

The powerlessness of a psychiatrist against the administrative system on the example of a patient with organic hallucinosis – a case report

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Summary

Psychiatry is a unique area of medicine where the doctor, holistically caring for the patient, often comes across many administrative, juridical or social difficulties. They seem to be less common among other specializations of medicine, but still knowledge in the field of law is an indispensable part of the specialization training of young psychiatry entrants. The ability to apply it properly is particularly important and often necessary while dealing with a psychiatric patient.

The purpose of this work is to illustrate such a juridical casus of the patient, previously hospitalized in various hospital wards as a result of being a victim of criminal battery, as well as to present the authentic juridical and social barriers, which a psychiatrist caring for chronically ill patients is obliged to break through. This case description also shows a review and depiction of legal acts and laws that have been applied. It calls attention to doctors' helplessness in relation to the current administrative system, as well as raises the problem and powerlessness of hospital medical staff caring for chronically mentally ill patients, who must be provided care regardless of inefficiency of social care system. Moreover, this work also points to the importance of the appropriate cooperation between a psychiatrist and a lawyer, which still requires improvement.

mental illness, juridical problem, social care system

INTRODUCTION

The reality creates an unlimited number of circumstances in which a patient may need psychiatric hospitalization. Often, patients require detention in hospital against their will, or are unable to give such an agreement because of their mental state. On the other hand, doctors and other medical staff are exposed to aggressive patients' behavior, which makes mandatory to be accustomed to relevant legal provisions

of forms and rules for the use of direct coercion. In addition, in some cases, psychiatrists are expected to know not only about psychopathology, psychopharmacotherapy, or psychotherapeutic interactions, but they are also obliged to be aware of legal acts of Code of Civil or Penal Procedure. Not to mention the necessity to acquire the administrative competence or the ability to formulate official pleadings.

A holistic approach to the patient requires the insight into their social aspects as well as the work and family environment. When the hospital care is coming to the end, the doctors often face difficulties connected with providing the further patient's care: capably directing the

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patient to the relevant psychiatric rehabilitation, psychotherapy, daily ward, occupational therapy workshops, environmental treatment team, environmental self-help home, occupational activation facility, or social welfare home for the mentally ill.

AIM OF THE STUDY

The aim of this work is to illustrate the juridical difficulties that a psychiatrist together with the patient, whose lifeline has been broken, are often exposed to. The following case description illustrates the cross-section and complexity of proceedings based on laws included in the Code of Criminal Procedure and the Code of Civil Procedure.

CASE STUDY

The 43-year-old male patient, divorced, living on his own, employed prior to the accident, was transferred to the Department of Psychiatry from the Maxillofacial Surgery Clinic due to observed signs of organic hallucinosis. The patient's hospitalization was a consequence of criminal battering resulting in serious injury in the shape of formed epidural hematoma, which required evacuation and craniectomy surgery. After neurosurgical surgery, the patient was transferred from the operating block to the anesthesiology and intensive care department. Then, being under the influence of drugs of general anesthesia, his pupils were equal, he lacked of corneal and ciliary reflex, and was respiratory and circulatory incapable, so he was introduced and carried on the analgo-sedation, respiratory therapy, antibiotic therapy, shielding therapy, catecholamines supply, anti-epileptic and anti-edematous treatment. Soon, the doctors observed the improvement of the patient's health condition and they performed tracheostomy in conditions of the operating block. As a result, the patient was disconnected from the respirator remaining on his own breath, he became respiratory and circulatory capable, and then he was transferred to the Maxillofacial Surgery Clinic for further treatment. Being hospitalized there, the patient was fed by a gastric probe, he was conscious

but without the logical contact and disoriented as to time. Periodically, being agitated he managed to pull catheters, a stomach and tracheostomy tube. Nevertheless, the doctors noticed gradual improvement of his general state, and over time the patient was decannulated and implemented the oral diet. Then, the patient's physical condition was strong enough that he was able to sit and stand up. With the improvement of complex activity, the patient became maladjusted and psycho-motorically stimulated – he walked aimlessly along the ward and the rooms of the other patients, disrupting the regular work of the ward. He “spotted” people in the empty hallway, was unable to recognize his own mother, talked to himself, was delusionally oriented to his surroundings and gave the impression of being visually and auditory hallucinated. After conducting a necessary psychiatric consultation, he was diagnosed with organic hallucinosis. As a result, he was applied Haloperidol and benzodiazepines and transferred to the Psychiatry Clinic. In the ward his adopting orientation was limited to his own person, he provided succinct answers often out of the question. The patient seemed visually and auditory distracted, rejected having the resignation and suicidal thoughts.

The patient gave his consent for admission to the ward. In the initial period of hospitalization, the patient was agitated, verbally and physically aggressive. He often required direct coercion, usually in the form of immobilization, following the Article 18 of the Mental Health Protection Act. With time the implemented treatment resulted in improvement of the patient's mental state and psychotic symptoms subsided. However, the patient still required round-the-clock care of the staff as he was periodically aggressive and then the use direct coercion in the form of immobilization was necessary. The doctors observed behavioral disorders and fluctuations in cognitive impairment then. Periodically, the contact with the patient was completely illogical, with plenty of neologisms, perseverations and the answers out of the questions. However, there were some periods when the patient presented the correct orientation to the place, self-identification and answered the questions logically. After implementing some modifications to the treatment, the patient stopped requiring any further hospitalization in the psychiatric ward.

DISCUSSION

Due to the fact that the patient still required round-the-clock care as he was unable to function independently, he could not be sent from the ward to his home. The return to the conditions he used to live would put him at risk of losing life or gaining serious injury. Besides, the article 160 of the Penal Code states that anyone who exposes a patient to the abovementioned circumstances can be punished up to 3 years of imprisonment, and when the person is formally obliged to take care of such a person by law, they can be punished from 3 months up to 5 years of imprisonment [1]. Therefore, the right decision seemed to be the contact the patient's relatives in order to transfer him to the social care home. However, as it was mentioned above, the patient used to live alone and was divorced. Patient's mother also refused and after consulting her decision with a lawyer, she sent the letter stating that her old age and accompanying chronic diseases made her unable to take care of her son. In such circumstances the hospital turned to the Municipal Family Assistance Centre in order to place the patient in the Social Welfare Home. Following the Article 54 of the Social Assistance Act, the person requiring round-the-clock care because of the old age, illness or disability, unable to function independently in everyday life, who cannot be provided with the necessary assistance in the form of care services, has the right to be placed in the social assistance home. Such a person is normally directed to the Social Welfare House of the appropriate type, located as close as possible to the place of person's residence [2]. After considering the patient's case concerning his referral to the Social Welfare House, the Municipal Family Assistance Centre discontinued the proceedings. The decision was justified by the inability to establish verbal and logical contact with the patient during the interview led by the social worker in hospital. The administrative procedure was considered aimless. In this situation, the patient's mother applied for declaring him legally incapacitated, following the Article 545 of the Code of Civil Procedure, which states that the application for incapacitation may be submitted by the spouse of the person concerned in the application for incapacitation, their relatives in a direct

line, their siblings and legal representative [3]. The article 547 of the Code of Civil Procedure states that the person concerned in application for incapacitation must be heard immediately after the proceedings being initiated and the hearing must take place in the presence of an expert psychologist and, depending on the health state of the person to be heard – an expert psychiatrist or neurologist [3]. Four months after the application based on the Article 235 of the Code of Civil Procedure, the District Court decided to hear the person at his place of residence [3]. Proceedings for patient's incapacitation are currently underway, with the aim of appointing a legal guardian, who, as a representative of the patient, could agree on placing him in the Social Welfare Home. Finally, due to the excessive length of the ongoing proceedings, Municipal Family Assistance Centre prior termination of proceedings and ongoing administrative incapacitation proceedings, the head of the unit decided to apply to the Court of Care for permission to place the patient in the Social Welfare Home without his agreement, following the Article 39 of Mental Health Care Act [4]. The head of a psychiatric hospital is entitled to make such an application if the person in the hospital is unable to fulfill their basic life needs independently and needs constant caregiving but does not require further treatment in this hospital. However, the application was mistakenly submitted to the Guardianship Court on account of psychiatric hospital location instead of sending it to the Guardianship court of person concerned residence. As a result, two months were wasted as the Court found themselves inappropriate and referred the case to the court relevant to the location of patient's residence. As if that was not bad enough, the next court called to complete the shortfall of the pleading by attaching a copy of one page application and the opinion of patient's mental state – within seven days under the rigor of terminating the proceedings. The court office addressed the letter to the hospital director, which only extended the time of receiving it – at first it was a hospital main office, secondly – the organization and juridical department, then – the director's office, and, eventually, on the seventh (last) day it appeared at the Psychiatry Clinic. To make things worse, at that moment the person who signed the application and the opinion

on the patient's mental state no longer worked in the unit which, consequently, seemed impossible to meet court's expectations. Only thanks to the detailed and properly maintained History of the disease of the ill person and the storage of copies of all applications and opinions in the patient's records, was it possible to send the copy of the abovementioned documents along with the reasons for such proceedings to the court. Otherwise, the whole proceeding would have been discontinued. At present the proceedings to place the patient in the Social Welfare Home without his permission are being underway on application of the head of the psychiatric hospital, following the Article 39 of the Mental Health Care Act [4].

In the meantime, because of the fluctuating nature of cognitive impairment as well as the patient's improving mental state finding expression in adapted behavior, logical contact, once again the hospital asked the Municipal Family Support Centre (MFSC) to re-initiate the patient's detention service. And during the interview, the MFSC social worker received the patient's agreement on placing him in a care facility and, consequently, MFSC is proceeding to place a patient in such an institution.

Analyzing the legal aspects of the case, two other issues deserve attention as well. First of all, because of patient's condition after neurosurgical surgery, increased muscle tone, ambulation problems, limited mobility of limbs in the joints during psychiatric hospitalization, it was advisable to transfer the patient to the rehabilitation ward after his mental stabilizing. Numerous contacts with stationary medical rehabilitation departments ended with the refusal of accepting the patient. The reason for such decisions is rooted in the Minister of Health Regulation of 6 November 2013, regulating the guaranteed benefits in the field of medical rehabilitation. It details that a referral to systemic rehabilitation can be issued by a branch doctor: (a) traumatic orthopedic, b) surgical, (c) neurosurgical, (d) neurological, e) rheumatological, f) internal diseases, (g) oncology, (h) urological, i) pediatrics, j) pediatric endocrinology, k) pediatric diabetology, l) systemic, neurological, pulmonological, cardiac, m) gynecological rehabilitation [5]. Interestingly, the psychiatric ward doctor is not authorized to refer the patient to this type of rehabili-

tation. The second issue relates to the procedure of the Article 156 of the Criminal Code related to the act of brutal criminal battering causing serious injury, which is punishable by a term of imprisonment for not less than 3 years. The Prosecutor and the Police applied to the ward for investigating the patient, or to provide information when the patient's health condition would allow them to follow the procedure. Such an attitude may raise some ethical questions, for example, to what extent patient's stay in psychiatric hospital affects the nature of patient's testimony. Or – can the content of the testimony be related to the emotional perception of the patient as a mentally ill person? Because of the subject patient's health state, which didn't hold promise to improve, and the nature of procedure carried out in favor of the victim, legal action with the patient could be conducted in the conditions of the psychiatric ward.

At the time the manuscript is being written, the patient, after eight months of hospitalization, is waiting for further court decisions. It is also worth pointing to the question of the demand of places in Social Welfare Homes in Poland. According to a report of Ministry of Family, Labour and Social Policy referring to people being provided social help in Poland, in 2018 there were 790 Social Welfare Homes offering 79310 places resided by 88229 patients. A large number of people are waiting to be placed in the Social Welfare Homes – according to the data of 31.12.2018 there were another 7389 patients. The rate of demand supply with social assistance for people awaiting the place in Social Welfare Homes on 31.12.2018 was 62% [6].

CONCLUSION

The field of medicine like psychiatry, requires special understanding for patient's situation in a broader context and providing them with comprehensive assistance. It is not only the treatment restriction of the disease unit, but also concerning the patient along with their entire life situation. In some situations, detailed cooperation between a psychiatrist and a lawyer with the competence of legal assistance is necessary. However, not everywhere do the staff of the psychiatric departments have the opportunity to co-

operate closely with lawyers. The case presented also depicts the malfunction of the care system for chronically mentally ill patients. These figures explain well-known long-anticipated time for the possibility to place a patient in the Social Welfare Homes. Unfortunately, when we look at time spent on legal proceedings lasting for years, the long-standing psychiatric hospitalization of patients awaiting their places in Social Welfare Homes seems to be the only, nevertheless dramatic necessity.

Conflicts of interest: none

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