

The College

Mental Health (Amendment) Act 1982

DHSS Health Circular

[The Public Policy Committee's Working Party on the Mental Health (Amendment) Act felt that members of the College might wish to see this recently published Health Circular issued by the Department of Health and Social Security.]

Summary

This circular notifies health and local authorities of the principal changes to be introduced when the Mental Health (Amendment) Act 1982 is implemented on 30 September 1983 and promises further guidance.

1. The Mental Health (Amendment) Act 1982 received Royal Assent on 28 October 1982. The new Act makes substantial amendments to the 1959 Mental Health Act. Its provisions will, for the most part, take effect from 30 September 1983, by which time it is hoped that all the amendments made to the 1959 Act will have been consolidated in a new Mental Health Act.

2. If it is enacted, the consolidated Act will, of course, look rather different from the 1959 Act, with different section numbers. The Department will be issuing an explanatory memorandum well in advance of 30 September 1983, to ensure that health authorities, local authorities and health and social services staff have time to familiarize themselves with the new provisions before they have to put them into practice.

3. Some of the changes made by the Mental Health (Amendment) Act 1982 are described briefly below.

(a) A special health authority to be called the Mental Health Act Commission is to be set up to protect the interests of detained mental patients. (There is power in the Act for some of the Commission's functions to be extended to informal patients, but this is unlikely to be brought into operation for a few years.) The Commission will be multidisciplinary and will have a key role to play in new provisions governing the treatment of patients. Its members will visit detained patients and investigate complaints and it will review the use of powers of detention. It will also produce Codes of Practice on admissions procedures for detained patients and on the treatment of mental disorder.

(b) New requirements regarding the treatment of detained patients for their mental disorder will be introduced. There will be three categories of treatments:

(i) Some treatments—such as psychosurgery and other treatments to be specified in regulations—will require both the patient's consent, independently

attested, and a second opinion from a doctor appointed by the Mental Health Act Commission. (The special provisions for this very limited category of treatments will also apply to informal patients.)

(ii) Other treatments, also to be specified in regulations—such as ECT and prolonged drug treatment—may be given without consent if an independent doctor appointed by the Commission agrees, after consulting two people from other professions who have been concerned with the patient's treatment.

(iii) Other drug treatment may be given for up to three months without consent and without a second opinion, on the authority of the responsible medical officer.

There will be special provisions to allow urgent treatment. Treatments under (i) and (ii) will be subject to periodic review.

(c) The period before detention for treatment has to be renewed is to be halved. This means that detained patients will have twice as many opportunities to apply to Mental Health Review Tribunals. Patients detained under the 28 day power will also be able to apply. There will be automatic Tribunal reviews after the first six months for non-offender patients and then every three years for all detained patients who have not applied in the meantime. (These are being phased in now—HN(82)25 refers.) Tribunals will have authority to discharge restricted patients and to recommend in respect of any patient one of a range of other options. Applicants to tribunals will be able to have legal assistance by way of representation, although this is not actually in the mental health legislation. (Guidance on this has already been issued in Circular HN(82)37.)

(d) The new term 'mental impairment' is being introduced instead of 'subnormality' for the few abnormally aggressive or seriously irresponsible mentally handicapped people who need to be detained. For those suffering from mental impairment or psychopathic disorder, detention for treatment will be possible only if the person is thought to be treatable.*

(e) Tighter time limits will be imposed on compulsory emergency admissions on the signature of a single doctor

* Please note that this does not apply to the severely mentally handicapped. The College has asked the DHSS to make this point clear—Eds.

(Section 29 of the 1959 Act) so as to avoid misuse of the emergency power.

(f) There will be a legal obligation on hospital managers to do what they can to ensure that detained patients understand their legal status and their rights and also to give written information to the patient's nearest relative if possible.

(g) Social workers will be more involved even where the nearest relative has applied for the patient's admission. From 20 October 1984 mental welfare officers will be replaced by approved social workers who will be specially trained for their work under the Act.

(h) Where a doctor is not immediately available, certain nurses will be authorized to detain, where necessary, someone already in hospital as an informal patient for up to six hours.

(i) New powers will enable a Court, after appropriate consultation, to remand a person to hospital for a report or treatment or to make an interim hospital order, so that the Court can assess whether a mentally disordered person appearing before them ought to be made the subject of a hospital order. These remand and interim order provisions will be phased in gradually in the next two to three years.

(j) Regional Health Authorities will be required to give information to the Courts, on request, about what hospital places are available for a mentally disordered offender.

(k) Provisions concerning legal proceedings against staff carrying out their work under the Act are being changed so that permission for *criminal* proceedings will be sought

from the Director of Public Prosecutions rather than the High Court. The word 'substantial' has been deleted from the requirement to show grounds of bad faith or lack of reasonable care on the part of the member of staff before permission is given.

(l) From 1 April 1983, informal patients in mental hospitals will be able to make a declaration which allows their names to be included on the 1984 electoral register.

Action

4. Various orders and regulations will have to be made by 30 September 1983 when the Act will come into effect. Regulations will be needed for the treatments which require consent *and* a second opinion, or consent *or* a second opinion (para b above); an order will be required to specify which categories of nurse can exercise the new holding power (para h); and regulations will have to be made revising the forms and procedures laid down in the Hospital and Guardianship Regulations 1960. The intention is to consult on all these about the middle of February, but we shall have to set a closing date for comments towards the end of April if we are to meet the time constraints imposed by Parliamentary and printing timetables. In view of the inevitably short time that will be available for consultation, authorities and other bodies who wish to take part in this consultation process may wish to make preparations in advance to fit this timetable.

5. District Health Authorities are asked to draw this circular to the attention of all private mental nursing homes registered with their Authority under the Nursing Homes Act 1975. Those with detained patients have a particular interest.

The College's Medals and Prizes

Gaskell Medal and Prize

In addition to the medal the award attached to this prize is £150. The annual examination for the prize will be held in April or May 1983. Entries should be sent in by 31 March 1983.

The Prize has always been considered one of the foremost academic distinctions obtainable in clinical psychiatry, and members are asked to bring it to the notice of suitable candidates at their hospitals who may be eligible to compete.

Full particulars of the Regulations are given below, and entry forms may be obtained on application to the Dean.

REGULATIONS

The examination must be held in England according to the terms of the Trust.

Candidates must produce evidence of (a) having been qualified officers in one or more psychiatric hospitals or

clinics in psychiatry in the United Kingdom or elsewhere in the Commonwealth or in the Republic of Ireland for at least two years; (b) having passed the MRCPsych examination or possessing any other degree or diploma in psychological medicine.

Candidates must be over 23 and under 35 years of age on 1 January of the year of the examination.

The examination includes a written paper, a clinical and an oral.

An entry fee of £5 is charged, returnable to bona fide candidates.

Research Prize and Bronze Medal

A College Prize is awarded for Research and the winner receives the College Bronze Medal.

The value of the prize is £150. A limit of two such prizes will be awarded each year. No prize will be awarded if a sufficient standard is not reached.