

response options. Furthermore, since 83% of respondents ultimately advocated treatment there was clear consensus about the final choice of action.

We agree with the recommendations that accurate contemporaneous records should be made, and would emphasise the need for these to be adequately detailed (*Medical Ethics Today, Its Practice and Philosophy*). While we support the recommendation of consultation with colleagues before treating without consent, applications to the High Court may be impractical in view of time constraints.

In addition we feel it would be useful for national guidelines to be developed. We have contacted the British Medical Association, the Royal Colleges of Psychiatrists and of General Practitioners, the British Association of Accident and Emergency Medicine, the General Medical Council, the Medical Defence Union and the Medical Protection Society, all of whom state that they have no recommendations to make about the management of patients who refuse treatment following an overdose. Thus, this appears to be an issue worthy of further debate in these litigious times.

*Medical Ethics Today, Its Practice and Philosophy*. P23. Section 1:6 Refusal of treatment. London: British Medical Association.

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Sir: I read with interest the paper by Hardie *et al*, regarding problems with consent in the emergency treatment of overdose (*Psychiatric Bulletin*, January 1995, **19**, 7–9).

Guidance to doctors clearly states that they must respect the 'competent' patient's refusal of treatment. However, in emergencies a doctor may do what is reasonably necessary to preserve life or prevent deterioration in health without first obtaining the patient's formal consent. "The guiding principle is to act in good faith and in the immediate best interests of the patient's health and safety" (Palmer, 1991). The authority for such action is embodied in Common Law. This refers to a body of law that is not enshrined in parliamentary statutes but is derived from

the rulings of judges and thus may be in constant flux. Hopefully it corresponds with contemporary 'common sense'. Helpfully, the new Code of Practice for the Mental Health Act 1983 (HMSO, 1993) discusses Common Law and consent to treatment, and outlines situations where treatment may be given without consent including the emergency treatment of someone "suffering from a mental disorder which is leading to behaviour that is an immediate serious danger to himself . . . may be given such treatment as represents the minimum necessary response to avert that danger."

Such statements are helpful in clarifying for psychiatrists how to proceed in many cases. The immediate issue is the degree of medical risk involved if treatment is not performed. This is not an appropriate task for a psychiatrist, as was suggested by Hardie *et al*, but should be made by the attending physician or surgeon. Consideration can then be made as to whether this justifies compelling treatment under Common Law. Treatment thereafter should withstand the scrutiny of the classic Bolam negligence test whereby a doctor is free of blame if the treatment provided was "in accordance with a practice accepted as proper, by a responsible body of medical men" (Bolam v. Friern Hospital Management Committee, 1957).

These points should not be interpreted as giving doctors a free hand in treating people against their will, but should be considered when difficult clinical situations arise. Junior doctors are well advised to seek guidance from senior colleagues and if necessary to obtain professional legal advice. In all cases a thorough attempt should have been made to persuade a patient to accept necessary treatment voluntarily.

BOLAM. V., FRIERN HOSPITAL MANAGEMENT COMMITTEE [1957] 1 WLR 582.

HMSO (1993) *Code of Practice: Mental Health Act 1983*. London:HMSO.

PALMER, R. N. (1991) *Consent and Confidentiality*. London:Medical Protection Society.

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Sir: We are grateful that Chambers *et al* have pointed out that our treatment may not accurately reflect all possible clinical situations. The patient in our vignette was not attempting to leave, and this was specified