

## Legal Issues in the Treatment of a Violent Manic Patient in a Non-Gazetted Setting: A Case Report

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### Abstract

**Introduction:** Psychiatrists in non-gazetted treatment settings, like psychiatric wards in restructured general hospitals and private hospitals, face a major problem when psychiatric patients who require admission are either not competent or refuse to consent to admission and treatment, although they are clearly in need of such inpatient management. Admission to the state mental hospital is often refused by their relatives for a number of reasons, like the stigma attached to admission to such a hospital, and the fear that future employment prospects might be affected. **Clinical Picture:** Mr X, a manic, violent patient, had no insight into his disorder and refused admission and treatment for his manic episode. He was the head of a large corporation, and his relatives were apprehensive he would make decisions that could jeopardize the company. **Treatment:** He refused oral medication, could not tolerate parenteral haloperidol and had lithium nephrotoxicity. Inpatient electroconvulsive therapy had to be administered, after which he responded satisfactorily. **Conclusion:** The legal implications in this case, like consent for treatment and admission, and ethical issues, are discussed.

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**Key words:** Fitness, Consent, Implications, Mania, Private hospital

### Case Report

Mr X, a 68-year-old Indian, was the chairman of a big corporation. He had had a history of bipolar disorder for the past 40 years, with an episode of depression and mania that started 40 years ago, and then 3 episodes of mania in the past 6 years. About 2 months prior to admission, he had a coronary bypass operation. The postoperative period was uneventful and he remained well till a week prior to admission when he started to have a relapse of mania because of non-compliance with regard to medication. Mr X became very agitated and irritable, and developed a sudden violent aversion to his previous psychiatrist whom he felt had labelled him falsely, as he believed himself to be well and not of unsound mind. In his manic state, he feverishly carried out several transactions involving large sums of money.

A second psychiatrist was called in and with the

concurrence of Mr X's first psychiatrist, he was admitted to an inpatient ward in a private hospital. Mr X's condition could not be controlled with medication, as he had marked extrapyramidal side effects with haloperidol and also had lithium nephrotoxicity. He refused all oral medication and a decision was made to give him a course of electroconvulsive therapy (ECT). Mr X was found to be unfit to give consent for treatment. In a family session, the agreement of all the family members for this treatment was obtained and with the concurrence of Mr X's own psychiatrist and the treating psychiatrist, he was administered a course of 10 electroconvulsive therapy treatments. He recovered from his manic state and was grateful when the whole treatment process, including the ECT, was explained to him.

### Discussion

Mr X's case encompassed various difficult legal issues in the treatment of disturbed patients like those with affective

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disorders in the manic phase. In addition, the case was complicated by the fact that he was the head of a big corporation and in charge of large financial resources. As a result of his mental state, he was grandiose, hyperactive and excitable. He was also on a spending spree and made apparently unwise financial decisions on sudden manic impulses, much to his family's apprehension. He was suspicious of and hostile towards his first psychiatrist, refusing both treatment and admission. His family members were adamant that he should not be admitted to the state mental hospital, which is gazetted for the treatment of mentally ill persons, where an involuntary admission could have been enforced. One of the reasons for such reluctance was that should news of his admission be made known, Mr X's company would have been seriously affected. The legal questions that had to be addressed were:

- 1) Was Mr X fit to give consent for electroconvulsive treatment?
- 2) If not, should an application have been made to court under the Mental Disorders and Treatment Act (1985),<sup>1</sup> for a committee of persons to manage Mr X, before admitting him and giving him treatment?
- 3) Could 2 psychiatrists have given consent?
- 4) Was the consent of his relatives sufficient?
- 5) What legal recourse, if any, would have been available to his psychiatrist should Mr X have taken action against him?

#### *Fitness to Give Consent*

Under the Penal Code (Section 90), if a person is of unsound mind and is unable to understand the nature and consequences of that to which he gives consent, then any consent that he gives would be deemed to be not such a consent as is intended by any section of the Code.<sup>2</sup>

To ascertain whether a person is fit to give consent, tests of competence to give consent have been devised.<sup>3-5</sup> They measure different aspects of competence to give consent, namely:

- 1) understanding of the treatment procedure whereby information is given to the patient regarding the condition, forms of treatment, and their potential risks and discomforts, and the patient is assessed on his understanding of this,
- 2) the reasoning process and how the patient arrives at a decision,
- 3) the appreciation of his illness and necessity for treatment.

In Mr X's case, he was in a very manic state, very hostile and angry about not being allowed to do what he wished, unable to have a rational discussion about his condition, and did not acknowledge that he was ill or needed treatment.

*Should an application have been made to court to appoint a committee for managing Mr X and his affairs?*

Under the Mental Disorders and Treatment Act 1985,<sup>1</sup> an application could have been made to court to appoint a committee to manage Mr X, if he had been found to be of unsound mind such that he could not manage himself and his affairs. In his case, it would have been because he was in a manic state and was unable to manage himself and his affairs, including being unable to consent to admission to a psychiatric facility. Neither was he able to give consent for treatment.

However, Mr X, in his capacity as chairman of a corporation, was in a vulnerable position, as confidence in him would have been greatly shaken if news of his inability to manage his affairs were to be made public. As his manic state had always responded to treatment after 2 to 3 weeks, such an application would not have been in Mr X's interest and would have been against the wishes of his family members. His treating psychiatrist chose not to proceed with this course of action.

*Could 2 psychiatrists have given consent?*

The Mental Disorders and Treatment Act of Singapore<sup>1</sup> does not have any provision for 2 independent psychiatrists to give consent for ECT. This, however, is provided for in England and Wales under the Mental Health Act 1983,<sup>6</sup> where a second opinion by a Second Opinion Appointed Doctor is required.

At a special meeting of the Chapter of Psychiatrists, Academy of Medicine (Singapore), this recommendation was adopted. The guidelines on the practice of psychiatry issued by the Chapter of Psychiatrists, Academy of Medicine (Singapore)<sup>7</sup> in June 1998 allows for consent to be given by the treating psychiatrist after consulting an independent psychiatrist for a second opinion, in cases where a patient is unable to consent and no relative is available. At the Institute of Mental Health, this practice is also adopted in special cases where it is not possible to obtain consent.

The Ministry of Health's ethical guidelines on the practice of psychiatry also states that if a patient is unable to give consent and there is no guardian or others in lawful charge of a patient available, the treating psychiatrist may give consent, but a second opinion is required.<sup>8</sup> However the cases are restricted to those whose illness are considered to be life-threatening and for whom treatment is necessary. Here the Ministry of Health's guidelines are based on the Penal Code.<sup>9</sup>

Mr X's treating psychiatrist adhered to this principle and arranged for Mr X's original psychiatrist to examine Mr X independently and to assess if treatment was necessary.

*Would the consent of his relatives have been sufficient?*

There are no legal provisions under the Mental Disorders and Treatment Act 1985<sup>1</sup> for relatives to give consent but it has been the unofficial practice to do so, and relatives are usually included in discussions about ECTs. The guidelines for ECT issued by the Academy of Medicine, Chapter of Psychiatrists<sup>7</sup> provides for consent for such treatment to be obtained from the patient himself whenever possible, but also states that relatives might be asked to give consent on the patient's behalf in special circumstances. These circumstances are not elaborated on, but presumably would include that where the patient is incompetent to give consent.

The Ministry of Health's ethical guidelines on the practice of psychiatry<sup>8</sup> state that if a patient does not have the capacity to give consent for ECT, the guardian or other persons who have lawful charge of the patient can give consent, and here Section 89 of the Penal Code is quoted. Section 89 of the Penal Code states: "Nothing which is done in good faith for the benefit of a person under 12 years of age, or of unsound mind, by or by consent, either expressed or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be known by the doer to be likely to cause, to that person..."<sup>9</sup>

In Mr X's case, it was prudent of the treating psychiatrist to obtain the consent of Mr X's immediate relatives for his admission and ECT. This was to preempt any complaints or legal suits should they have been dissatisfied with the outcome.

*Would the treating psychiatrist have had any legal recourse should Mr X have decided to take legal action against him?*

Under common law, the psychiatrist could have been defended under the defence of necessity and acting in the best interests of his patient.

Had the psychiatrist not admitted Mr X to the hospital and not accorded the necessary treatment, his action would have been indefensible. Had he applied to the court for a committee to manage Mr X, who was not permanently but only temporarily unfit, the consequences for Mr X and his business could have been serious and would have gone against the wishes of his relatives.

*What about medical ethics?*

Involuntary commitment and treatment in mental health often evoke much controversy. It is a converging point for several ethical principles, some in conflict with others.

Involuntary hospitalisation and treatment consideration would require the presence of these 2 basic essentials:

- 1) The presence of severe mental illness;
- 2) The risk of harm to self and others.

The utilitarian principle justifies the temporary deprivation of physical liberty with the eventual good of returned health. The principle of beneficence directs care to individuals incapable of looking after themselves; that it is right to limit individual freedom to protect the self and others from harm. Those who oppose would uphold the principles of autonomy and libertarianism: that liberty transcends all other values.<sup>10</sup>

Ethical analysis often may not resolve difficult psychiatric situations as there is no way to describe which conflicting canon prevails. There is no one ideal ethical value. Neither is there an absolute right or wrong. How then do we see rational argumentation when time does not permit and the law does not provide adequate coverage? How do we come to a justifiable basis without infringing the law? It is also important to note that mankind is not fully autonomous and the truth is not always what it appears to be.

It is said that optimism in forced treatment situations can be justified. Psychiatrists should be encouraged to provide such treatments when appropriate to help the patient progress from a posture of defiance to compliance to alliance.<sup>11</sup> These issues have been clearly demonstrated and thought through in the treatment of Mr X with a very satisfactory outcome.

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