

# Forensics psychiatry

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## DEFINATIONS

- **Forensic** :relating to courts of law.
- **Forensic psychiatry:** It is the branch of psychiatry that deals with the assessment and treatment of mentally disordered offenders and includes those areas where psychiatry interacts with the law.
- **Forensic nursing** It is defined as a subspecialty of nursing that has as its objective of assisting the mental health and legal systems in serving individuals who have come to the attention of both the health personnel and legal practitioners
- A **forensic patient** is a person who has: been found unfit to be tried for an offence and ordered to be detained in a correctional centre, mental health facility or other place

# Informed consent

- Consists of three components:  
information  
consent, and  
competence.

**Information:** is the data base to be used by the patient in making a sound decision about treatment. The patient is expected to be informed of the risks and the benefits of the proposed course of treatment, of alternative treatments, and of no treatment

# Informed consent

- **Consent:** voluntary agreement to pursue a prescribed regimen
- **Competence:** the capacity to weigh, to reason, and to make reasonable decisions about the risks and benefits of treatment. It can be demonstrated by the patient asking pertinent question

# Mental Health Act, Act 18 of 1973

Aim: To safeguard civil liberties and to make sure that no person is railroaded into a mental hospital.

- Covers the right to treatment And admissions to mental health unit
- Provide for the care, treatment and rehabilitation of patients with mental illness
- Procedures for admissions of patient with mental illness
- Established mental Health and their powers and functions
- Provide care and administration of property of patients with mental illness
- Repels certain laws connected with mental health issues.

# Admission at civil psychiatry (mental health act 18 of 1973)

- Section 3 – Voluntarily admission
  - Section 4 – Admission by consent (involuntary admission)
  - Section 5- Discharge of patient voluntary pt and involuntary pt
  - Section 9 – Admission of a certified person
- Section 12 – Emergency admission

## Voluntary patient section 3

- Form to be filled in – G 2/19
- any person may on written application to the Medical Superintendent voluntarily submit himself for treatment;
- if it is a minor under the age of 18, application must be made by guardian;
- The doctor to complete medical report

### **Discharge:**

- as soon as patient's doctor finds him well enough;
- Patient can give 4 days written notice; The 4 days notice gives the doctor enough time to have patient certified if he is not well enough to be discharged.



## Section 4 Admission by consent (involuntary admission)

- Application form G 2/21
- admission of a patient who is not suitable to be admitted as a Voluntary patient
- patient who is unable to understand the need for admission – or who have no insight
- application can be made by nearby relative over the age of 18 years; if no relative is available, application can be made by: medical practitioner, nurse, clinical psychologist, social worker

## Admission under section 9(Admission of a certified person)

- Forms G 2/1, G 2/2 and G 2/3

this procedure is for those patient who:

- \* need treatment/care/control
- \* suffer from severe psychotic illness
- \* lack insight
- \* is a danger to themselves or others
- any person over the age of 18 years may apply to the Magistrate;

## Section 9 .....

- the applicant must have seen the patient within 7 days of applying;
- the application must be signed before a Commissioner of Oaths;
- it must be submitted to the Magistrate within 7 days of the date of signing;
- on receipt of application the Magistrate calls to his assistance two Medical Practitioners
- The Magistrate issues a reception order G 2/3 if he is satisfied with the information.
- the patient is detained and treated for a period not exceeding 42 days after which further procedures are used.

## Cases of extreme urgency section 12

- Forms G 2/6 and G 2/2
- if patient needs urgent admission application is made to the Psychiatric Hospital; any person over the age of 18 years;
- application must be made on a G 2/6
- medical practitioner complete medical report – G 2/2
- Section 12 is only valid for 48hours
- If further admission is needed, sections can be changed either to section 4 or section 9.

# Forensic psychiatry

Is concerned with:

- Application of the law to psychiatry
- The relationship between crime and psychiatry
- The detection of the shades of pathology, the boundaries between normality and mental disease
- The contribution of mental diseases to socially proscribed acts, and The treatment of mentally abnormal offenders
- It is a branch of medicine that deals with disorders of the mind and their relation to legal principles
- The assessment of behavioural abnormalities
- The writing of reports for courts and lawyers
- The giving of evidence in court
- The treatment of disorders

## TYPES OF PATIENTS THAT NEED FORENSIC PSYCHIATRY

- The patient in the forensic setting is guilty of committing a crime believed to be caused by their mental illness.
- Alternatively, the forensic psychiatric patient might have committed a crime independently of their mental illness, but is presently too ill to participate in court proceedings.

# The service user

- Those seen for assessment purpose only
- Those requiring treatment
- Mentally abnormal juveniles
- Women, men, elderly offenders
- Intellectually disabled
- Those requiring minimum or medium security
- Those requiring maximum security (display dangerous behaviour)

## Who are admitted at this unit

- Observation Patients/ Awaiting Trial Prisoners.
- State President's Decision Patients (SPD).
- Convicted Prisoners.
- Awaiting Trial Prisoner before referral by the court



# Crime

- It defines certain acts as offences against the state and in doing so it makes them punishable

Consist of 2 elements

- 1. Actus Reus: wrongful physical act or omission
- 2. mens rea: guilty mental state.
- For a mentally ill accused person, the men rea is usually questioned.
- To establish a defence supporting insanity it must be proven that at the time of committing the crime the person was mentally unstable as not to know the nature of act he was doing or dont know what he was doing.

## Fitness to stand trial

- Only the person who understands court proceedings and understand what is right or wrong can be said to be responsible for his actions.
- Knows the charge laid against him
- Know what is lawfull and unlawful
- Understand that the court must decide on his guilty or innocence

# Criminal responsibility

- An accused person can be considered to have committed a crime while being mentally unstable.
- Alcoholism does not constitute non responsibility, unless it is together with mental illness.
- Emotional distress is not an acceptable form of defense as insanity
- Witchcraft is not considered as mental illness.

## Factors of psychiatric relevance that might negate mens rea

- Age – children under the age of 10 years
- Mental illness (The relationship of mental illness to the offence may range from the coincidental to the causal)
- The effects of alcohol and drugs
- automatism – mind does not accompany the body's action

# Mental illness as a defense

- In order to determine the level of criminal responsibility, the accused should have mens rea –“a guilty mind” If it is demonstrated that at the time of the offense, the mental faculties of the accused were impaired by virtue of mental illness, the court may find that the person could not have met the requirements to establish a guilty mind

## **Alcohol and drugs**

- Traditionally, it has been regarded as an aggravating factor rather than an excuse
- Aristotle formulated the modern concept of recklessness: “the drunken man is punished even if he did not know what he was doing because he is for getting himself drunk”

## McNaughton rule

In 1843, in Britain Mr Daniel McNaughton, a deranged woodcutter who attempted to assassinate the prime minister Robert Peel and in the process murdered Edward Drummond, his private secretary.

And the court found that he was not guilty because he was suffering from a disease of a mind at the time of the crime.

## Decision to request psychiatric report

- Is a response to the offence, or
- The behaviour of the person charged, or
- To the person's identification as a patient
- All the participants in the criminal justice system, from offender to sentencer, may affect the decision to request a psychiatric report

## Purpose of Psychiatric report

- To provide expert advice to assist the court in its work
- The psychiatrist does not direct the court
- The final decision rests with the court



# Who can request for mental observation

- Lawyers through the court.
- Family through the court.
- Investigating officer through the court.
- Public prosecutor through the court.
- The accused person through the court.

## The role of medical report in the sentencing process

- It helps the court to assess an offender's culpability (by indicating facts which affects his culpability or responsibility)
- It helps the court to pass a sentence designed to stop him from offending again (by indicating treatment which could usefully be given)
- it helps the court to pass a sentence to protect the society.

## Fitness to stand trial

- The law in most countries does not allow trial of a person in absentia
- Being present at the trial means the person is both physically and mentally present
- Fitness, or competence , to stand trial, therefore, pertains to the mental condition of an accused at the time of trial

# Fitness to plead

- Be aware of the charge against her/him
- Know the difference between pleading guilty and not guilty
- Be able to comprehend the details of evidence be able to follow court proceedings
- Knowing that a juror can be challenged
- Being able to instruct legal advisers
- Understand the verdict of the court e.g. „guilty and sentenced to six months in prison

## Unfit to stand trial

- Unable to understand the nature and object of the legal proceedings (e.g. that he is being tried for a crime, the relative roles of prosecutor, defense, attorney, judge)
- Unable to understand the possible consequences of the proceedings or
- Unable to communicate with counsel and assist counsel in his defense
- If a person is found unfit to stand trial by virtue of mental health problems, criminal proceedings must be kept in abeyance until the person regains fitness. Court send the person to a mental health facility for treatment
- Safeguards: regular periodic report

# Legal instrument

- Mental health Act No 18 of 1973
- Criminal procedure Act No 51 of 1977
- Section 77 of Act 51 of 1977 deals with an accused's capacity to understand court proceedings as to make a proper defence

# Documents required for admission for observation

- Charge sheet
- Warrant of removal of a person, detained and referred to an Institution for observation in terms of the provision of section 77, 78 and 79 of the Criminal Procedure Act No 51 of 1977
- Warrant of detention
- Statements of witnesses, accused, complainant
- J88 in case of rape cases
- Post mortem report, if available, in case of murder
- Police description of the client's behavior and attitude at the time of arrest
- Photo plan of crime scene, if available

## Documents required for admission of state president's patient's

- In terms of Sec 77(6)(9) or 78(6) OF CPA No.51/1977.
- A Court Order signed by the Magistrate/Judge to authorized the detention of the State Presidents Decision Patient.
- The order must be directed to the nearest Officer-in-Charge of a Prison and/or the Superintendent of the Windhoek Central Hospital / Head of the Mental Health Care Centre



## Procedure for admission of an awaiting trial prisoner – before referred by court

- Accused Person must be mentally ill (after/during arrest).
- 2 Medical practitioners confirm the accused person require admission (not psychiatrist).
- NAMPOL to request the court to issue a Reception Order and is also the applicant. (Sec.9 of Mental Health Act).
- NAMPOL can also apply for admission under Sec.4 of Mental Health Act No. 18/1973 (Patient by Consent).
- Urgent admission under Sec 12 – NAMPOL has to be the applicant.
- Copy of Warrant of Detention must be attached on all applications.

## Admission of convicted prisoners

- Mental Health Act No.18/1973 Sec 30,31,32 Prisons Act No.17/1998 Section 22,62,63,64.
- Officer in Charge of Prison to apply to the Magistrate in his area to request for Mental Observation of a Prisoner.
- He must attached two medical reports of which one shall be from a psychiatrist, if available.
- The Magistrate if he is satisfied, issued a order for the admission and send copy to the Permanent Secretary of Ministry of Health and Social Services

## Factors that can exacerbate mental health problems in prison

- Isolation from social networks
- Insecurity about future prospects (work, relationship etc)
- Feelings of guilt or shame about the offenses they committed
- Overcrowding
- Aggression and violence
- Lack of meaningful activity

## Persons with mental disabilities as prisoners

- Of the 9 million prisoners worldwide, at least 1 million suffer from mental health problems
- There are 3 times as many people with severe mental illness in prison as there are in mental health hospitals
- A large number of people with mental disabilities within prison population have not committed crimes warranting their incarceration
- Insufficient resources for mental health have contributed to this situation

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DEPARTMENT OF HEALTH

Gen 27

1.1 APPLICATION FOR ADMISSION OF PATIENT BY CONSENT

HOSPITAL

Full name of person for whom application is made

Address

Name and address of applicant

Relationship (or other capacity)

I, the undersigned and applicant, hereby declare that I am the  
and over the age of 18 years, I wish to apply to the Superintendent for the admission of  
to the above-named hospital for care and the treatment of his/her mental  
condition.

I have been informed that the said Superintendent shall discharge  
within four days of my giving notice in writing of my intention to remove the said patient from this  
hospital.

171. This application is made in terms of section 6 of the Mental Health Act, 1973.  
172. In terms of section 5 (1) of Mental Health Act, 1973.

Copy 200  
6/19/53  
Section 2

4-10-2038

DEPARTMENT OF HEALTH

**MEDICAL REPORT ON ADMISSION OF VOLUNTARY PATIENT**

Full name of patient \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Age \_\_\_\_\_

Date of admission \_\_\_\_\_

General physical condition \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Are there any signs of recent infection? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Other conditions \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I being a registered medical practitioner, certify that the above-named, who has applied for admission to this hospital, is in need of treatment and that he/she understands the meaning and effect of the application which appears on the reverse side of this form.

I The physician who suggests the application has also been referred accordingly.

Signature \_\_\_\_\_

\_\_\_\_\_

Date \_\_\_\_\_

Hospital \_\_\_\_\_

\* In honor of section 111 of the District Health Act, No. 98 of 1950  
I do not permit to act a false report.



MINISTRY OF HEALTH AND FAMILY WELFARE  
APPLICATION FOR ADMISSION AS VOLUNTARY PATIENT  
GENERAL INSTRUCTIONS FOR APPLICANTS AND FORMS (SAND TO 177)

Name \_\_\_\_\_  
Present address of applicant \_\_\_\_\_  
Date of birth \_\_\_\_\_  
Date of issue \_\_\_\_\_  
Name of hospital \_\_\_\_\_  
Address of hospital \_\_\_\_\_  
District \_\_\_\_\_  
State \_\_\_\_\_  
Pin code \_\_\_\_\_  
Telephone number \_\_\_\_\_

1. The Government of India is applying to the Government of the Government Hospital in which we do the above  
subject for admission of the above conditions.

2. The applicant for admission shall discharge any amount of fare sufficiently in advance or within  
five days of the date of admission of the patient to the hospital or if it is a week, on the date  
when it is possible to find the patient.

3. A certificate for the admission of the patient shall apply for admission or grounds as described in the attached form  
of the Government of India.

Applicant's signature \_\_\_\_\_

Date of issue \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

copy x 20

CPD

DEPARTMENT OF NATIONAL HEALTH AND WELFARE

4871

APPLICATION FOR A RECEPTION ORDER

(Mental Health Act, 1973, section 2)

To the magistrates at \_\_\_\_\_

1. Name of patient \_\_\_\_\_

First names of patient \_\_\_\_\_

Date of birth \_\_\_\_\_

or estimated age \_\_\_\_\_

Sex \_\_\_\_\_

Occupation \_\_\_\_\_

Marital status \_\_\_\_\_

Nationality \_\_\_\_\_

Residential address \_\_\_\_\_

I, the undersigned, am of the opinion that the above-mentioned person is suffering from a mental illness, for the following reasons:

(a) General behaviour and conduct \_\_\_\_\_

Displays the following specific additional problems:

(a) Drug addiction \_\_\_\_\_

Yes/No \_\_\_\_\_

(b) Abuse of alcohol \_\_\_\_\_

Yes/No \_\_\_\_\_

(c) Subtle tendencies \_\_\_\_\_

Yes/No \_\_\_\_\_

(d) Dangerous to others \_\_\_\_\_

Yes/No \_\_\_\_\_

(e) Previous attacks of mental illness \_\_\_\_\_

Yes/No \_\_\_\_\_

If the answer is "Yes", give further particulars \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## References

- Kaplan, sadock synopsis of psychiatrist 7<sup>th</sup> edition
- Ganti, kaufman M, Blitzstein First aid, psychiatry clerkship 4<sup>th</sup> edition
- DSM 5
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