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SEE NPM Network Workshop

„Homes for the elderly/care institutions and dementia – standards in health care and medication-based deprivation of liberty"

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About situation in Slovenia

Homes for the elderly are one form of social security institutions. They are general or special (mixed). Home for the elderly in Slovenia generally takes care for institutionalized safety of the elderly (over 65).

Special social security institution for adults performs special forms of institutional care for mentally and physically disabled adults.

Institutional care for elderly people is performed as a public service by public social security institutions (public service network) and also by legal or natural persons with a concession, while outside of the public service network, by persons with working permit of the ministry responsible for social welfare.

- Public (state): 49
- With concession: 38
- Special: 5
- Mixed: 6
- Total: 98 homes for elderly

The system of health and social care in the field of mental health; holders of this activity and rights of persons during treatment in the psychiatric hospital's ward under special supervision; treatment in a secure ward of a social security institution and in supervised treatment are regulated by the *Mental Health Act (MHA)*. Also important in this field are other acts, such as: *Institutes Act, Social Security Act* and other laws with rules such is Rules on staff, technical and premises requirements for institutional care providers and Social Work Centres providing mental health services, and on the verification procedure thereof.

Social security institution by MHA means the general or special public social security institution or a concession operator which performs services within the public service network and is intended for the protection, residence and living of persons whose acute hospital

treatment related to a mental disorder has been concluded or they no longer require hospital treatment.

In practice, they have different departments – open and closed (usually with different names).

According to *the MHA* Secure ward means a department in a social security institution where, due to their needs, persons receive continuous special protection and safety, and **which they cannot leave of their own free will.**

Focal points of NPM visit to elderly home (with secure ward):

- premises of the secure wards must be such as to provide the persons a domestic environment – our attention: staffing levels, attitude of the staff…,
- providing sufficient possibilities for emergency calls,
- necessity of ensuring that persons from the security wards spend time outdoors (fresh air), and other activities,
- medicine prescription "on a need-to basis" must be specified more accurately (aspect of quantity and time),
- consistency in notifying the court about detention of persons, who are incapable or unwilling to consent to it timely response to complaints of the person.

Admission of the person to a social security institution could be:

- voluntary or involuntary (to a secure ward) on the basis of a court order – with court procedure, so with or without the person's consent under the conditions provided for by Mental Health Act.

According to the MHA the person shall be provided protection of his/her **personal dignity and other human rights** and fundamental freedoms, individual treatment and equitable access to the treatment.

A person shall be ensured respect for human rights and fundamental freedoms, in particular for the person's personality and dignity, and physical and mental integrity.

Other rights from MHA: right to correspondence and use of electronic mail, right to send and receive postal consignments, right to receive visitors, right to use the telephone, right to movement, right to a representative.

Special protection measures by MHA are (only) physical restraint with belts and movement restrictriction to one room.

Definition: A special protection measure shall be an urgent measure used with the aim of providing for the treatment of the person, or to eliminate or control the dangerous behaviour of the person, when the person's life or other persons' lives are threatened, when the person's or other persons' health is severely threatened, or when such behaviour causes severe pecuniary loss to the person concerned or to other persons, and when such threats may not be prevented by undertaking any other milder measures.

- Requirements (MHA): only in exceptional cases, ordered by a doctor, time limitation (4 or 12 hours, permanent supervision, recordings, evidences, report to a director, the next of kin, a lawyer and a representative in writing.

Practical experience

Special protection measures are often applied contrary to the legal requirements (missing doctor's approval, records not being kept, no notification or with delay…)

The treatment of a person according to MHA shall also comply with methods that have been peer reviewed and with **internationally recognised standards.** An intervention in the health field shall be **proportionate** to its purpose.

Among several possible interventions in the health field with comparable effects, an intervention shall be chosen or proposed that **least interferes with the person's personal integrity**, **least restricts the person's personal liberty** and entails the **least unfavourable effects.**

Special treatment methods defined by MHA are:

- treatment by electroconvulsive therapy,
- hormone treatment,
- administration of psychotropic drugs in amounts that exceed the maximum prescribed dosage. ???

But: All special treatment methods may be applied only exceptionally under the conditions provided for by Mental Health Act, and only in psychiatric hospitals.

Conclusions

Medical care in the visited institutions is generally speaking good, including the availability of a general practitioner, a psychiatrist and a

dentist. General practitioners are present in the majority of homes for the elderly every working day (some hours), and psychiatrists are available 2- to 3-times a month; consultations by phone are also possible. **A need for standards? Also for other staff?**

Psychiatrists examine the residents of secure wards at regular intervals and more frequently if necessary.

But:

We established a potential risk of incorrect dosage during the distribution of medication.

We noticed several recordings of incorrect medicament therapy. The staff distributing medications made a mistake and gave medication intended for a certain person to another person, morning and evening dosages were mixed up, and similar.

We pointed out that when prescribing medications with recommended maximum daily doses, the provisions of the MHA must be observed or lower dosages must be used.

Regarding medications prescribed “on a need-to basis”, we proposed that it be recorded in the medical documentation of a person when such medications are to be prescribed and how many times per day the person may take such medications (preventing excessive dosage).

We believe that when prescribing psychopharmacotherapy for persons who are unable to give their consent to accommodation in secure wards or to such treatment, the consent of relatives should be obtained in non-urgent cases and suitable procedures should be instigated – MHA

Other open questions:

- leave from the institution - free will of person with mental disorders? Consent for a placement in secure ward – for a future, dementia?
- De facto deprivation of liberty – different practice in homes for the elderly
- Admission to a secure ward – full, extra beds in living rooms, corridors – special press conference!
- Placement or/and supervision „ former forensic patients“ ?
    - Admission of a person who has been deprived of his/her legal capacity - the consent shall be given by the person’s legal representative (only, without his/her consent or court supervision or procedure)!
    - Payment for a stay in secure ward?

- Where is a difference between special (MHA) and other protection measures?

MHA: Non-litigious civil court proceedings:

- only procedure for admission for treatment to a secure ward in a social security institution without consent on the basis of a court order,
- *procedure for admission for treatment to a secure ward in a psychiatric hospital without consent on the basis of a court order or in urgent cases*
- Involuntary placement – involuntary treatment

Informed consent?

How to solve conflicts among persons themselves – when to call the police?

De facto - de jure closed departments

When to restrict freedom of movement – persons with dementia?

New concept of care – the concept of personal monitoring?

The more specific issue of the person's actual wish or consent in the case of a person with dementia who wants to leave - should this be considered as their **genuine wish or merely a consequence of their condition,** and if we discourage or prevent them from leaving, do **we speak about the restriction of their freedom of movement** or pursuit of their actual wish)?

There is also the issue of the person's **prior consent to placement** in a secure (closed) ward and the question of what is in practice considered **a special protection measure** in the case of persons with mental health problems, and where to draw the line between special and other protection measures.

Applying physical restraint while being on the wheelchair or recliner.

Physical restraint during medical measures (infusion).