International Journal of Nursing Studies 46 (2009) 1245–1255

Contents lists available at ScienceDirect

International Journal of Nursing Studies

journal homepage: www.elsevier.com/ijns

Review

Compulsory community mental health treatment: Literature review

Anthony J. O'Brien [a,b,*], Brian G. McKenna [a,c], Robert R. Kydd [d]

[a] School of Nursing, University of Auckland, Private Bag 92019, Auckland, New Zealand
[b] Liaison Psychiatry, Auckland City Hospital, Auckland District Health Board, Auckland, New Zealand
[c] Auckland Regional Forensic Psychiatry Services, Waitemata District Health Board, New Zealand
[d] Department of Psychological Medicine, University of Auckland, Private Bag 92019, Auckland, New Zealand

ARTICLE INFO

Article history:
Received 4 November 2008
Received in revised form 15 January 2009
Accepted 9 February 2009

Keywords:
Compulsory community treatment
Community treatment order
Mental health nursing
Research

ABSTRACT

Following their introduction in the United States in the 1970s various forms of compulsory treatment in the community have been introduced internationally. Compulsory treatment in the community involves a statutory framework that mandates enforceable treatment in a community setting. Such frameworks can be categorized as preventative, least restrictive, or as having both preventative and least restrictive features. Research falls into two categories; descriptive, naturalistic studies and controlled and uncontrolled comparative studies. The research has produced equivocal results, and presents numerous methodological challenges. Where programmes have demonstrated improved outcomes debate continues as to whether these outcomes are associated with legal compulsion or enhanced service provision. Service user, family and clinician perspectives demonstrate a divergence of views within and across groups, with clinicians more strongly in support than service users. The issue of compulsory community treatment is an important one for nurses, who are often at the forefront of clinical service provision, in some cases in statutory roles. Critical reflection on the issue of compulsory community treatment requires understanding of the limitations of empirical investigations and of the various ethical and social policy issues involved. There is a need for further research into compulsory community treatment and possible alternatives.

What is already known about the topic?

- Compulsory care in the community is becoming increasingly common.
- Research into the effectiveness of compulsory treatment orders has produced equivocal evidence of effectiveness.
- Nurses are often involved in providing community care for people under compulsory care provisions, in some cases in statutory roles.

What this paper adds

- This review identifies the limits to the empirical evidence on community treatment orders.
- The review identifies the ambivalence apparent in research into patient and clinician perspectives on community treatment orders.
- The review identifies nursing practice as central to the operationalisation of community treatment orders.
- The review demonstrates the need to consider empirical evidence on compulsory community treatment in the context of ethical frameworks and social policy.

1. Introduction

Following their introduction in the United States in the 1970s various forms of compulsory treatment in the

* Corresponding author at: School of Nursing, University of Auckland, Private Bag 92019, Auckland, New Zealand. Tel.: +64 9 373 7599; fax: +64 9 367 7158.
E-mail address: a.obrien@auckland.ac.nz (A.J. O'Brien).

0020-7489/$ – see front matter © 2009 Elsevier Ltd. All rights reserved.
doi:10.1016/j.ijnurstu.2009.02.006

community have been introduced internationally. Despite reservations about such measures they appear to be favoured by policy makers and by some stakeholders. This issue is of concern to mental health nurses because nurses are involved at the front line of community mental health care, in some cases in statutory roles. This paper has two aims: to outline the history and development of various forms of compulsion in community mental health care, and to review the literature on compulsory treatment in the community, with an emphasis on the literature on effectiveness. The paper is organized into two main sections. The first section outlines the history and development of compulsory care in the community, showing that specific legal provisions such as community treatment orders (CTOs) are a formalization of previous measures such as conditional and supervised discharge. Also provided in the first section is an outline of the types of measures currently used and the terminology used in discussing compulsory community treatment. The second section provides a review of literature with an emphasis on evidence of effectiveness of CTOs. The section also includes a summary of literature on variation in use of CTOs and of stakeholder perceptions. Finally, implications for mental health nurses working with compulsory community treatment are discussed, noting that while understanding the research evidence is important, thinking needs to be informed by social and ethical analysis as much as by empirical evidence. Suggestions are made for further research in this area.

2. Compulsory treatment in the community

Compulsory treatment in the community is a mechanism by which the treatment wishes of a legally competent person may be overridden if that person is thought to present a potential risk to themselves or another person, or is at risk of serious deterioration in their health (Allen and Smith, 2001). Although community treatment orders are often perceived as a new extension of compulsory powers into community settings there have historically been many mechanisms involving forms of legal compulsion in community settings. Power (1999) notes that in Australia the practice of conditional discharge from hospital, with the option of early readmission, was well established long before the introduction of community treatment orders. A similar provision was available in New Zealand under the pre 1992 legislation (Dawson and Romans, 2001) and the introduction of the CTO in 1992 was a further development of this provision. New Zealand is one of the few jurisdictions in which a compulsory treatment order can be made without the person first being admitted to hospital. In many jurisdictions, for example New York (Steadman et al., 2001) and Ontario (Gray and O'Reilly, 2005) a compulsory order can only be issued after a period of hospitalization, in some cases after several hospitalizations. In many jurisdictions legislation was introduced towards the end of the period of deinstitutionalization and the concept of a compulsory order directing the person to community care reflected the growing policy commitment to community based care.

Jurisdictions without specific legislation may still provide community based treatment under compulsion. England and Wales mental health legislation makes provision for conditional discharge which requires the service user, still defined as an inpatient, to accept treatment in the community for extended periods (Shaw et al., 2007). These authors further note that this measure has been given a wide interpretation by the courts, with one judge describing the necessary in-hospital component of treatment as "gossamer thin" (p. 60). The England and Wales Mental Health (Patients in the Community) Act 1995 (Knight et al., 1998) created another form of compulsory community care through the supervised discharge order (SDO) (Canvin et al., 2002). An SDO can require the person to live at a specified address, allow access to professionals, and receive recommended treatment. This measure has been described as having similarities to the North Carolina involuntary outpatient order (Davies, 2002). A further form of compulsion provided for in English mental health legislation is the guardianship order (Bindman, 2004). Neither the SDO nor guardianship is used extensively as a form of compulsory community treatment as these measures lack powers of enforcement (Pinfold et al., 2001).

In a review of outpatient commitment in the United States, Swartz et al. (2006) included in their definition of outpatient commitment, judicial mechanisms used where there is no formal provision for an outpatient commitment order. Swartz describes informal mechanisms such as guardianship and conditional discharge as "de facto outpatient commitment" (p. 345). They offer a definition of outpatient commitment that includes both formal outpatient treatment orders and other legal measures that have the same effect. Swartz describes them as "...a subset of a broader set of civil legal procedures that include both statutorily explicit and implicit forms of compulsory outpatient treatment" (p. 344). In the state of Massachusetts, Geller et al. (1998) noted that in the absence of legal provision for involuntary outpatient treatment the courts used the guardianship statute to effectively make a ruling of incompetence in order to compel treatment in the community.

Reviewing Canadian legislation in twelve regions, Gray and O'Reilly (2005) noted that the option for compulsory community care can only be taken following a hospital admission, a requirement they felt to be at odds with the principle of providing care to the least restrictive standard. In comparing the Canadian legislation to that in Australia and New Zealand they argued that the move to a "community first" option in compulsory care was a "short conceptual step" (p. 21). This argument supports the model provided by Swartz et al. (2006) in which conditional discharge, hospital initiated orders, and those initiated in the community are all recognized as varieties of compulsory treatment in the community. In their systematic review of community treatment order research, Churchill et al. (2007) provided the following definition: "...any legal framework for community mental health treatment which [is] authorized by statute, located in the community with no *necessary* tie to hospitalization, and where the terms of the CTO [are] enforceable" (p. 9,