

Research

The Use of Section 5(4) of the Mental Health Act 1983

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Summary

A study of registered mental nurses' use of, and attitudes to section 5(4) of the Mental Health Act 1983 is described. The reason why it is not used more often are discussed. It is postulated that nurses' use of the section increased as a result of the study being carried out.

Key Words

Mental Health Act 1983, Registered Mental Nurse, restraint, seriously mentally ill, common law.

Introduction

Section 5(4) of the Mental Health Act 1983 is an entirely new section as there is no directly corresponding section in the 195 Act. It was introduced because of the uncertainty of nurses' legal rights to detain patients in an emergency under the 1959 Act. Since its introduction there has been no specific review of its use; although it was noted in a study of the Mental Health Act 1983 conducted in Greater Manchester, that it was used infrequently (Webster *et al.*, 1987). This study also noted the outcome of patients detained under Section 5(4) and suggested that it was important to evaluate how it is used.

Method

Our study was based on two main forms of enquiry. The first was a simple review by the Patient Information Department Basingstoke District Hospital, Psychiatric Division of all Section 5(4)s. The second was a series of three anonymous questionnaires circulated to all Registered Mental Nurses in the hospital. The first one asked all those who had detained patient to state what methods they had used and if they did not use Section 5(4), the reasons for this. The second questionnaire built upon answers to the first one and asked about why the patient was considered detainable and the details of the restraint uses. The final questionnaire, in response to comments in the second one, asked about the relative incidence of psychosis and dementia.

Results

Questionnaire 1

Ninety-seven nurses were given questionnaires, using a key person on each ward who was contacted directly by one of the researchers. Forty-four replies were received. The primary results are shown in Table 1.

TABLE 1

Replies	Number	Percentage
Total	44	100
Never detained a patient	21	48
Detained patient under Section 5(4)	10*	23
Detained patient without Section	21	48

* This was the same figure as the total number of Section 5(4)s ever done in the hospital according to the Patient Information Department. Nine of these respondents had also detained patients without a section on another occasion. The methods of detention used in the absence of a section are summarised in Table 2.

TABLE 2

Method	Number	Percentage
Restraint	12	57
Persuasion	21	100
Medication	1	5

The main reasons for a Section 5 (4) not being used are shown in Table 3.

TABLE 3

Reason	Number	Percentage
Doctor coming	9	43
Restraint impractical	1	5

Paperwork unavailable	1	5
Management veto	1	5
Dementia	2	10
Not in charge	1	5

Other reasons were expressed in different ways but mostly related to the nurse's ability to persuade patients to stay; often to see the doctor. However, the reasons given for not using a Section 5(4) by the twelve nurses who said they had used restraint on informal patients, did not always explain their initial action (e.g. 'The patient was persuaded to stay eventually').

Questionnaire 2

Ninety-eight nurses were given questionnaires in a similar fashion to the first questionnaire. Thirty-three replies were received. The primary results are shown in Table 4.

TABLE 4

Replies	Number	Percentage
Detained patient by restraint	22	66
Not detained patient by restraint	11	33

The reasons the twenty-two patients were thought detainable are shown in Table 5.

TABLE 5

Method	Number	Percentage
Restraint	12	57
Persuasion	21	100
Medication	1	5

Reasons for restraint being used are outlined in Table 6.

TABLE 6

Reason	Number	Percentage
Persuasion did not work	12	55
Patient was violent	13	59
Patient did not understand	15*	68

* Eleven of the patients who did not understand, but only one of the others were 'seriously mentally ill'.

The number of people involved in the restraint is shown in Table 7.

TABLE 7

Number of people	Number	Percentage
One	5	23
Two	13	59
Three plus	12	55

The length of time restraint was used for is shown in Table 8

TABLE 8

Length of time*	Number	Percentage
'Several minutes'	20	91
Up to one hour	3#	14
More than an hour	1 #	5

* In six people restraint was used 'until the doctor arrived'.

#The 'more than an hour' and one 'up to an hour' were 'seriously mentally ill'. Injuries occurred in only two cases.

Questionnaire 3

This questionnaire was 'addressed' only to those who had previously detained patients by restraint. Fifteen replies were received, referring to seventeen patients. The results are shown in Table 9.

TABLE 9

Understanding	Number	Percentage
Patient understood request to slay	5	29
Patient did not understand request	12	71

The twelve patients who did not understand a request to stay were subdivided as shown in Table 10.

TABLE 10

Patient Status	Number	Percentage
Psychotic	11	92
Demented	5	42
Violent	1	8

As mentioned above, at the outset of our study, ten patients had been detained under Section 5(4) in the four and a half years since its introduction. By the time the study was completed six months later twenty patients had been thus detained. Of these, seventeen had subsequently been re-graded to Section 5(2) and the remainder to informal.

Discussion

In looking at our results the first thing to notice would be the change in the replies between the questionnaires. In the first, twelve people admitted to detaining patients by restraint. In the second, twenty-two people admitted to this. We would postulate that this was due to the feedback of other nurses' views on the second questionnaire allowing nurses to be more open about this rather difficult question.

Analysing the results in more detail it is gratifying to note that nurses used persuasion as one means of detaining patient in all cases. In the hospital studied there is always a junior doctor available, thus it is not surprising that nearly half the respondents did not feel the need to apply a section 5(4) because 'the doctor was coming soon'. This is something that was noted in Webster *et al.*'s (1987) study. The popularly held belief that management did

not encourage 5(4) usage did not seem to be a reason inhibiting people from implementing it.

A potentially worrying finding from the second questionnaire was the apparent lack of correlation between a decision to restrain a patient and one to detain them. If we accept that having a 'serious mental illness' with or without being a danger to themselves or others constitutes prima facie evidence of 'sectionability' then only twelve of the twenty two patients would be 'sectionable'. It is reassuring that restraint was not applied for longer than a few minutes in all but four cases, but disturbing that a Section 5(4) was not applied to those whom it was considered required longer restraint and who were 'seriously mentally ill' especially in the case of the patient restrained for longer than an hour (whilst waiting for a doctor to attend).

There may well be reasons for restraining patients under common law for their own protection but this would not normally be understood to include detaining them in hospital against their will. Similarly there may, potentially, be grounds for detaining patients who 'cannot understand'. However, the final questionnaire suggests that contrary to what might have been supposed about two thirds of those who could not understand were psychotic (not demented) and one would therefore have thought that they might come into the category of being 'seriously mentally ill'.

Obviously the wording we chose may have had some bearing on the respondents' replies but it may also show that nurses are not making reasoned judgements when deciding whether to exercise the provisions of the Mental Health Act or not. The fact that during the six months of our survey the number of Section 5(4)s used increased by one hundred percent compared with the previous four and a half years might well support this theory. We would suggest that what we saw was a 'Hawthorn Effect' (Roethlisberger & Dickson, 1939) in that raising staff awareness of the section and confirming its acceptability influenced their behaviour.

References

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