CPU 7

Department of Health

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OUR REF: PSD/10/130

YOUR REF: 129/07

7 May 2010

Lauren Stiffle
Coroners Registrar
Coroners Court of Victoria
Level 1, 436 Lonsdale Street
MELBOURNE VIC 3000
DX 212560

Dear Ms Stiffle

RONALDSON, Stuart

Court Reference: 129/07

Thank you for your letter of 15 March 2010 which included a recommendation to the Chief Psychiatrist.

I understand that under the *Coroners Act 2008* (Victoria) that having received the Coroner's recommendation, I must provide a written response to the recommendation no later than three months from the date of receipt of the letter. I understand that my response must specify a statement of action that has or will be taken in relation to the recommendation made by the Coroner. In accordance with that request, please find attached the response by the Chief Psychiatrist to the Coroner's recommendation.

Please advise me if any further information or action on my part is required.

Yours sincerely

Dr Ruth Vine
Chief Psychiatrist

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State Government Victoria

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Chief Psychiatrist's response to Coroner's recommendations

Court Reference 129/07 - Inquest into the death of Stuart Fraser Ronaldson

Coroner's Recommendation:
Pursuant to section 72(2) of the *Coroners Act 2008*, the Coroner made the following recommendation connected with the death:
"I recommend that the Chief Psychiatrist guideline entitled "Inpatient Leave of Absence" be distributed to approved mental health services.

Chief Psychiatrist's Response
The Chief Psychiatrist's Clinical Practice Guideline (CPG090801) entitled *Inpatient Leave of Absence* was distributed to all public mental health services including all approved mental health services in September 2009. The guideline was also put up on the Department of Health's website in September 2009. It can be accessed at
http://www.health.vic.gov.au/mentalhealth/cpg/index.htm

Inpatient leave of absence

Chief Psychiatrist's Guideline

Key message

Leave from an approved mental health service is regulated by the *Mental Health Act* 1986 (the Act). All mental health services must ensure that appropriate clinical decision making occurs with regard to inpatient leave decisions; this includes the development and review of policies and procedures to guide clinical risk assessment and risk management. Leave decisions must include consideration of the risks and anticipated benefits, and of the rights of the patient, their family and carers.

Contents

Background

Recent coronial findings have highlighted the importance of having robust systems for the management of patient leave to ensure patient safety. Particular emphasis has been given to:

- risk assessment prior to the granting of leave
- communication with patients and carers regarding leave arrangements
- documentation of leave approval and arrangements

Purpose and scope

The purpose of this guideline is to provide a framework to enable services to develop and review their existing policies and procedures regarding the management of inpatient leave.

1) For the purpose of this guideline *patient* refers to all persons admitted to an inpatient unit irrespective of their legal status.
2) Specific provisions exist under the Act in relation to leave of absence for Security Patients (s.51 & 52) and Forensic Patients (s.53 AC). Discussion of these is outside the scope of this guideline.

Relevant Legislation

The legislative requirements relating to leave of absence for involuntary patients are articulated in s.40, of the Act and, in essence, permit the authorised psychiatrist or his or her delegate to grant involuntary patients leave from a gazetted facility for such periods and subject to any conditions that the authorised psychiatrist considers appropriate.

Mental Health Act 1986

s. 40 Leave of absence

(1) The authorised psychiatrist may allow an involuntary patient to be absent from the approved mental health service in which the involuntary patient is detained –

(a) for such period; and

(b) subject to any conditions – that the authorised psychiatrist considers appropriate.

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(2) The authorised psychiatrist may from time to time extend the period of absence allowed under subsection (1).

(3) The authorised psychiatrist may revoke the leave of absence allowed to an involuntary patient and require the involuntary patient to return to the approved mental health service.

s. 41 Absence of involuntary patient with permission

The authorised psychiatrist may allow an involuntary patient to be absent from the approved mental health service for the purpose of receiving medical treatment-

(a) for the period: and

(b) subject to any conditions- that the authorised psychiatrist considers appropriate

Key principles

- The decision to grant leave of absence must be made within the context of the treatment objectives and strategies of the patient's treatment plan.
- The granting of leave to any patient whether they are involuntary or informal, requires the treating psychiatrist to give due consideration to the reasons why the patient has requested leave and the likely associated benefits and risks. Such risks include, but are not limited to, the risk of harm to self or others (including any child protection issues), the likelihood and consequences of substance use, absconding from care, and vulnerability. These risks need to be balanced against the benefits of leave such as maintenance of social contacts, attending to family responsibilities, maintaining education/employment or other structured activity.
- A decision to grant leave should include consideration of anticipated activity while on leave, such as use of public transport or private vehicle
- When deciding whether to grant leave under s.40 of the Act, the authorised psychiatrist or his or her delegate should be mindful of the following principles set out in s.4(2) of the Act which are intended to guide the making of all decisions under the Act:
  - that people with a mental disorder are to be given the best possible care and treatment appropriate to their needs in the least possible restrictive environment and the least possible intrusive manner consistent with the effective giving of that care and treatment; and
  - that any restrictions upon the liberty of patients and other people with a mental disorder and any interference with their rights are to be kept to the minimum necessary in the circumstances.
- Where possible, leave should be planned well in advance and should occur as a result of discussion and routine treatment planning within the treating clinical team, in consultation with the patient and carers where this is indicated. If a leave request is made after hours at short notice, or on weekends when the usual treating team is absent, the person responsible should ensure they are familiar with all aspects of the treatment and care provided, and are able to adequately weigh up the risks and anticipated benefits of the requested leave. Where adequate information is not available, a decision should generally be deferred until clinicians familiar with the full clinical picture of the patient are available.
- Decision making about the purpose and granting of leave should be clearly documented and communicated to the patient, their primary carer (where appropriate), and relevant clinical staff.
- Newly admitted patients should generally not be granted leave until the treating team has developed sufficient familiarity with the patient to allow a valid mental state and risk assessment to be made.

Practice procedures

Risk Assessment

- A patient's mental state and risk assessments should be reviewed immediately prior to commencing leave. It is not appropriate to automatically allow a decision to grant leave that has been made some days previously without consideration of the patient's current mental state
- Due care must be exercised in the granting of leave to voluntary patients. Voluntary patients have the right to discharge themselves from hospital at any time, and in theory may leave the hospital at any time. If staff are concerned that a voluntary patient's safety may be at risk if he or she takes leave, a staff member should try to persuade the patient to stay in the hospital. If the patient insists on leaving, it will be necessary to consider whether an involuntary treatment order should be made with respect to the patient.
- Where a patient insists on leaving immediately and staff believe there is an imminent risk of harm to self or others, the person should be detained pending further assessment.
- If a patient fails to return as expected from leave, the senior nurse and consultant on call should be notified as soon as possible. Attempts should be made to contact the patient by phone and next of kin consulted and contacted. The decision to notify police is made by senior staff and depends on the pre-leave risk assessment, legal status of the patient and duration of leave.

Communication

- The purpose of the leave, its duration and any special conditions such as whether the patient should refrain from driving, should be discussed with the patient, prior to leave being granted. Where appropriate, the patient's carer should also be involved in these discussions. The discussion should be guided by a senior clinician of the treating team, ideally the treating psychiatrist, and should include the provision of a crisis plan in the event that difficulties are encountered by the patient or their carer during the leave period.
- Where expectations are placed upon the carer as part of the leave plan, this must be clearly communicated to both patient and carer.
- Conditions of leave may include the proviso "accompanied by a responsible adult". When granting such leave to any patient, if the expectation is that the patient is to remain under the effective supervision of a responsible adult at all times whilst absent from the ward, this must be clearly discussed with both patient and carer. If the carer is unable or unwilling to exercise this responsibility, any decisions regarding leave should be reviewed. This should be clearly documented. The clinical responsibility for the patient at all times remains with the authorised psychiatrist.
- Consideration should be given to the appropriateness of the "accompanying adult" in terms of their capacity to exercise appropriate responsibility and effective supervision of the patient whilst on leave.
- Consideration should be given to the use of a leave register that the patient should sign (specifying the time of departure and an agreed return time) in the presence of a nurse prior to departing on leave. The "accompanying adult" and carer should be contacted without delay if the patient does not return on time.
- Patients and carers should provide contact numbers for the duration of the leave granted and also be provided with after hours contact numbers to assist with any concerns they may have during the leave period.
- Upon return from leave, an assessment of the patient should occur and the carer should be consulted to ensure any issues arising during leave are noted.
- Consideration should be given to locking the room of a patient absent on leave from the ward where this is practicable and does not infringe upon the rights of other patients. This not only helps safeguard the personal property of absent patients, but provides a mechanism whereby if a patient returns early or unexpectedly from leave, or their return is not noticed by staff, a need is created for the patient to contact staff in order to gain access to their room.

Documentation

- All patients should have clearly documented risk assessment and risk management plans which are considered and referenced in the documentation of all leave decisions.
- The leave plan, approval of the leave by the authorised psychiatrist or his or her delegate, communication of this plan with patient and carer, and the departure and return times of the patient, should be clearly documented.
- Any issues arising in the course of the patient's leave should be noted.
- A Leave of Absence form (MHA21) should be completed for all involuntary patients granted leave. This form is be used whenever an involuntary patient is to be absent overnight or longer periods, and at other times at the discretion of the authorised psychiatrist or his or her delegate.

Clinical Self Assessment

Standard 1: Each service has an established policy and procedure concerning inpatient leave

Indicators:

1.1 There is a written policy and procedure for inpatient leave which is informed by this clinical guideline.

1.2 Clinical staff are able to articulate a sound knowledge of the key principles, legal requirements, guidelines, and local policy and procedures relating to inpatient leave.

Standard 2: All inpatient leave is clearly documented.

Indicators:

2.1 Clinical record documentation of inpatient leave meets the requirements of relevant policies and procedures.

2.2 Regular clinical audits are conducted

Standard 3: Adverse events relating to inpatient leave are comprehensively reviewed

Indicators:

3.1 Practice improvements are made in response of review of adverse events via the health service clinical governance framework.

About Chief Psychiatrist's Guidelines

The information provided in this guideline is intended as general information and not as legal advice. If mental health staff have queries about individual cases or their obligations under the *Mental Health Act 1986*, service providers should obtain independent legal advice.

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Further information

For further information about inpatient leave of absence, contact the Chief Psychiatrist on 9096 7571 or 1300 767 299 (toll free).

Information is also available on the Department of Health's website at www.health.vic.gov.au/mentalhealth/cpg.

Dr Ruth Vine
Chief Psychiatrist

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