

NHS Management Executive
Health Service Guideline HSG(93)45

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2 September 1993

**CODE OF PRACTICE: SECTION 118 OF THE
 MENTAL HEALTH ACT 1983**

Executive summary

A revised Code of Practice for the guidance of those concerned with the admission of patients under the Mental Health Act 1983 has passed through the necessary Parliamentary procedure and will come into force on 1 November 1993. Copies of the Code are attached.

Main changes

The revised paragraph 2.6 (Chapter 2: Assessment) refers to the statutory criteria for admission to hospital under the Act. These criteria allow for the admission of patients in the interest of their health even if there is no risk to their own or other people's safety. The other main changes are:-

Chapter 9: Nurse's holding power: change to ensure sound practical application of this emergency measure.

Chapter 15: Medical treatment: a re-ordering to make the chapter easier to follow in regard to capacity and consent to treatment and with greater emphasis on the need for monitoring of the implementation of treatment plans.

Chapter 16: Medical treatment and second opinions: a number of changes and additions aimed at a clear understanding of the Second Opinion

Appointed Doctors arrangements, associated patient records and improved information for patients.

Chapter 18: Patients presenting particular management problems: the Mental Health Act Commission has carried out a comprehensive review of this chapter in the light of observations it has received and also its own monitoring. The Commission has particularly examined the adequacy of current guidance on the difference between security: taking control of an emergency: and restraint. The proposed changes are intended to draw out the differences more clearly.

Chapter 19: Psychological treatment changes include an improved definition of such treatments and clear guidance on the use of "time out".

Chapter 20: Leave of absence, section 17: some changes are made to assist understanding of section 17 and the procedures for its use.

Chapter 24: Duties of the hospital managers: application in NHS trusts and registered mental nursing homes.

Chapter 26: A new chapter on visiting patients detained in hospital or registered mental nursing homes.

Chapter 27 (originally 26): Aftercare: updated to include appropriate reference to the care programme approach.

Chapter 29 (originally 28): Children and young people under the age of 18: updating on the Children Act 1989 and on relevant case law.

There are smaller but significant changes to other chapters.

Action

NHS authorities and trusts should:

- * ensure that all their staff involved in the operation of the Mental Health Act are familiar with the Code, including the staff of registered mental nursing homes (local authorities and their staff have been notified by separate circular);
- * note the Ministerial foreword which stresses the importance for all professionals and managers working in this field of a sound working knowledge of mental health legislation and especially the criteria for admission;
- * note that, although the Code comes formally into operation on 1 November 1993, staff should use it as soon as it is received since the revised Code expands, clarifies and updates the guidance in the existing version but does not conflict with it.

Background

Section 118 of the Mental Health Act 1983 places a duty on the Secretary of State to prepare and, from time to time, revise a Code of Practice for the guidance of those concerned with admission of patients under the Act and the treatment of patients suffering from mental disorder. As is required under the Act, the Secretary of State has consulted widely on the changes, many of which are the result of monitoring and proposals from the Mental Health Act Commission.

Authorities and trusts will be aware that the Secretary of State for Health has announced her intention to seek amendment of the Act to provide a new power of supervised discharge for certain patients who have been detained under the Act and to extend from 6 months to a year the period for which patients may be given leave under section 17. The Code gives guidance on the Act as it stands and will need to be further reviewed in the light of any fresh legislation. The Secretary of State has also announced that further guidance will be issued, following consultation, on the aftercare of mental illness patients, particularly those who are a potential risk to themselves or others covering the factors that need to be considered before they are discharged from hospital and the support they will need from the different agencies when they are. Such guidance will need to relate to and complement that given in the Code, in particular chapters 18 and 27.

More generally, it remains the aim that the Code should reflect current good practice. To this end, the Mental Health Act Commission will continue to monitor use of the Code and advise on the need for further amendments.

The guidance contained in this Code is intended, primarily, to accommodate the needs, rights and entitlements of mentally disordered persons who are detained under relevant mental health legislation. However, much of the Code is equally applicable to informal patients, and practitioners should ensure that the Code is available and is referred to and used as a good practice document for the care and management of all mentally disordered patients.

Additional copies of the Code are available, as a priced document, through HMSO bookshops. There is a discount for bulk orders.

Enquiries about the Code of Practice should be addressed to:

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