravely disabled (GD) patient. At this point, the psychiatrist can place her on which involuntary hold?

Test Your Knowledge

a. 5150 (72 hr hold)
b. 5250 (14 day hold)
c. 5260 (additional 4 day hold)
d. 5270 (30 day hold)

Test Your Knowledge

- What legal rights does the patient have after the 72 hour hold has been extended? Explain.

Test Your Knowledge

- Fourteen days later, she was placed on a 30 day hold. What would be the psychiatrist's justification for the 30 day hold? Patient is/has:
  a. gravely disabled.
  b. still a danger to self and others.
  c. no place to stay after discharge.
  d. requested the doctor if he could stay longer.

Test Your Knowledge

- She is unable to provide any name of family members that the nurse in charge can contact. What would be an appropriate legal intervention? Apply for
  a. Riese.
  b. Conservatorship.
  c. Tarassoff.
  d. Writ hearing.

Test Your Knowledge

- She is isolative, does not participate in milieu therapy, refuses her antipsychotic medications and doesn't eat. What legal intervention can be taken at this time re: refusal of medication?
  a. Riese
  b. Conservatorship
  c. Tarassof
  d. Writ hearing

Test Your Knowledge

- A patient hospitalized on a 5150 hold tells the psychiatrist " I'm not crazy". Patient consented for the psychiatrist to call his wife to verify that he is not "crazy".

Test Your Knowledge

- The wife told the psychiatrist he had been yelling and threatening her prior to his hospitalization.
- Patient had a Probable Cause hearing, "no probable cause" was found.

Test Your Knowledge

- After the hearing, the patient told the psychiatrist, with a frowned face "I will be released and I'm going home to take care of my wife....I mean really take care of her"

Test Your Knowledge

- Considering the Tarasoff decision, what actions should the psychiatrist take?
  a. Nothing
  b. Call the police
  c. Clarify what the client meant
  d. Call the wife to inform her of the intended action

History

- Before 1963, most mental health services were rendered in large psychiatric hospitals.
- Patients usually did not have a choice of being admitted or not
- There was no set process for discharge unless the physician ordered the release

https://www.youtube.com/watch?v=NJDWd91nII4

Client's Goal Now

- To live independent, integrated lives as citizens of a community

Legal Rights of Mentally ill Patients

- The Right to Refuse Medication
  - AHA (American Hospital Association) Patient's Bill of Rights
  - Exception?

Legal Rights of Mentally ill Patients

- The Right to the Least-Restrictive Treatment Alternative
  - Context of a continuum
    - Outpatient-day hospitals-involuntary
    - Verbal rehabilitation techniques-behavioral techniques-chemical interventions-mechanical restraints-ECT

Legal Rights of Mentally Ill Patients

- Confidentiality and Right to Privacy
  - Exception?
- Informed Consent
  - What's the RN's role?
  - Exception?

Legal Rights of Mentally ill Patients

- Restraints and Seclusions
  - When is it used?
  - https://www.youtube.com/watch?v=kH1h378n2WQ

Legal Rights of Mentally ill Patients

- Voluntary Admissions
  - How does it work?

The Community Mental Health Service Act of 1963

- Established national guidelines for mental health services
  - Ensured minimum standard of care for all psychiatric facilities

The Community Mental Health Service Act of 1963

- Provided a response to public concerns in regard to the abuse of psychiatric patients and their rights
- Created local statutes governing care to decrease cost by means of a shorter length of hospitalization

Lanterman-Petris-Short Act (1968)

- California law
- Deinstitutionalization
- Major Principles
  - End inappropriate, indefinite and involuntary commitment

Lanterman-Petris-Short Act (LPS)

- Provide prompt evaluation and treatment
- Protect public safety
- Judicial review
- Conservatorship program for gravely disabled persons

Involuntary vs Voluntary Commitment

- Voluntary
- Involuntary
  - Danger to self (DTS)
  - Danger to others (DTO)
  - Gravely Disabled (GD)

Involuntary Commitment

- 72- hour hold for evaluation and treatment (5150)
- Place into involuntary hospitalization by a person designated by state or county
  - Who are the designee?

Involuntary Commitment

- 5250 hold allows certification for 14 day period of involuntary hospitalization
  - Client must be given opportunity to accept treatment on a voluntary basis

Involuntary Commitment

- 5260 hold or Additional 14 day hold
  - "Additional Intensive Treatment of Suicidal Person"

Involuntary Commitment

- 5270 or 30 day hold "Additional Intensive Treatment"
- For an additional period of 30 days beyond the first 14 days

Certification Review Hearings: (Probable Cause)

- Safeguard individual's rights
- Legally required for all psychiatric patients treated on an involuntary basis beyond the initial 72-hour period

Certification Review Hearings: (Probable Cause)

- Automatic hearing for all 5250 holds
  - Doesn't have to be requested by the client
- Hearing held within 4 days of the initial involuntary detention

Judicial Review (Writ of Habeas Corpus)

- Provides due process
- If court hearing is requested, detaining facility must notify Counselor in Mental Health who will assist the client in obtaining the Writ Hearing
  - Scheduled within 2 judicial days from date of filing
  - Client entitled to representation by counsel or Public Defender

Writ Hearings

- Additional 14-day certification (5260)
  - Imminently Suicidal Person
- 30 day hold (5270)
  - Gravely disabled only
- 180 days hold (5300)
  - DTO only (Imminently Dangerous)
- Conservatorship

Conservatorship

- Conservator
  - Reason?
  - Responsibility?
  - Who could be appointed by the court?
  - How long is it in affect?

Riese Decision

- Right to refuse psychiatric medication
  - Exceptions?
- Conducted only for patients on 72-hour hold or 14-day certifications
- Can only be filed after the psychiatrist has made repeated efforts to obtain patient's consent

Tarasoff Decision

- "Duty to warn"
  - Requires physicians and psychotherapists to warn intended victims of dangerous patients
  - Justification for confidentiality of patient information is outweighed by the needs to warn potential victims

Tarasoff

- https://www.youtube.com/watch?v=PnRzwSDFMYM

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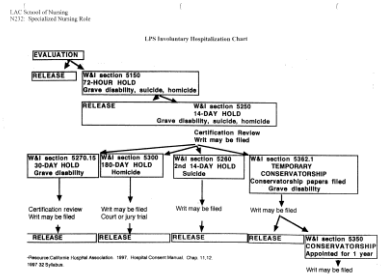
LAC School of Nursing
N212: Specialized Nursing Role
LPS Involuntary Hospitalization Chart
EVALUATION
RELEASE
W&I section 5150
72-HOUR HOLD
Grave disability, suicide, homicide
RELEASE
W&I section 5350
14-DAY HOLD
Grave disability, suicide, homicide
Certification Review
Writ may be filed
W&I section 5270.15
30-DAY HOLD
Grave disability
W&I section 5300
180-DAY HOLD
Homicide
W&I section 5260
2nd 14-DAY HOLD
Suicide
W&I section 5362.1
TEMPORARY
CONSERVATORSHIP
Conservatorship papers filed
Grave disability
Certification review
Writ may be filed
Writ may be filed
Court or jury trial
Writ may be filed
Writ may be filed
RELEASE
RELEASE
RELEASE
RELEASE
W&I section 5350
CONSERVATORSHIP
Appointed for 1 year
Writ may be filed
*Resource California Hospital Association. 1997. Hospital Consent Manual. Chap. 11,12
1997 32 Syllabus.

Questions

ASK
US
A QUESTION