

Reviews

Treating the Troublesome. Council for Science and Society, 3-4 St Andrew's Hill, London EC4V 5BY. 1981. £7.50 (hardback); £2.50 (softback).

This report, which concentrates largely on consent to treatment, has, of course, been overtaken by events, namely the publication and introduction of the Mental Health (Amendment) Bill, now in its passage through Parliament.

It is subtitled 'The ethical problems of compulsory medical treatment for socially unacceptable behaviour', and refers to the development of scientific techniques to modify human behaviour about which it claims there is public anxiety. It quotes Mill's doctrine of freedom of choice of behaviour provided the individual does no harm to others, and says that this principle should apply to patients. Where there are constraints on competence or freedom to consent, patients' interests can best be safeguarded by second opinions, but a lawyer may be better qualified than a doctor to judge whether a consent given by a prisoner or a mental patient is sufficiently free, though without attempting to cover matters of exclusively professional competence.

So we are back to the 'patient's advocate', who may be a relative or friend, probation or welfare officer, but failing these a solicitor or lay or legal Mental Health Review Tribunal member. It is not suggested that the lay opinion should be binding, but the clinician should give it its proper weight before making up his own mind. This system should be 'the norm', so that if a practitioner failed to conform to it he would risk being sued for damages if his conduct was later called into question.

Missing from the report is any discussion of the safeguards patients already have against incompetent or inadequate medical practice, as well as any evidence that there has been such a degree of abuse of psychiatry in this country as to warrant these limitations of a doctor's clinical freedom. There are already a vast range of bodies which monitor clinical practice—the GMC, Hospital Ethical Committees, the 'Three Wise Men', complaints procedures, the Health Advisory Service, the Health Service Commissioner, Community Health Councils and the Courts—and to these the new Bill is adding a Mental Health Act Commission, as advocated by the College.

Missing, too, is any reference to the growing literature from the USA on how patients are suffering from restrictions of psychiatric practice. Gutheil (1980) provides illustrations of the failure of the legal mind to grasp clinical realities: 'The physician seeks to liberate the patient from the chains of illness; the judge, from the chains of treatment. The way is paved for patients to "rot with their rights on" '.

In the recently published *Psychiatric Ethics*, McGarry and Chodoff (1981) refer to the position in New Jersey where Courts have described psychotropic medication as being 'grossly irresponsible', 'might even cause cancer' and 'may inhibit a patient's ability to learn social skills needed to fully recover from psychosis'. Judges have ordered that special 'patient advocates' should be appointed in each mental hospital, and that a list of the side effects 'in plain language' of all neuroleptic drugs should be posted on the walls of hospital wards. Similar legal orders in Massachusetts resulted in deterioration of patients' clinical state and prolonged hospital stay for others.

Equally devastating results are reported by Roy-Byrne and Gerner (1981), who note that treatment delays have placed suicidal patients in jeopardy. They point out how incongruous it is that patients who are so ill that they do not recognize their need for hospital care, and are therefore admitted compulsorily, are nevertheless thought to be able to know how their illness should be treated. They found that legal authority to administer ECT usually took several weeks to obtain and describe in detail the distressing results for the patients concerned.

This, I believe, is what could happen here if the door were opened to allow non-medically qualified people a say on medical treatments. The new Bill, of course, proposes that second opinions should be medical, but the battle is far from over.

Even if the proposals in the Bill are enacted unchanged, life is likely to become difficult indeed for doctors who have any number of detained patients, and a veritable nightmare for psychiatrists in Special Hospitals, all of whose patients are detained. An 'Approved' doctor will have to be called in and to agree if a non-consenting patient (other than in an emergency) refuses any medicine or even a blood test. Bureaucracy and form-filling will be boundless, defensive medicine will be the order of the day and patient care will suffer.

JOHN R. HAMILTON

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REFERENCES

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