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I37 The Patient Can Leave: Involuntary Hospitalization of Non-Psychiatric Patients Who Lack the Capacity to Refuse Medical Treatment

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After attending this presentation, attendees will have gained knowledge of California's current laws regarding involuntary hospitalization of medically ill patients who do not meet criteria for an involuntary psychiatric hold.

This presentation will impact the forensic science community by illuminating the quandary the medical professional may be in when a patient who lacks capacity to refuse treatment chooses to leave the hospital. As most of these cases involve individuals with cognitive impairment, this will become an even greater issue as the proportion of the aged population increases.

Generally, there is no legal mechanism to hospitalize medically ill patients against their will unless they are psychiatrically ill, have a legal conservatorship, or have certain contagious diseases. Possible solutions to this dilemma will be discussed.

The need for involuntary hospitalization occasionally arises for medically hospitalized patients. Most of these cases pertain to patients with an acute mental illness. In California, if a person is mentally ill and a danger to self and/or others, or gravely disabled (unable to provide food, clothing, or shelter), the patient can be involuntarily hospitalized for psychiatric treatment for a 72-hour period. California law allows for additional periods of involuntary hospitalization of psychiatric patients, if indicated.

However, at times there are medically ill patients who do not have a psychiatric illness but may require involuntary hospitalization for medical treatment purposes. An example may be a patient with delirium who lacks the capacity to refuse treatment and wants to leave the hospital. When an individual requires inpatient medical treatment, but lacks the capacity to refuse the treatment, a petition can be filed under California Probate Law. If the court finds that the patient lacks capacity, the court can authorize treatment and appoint an individual to make health care decisions on behalf of the patient for that specific medical problem.

It is important to recognize that when this health care decision-making is granted to another, the law does not explicitly grant that individual the authority to involuntarily hospitalize the patient against their will. Consequently, the patient could choose to leave prior to administration of the treatment. Given this situation, staff members at some hospitals are instructed to refrain from physically restraining these patients if they try to leave the hospital. The hospital is in a difficult situation. If they prevent the patient from leaving, they are doing so illegally. If they allow the patient to leave, they are possibly exposing the patient to a serious threat to their physical health.

The situation mentioned above presents medical professionals with a significant dilemma. Changes to hospital policy or legislation could provide much needed direction.

This presentation will provide a general overview of California statutes related to involuntary psychiatric hospitalization, guardianships, conservatorships, and other protective proceedings. A case example will be used to illustrate the application of these laws and current hospital policies.

Involuntary Hospitalization, Capacity, Leaving