Clinical Algorithms

Compulsory detention in hospital under the Mental Health Act 1983

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Mental disorder may occasionally so distort a person's perception of reality that he becomes a danger to himself or others and, at the same time, refuses any help or treatment that might be necessary to reduce this risk. In such cases there will be times when the sufferer must be deprived of his liberty for his own safety, even though such a step constitutes a major infringement of human liberty. Legal controls governing such measures have been present in Britain since the sixteenth century, and today the statutory controls relating to such powers are embodied in the Mental Health Act 1983. Many doctors may be forgiven for thinking that only psychiatrists need be concerned with the workings of this act, but this is not so. General practitioners, hospital consultants, psychiatric nurses, social workers, hospital managers, relatives, and the police are all given powers under this legislation.

Mental Health Act 1983

The algorithm deals with those sections relating to compulsory admission to hospital of patients suffering from mental disorder—that is, sections 2, 3, 4, 5, and 136. Mental disorder is defined as "mental illness, arrested or incomplete development of the mind, psychopathic disorder and any other disorder or disability of the mind." This act refers only to England and Wales; separate legislation exists for Scotland and Northern Ireland.

The mainstay of compulsory admission is sections 2 and 3, and every effort should be made to use one of these if detention becomes necessary. It is best to view sections 4, 5, and 136 as preliminary steps that may occasionally have to be taken in more urgent cases; an application for section 2 or 3 should be considered as soon as the immediate emergency has abated.

SECTION 2

Purpose—To admit a person to hospital for assessment or assessment and treatment.

Duration—28 days.

Grounds—(1) The patient is suffering from mental disorder of a nature or degree that warrants the detention of the patient in a hospital for assessment (or assessment followed by treatment) for at least a limited period. (2) The patient should be so detained in the interests of his own health or safety or with a view to the protection of others.

Application—By the nearest relative or approved social worker. The patient must have been seen within the past 14 days.

Medical recommendation—By two doctors (one approved under section 12 as having "special experience in the diagnosis or treatment of mental disorder"). They must examine the patient within five days of each other.

SECTION 3

Purpose—Compulsory admission of a patient to hospital for treatment.

Duration—6 months.

Grounds—(1) The patient is suffering from mental disorder which is of a nature or degree which makes it appropriate for him to receive treatment in hospital. (2) In the case of a psychopathic disorder or mental impairment such treatment is likely to alleviate or prevent deterioration of the condition. (3) It is necessary for the health or safety of the patient or for the protection of other persons that he should receive such treatment and it cannot be provided unless the patient is detained under this section.

Application—As for section 2, but if the nearest relative objects the approved social worker cannot go ahead with the application. If this objection is considered unreasonable, however, a county court may order that the functions of a nearest relative should be vested in another person.

Medical recommendation—As for section 2, although when completing the form the type of mental disorder must be stated.

SECTION 4

Purpose—Emergency admission for assessment when, because of the risk to the patient or others, there is not enough time to obtain a second medical opinion.

Duration—72 hours.

Grounds—As for section 2 and that it is of urgent necessity that the patient be admitted and detained in hospital.

Application—The nearest relative or approved social worker may make a recommendation, either of whom should have seen the patient in the past 24 hours.

Medical recommendation—Only one recommendation is required. If possible this should be by someone with knowledge of the patient.

SECTION 5(2)

Purpose—Detention of a patient already receiving treatment in hospital as an inpatient.

Duration—72 hours.

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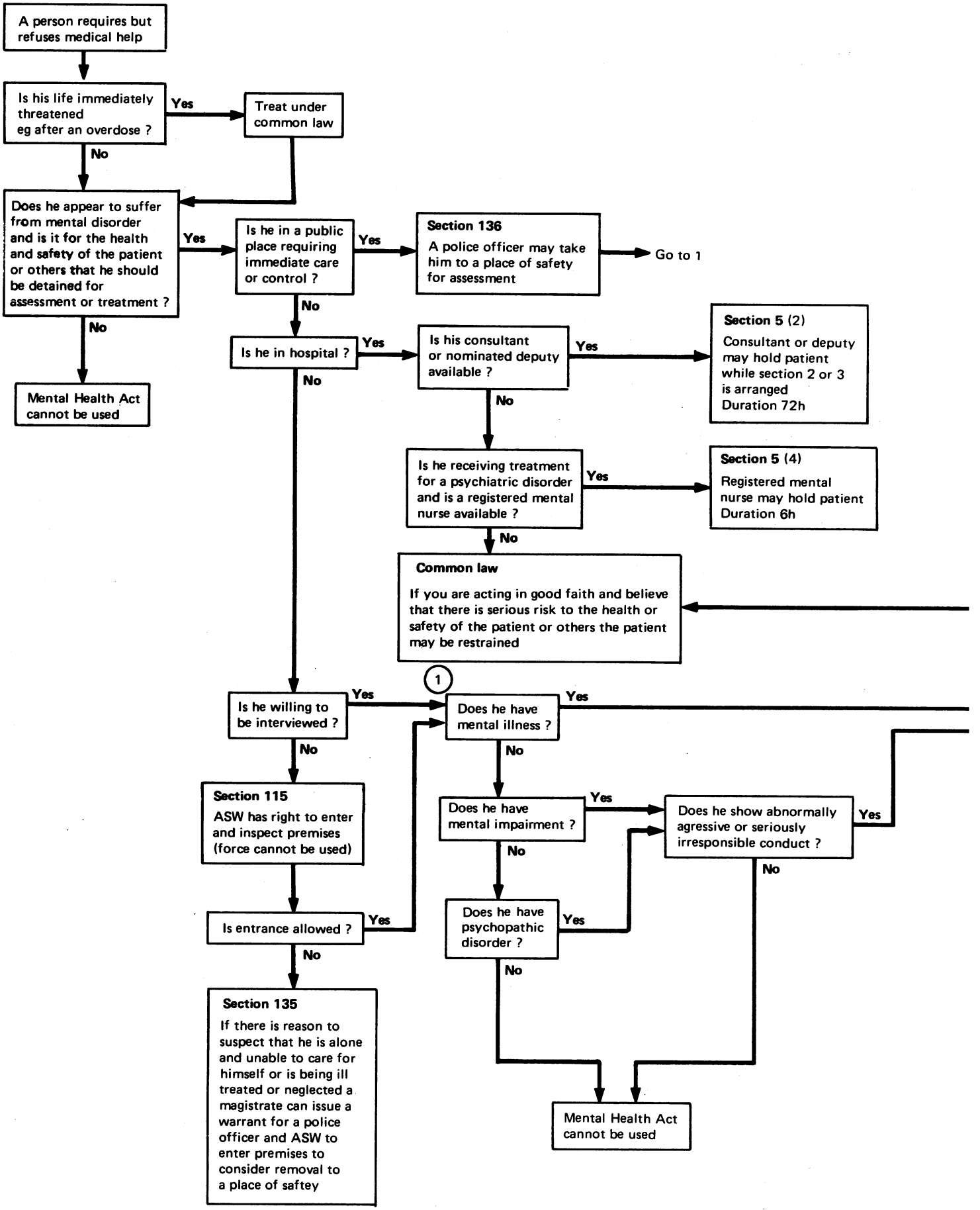
A person requires but refuses medical help
Is his life immediately threatened eg after an overdose ?
Yes
Treat under common law
No
Does he appear to suffer from mental disorder and is it for the health and safety of the patient or others that he should be detained for assessment or treatment ?
Yes
Is he in a public place requiring immediate care or control ?
Yes
Section 136
A police officer may take him to a place of safety for assessment
Go to 1
No
Mental Health Act cannot be used
No
Is he in hospital ?
Yes
Is his consultant or nominated deputy available ?
Yes
Section 5 (2)
Consultant or deputy may hold patient while section 2 or 3 is arranged
Duration 72h
No
Is he receiving treatment for a psychiatric disorder and is a registered mental nurse available ?
Yes
Section 5 (4)
Registered mental nurse may hold patient
Duration 6h
No
Common law
If you are acting in good faith and believe that there is serious risk to the health or safety of the patient or others the patient may be restrained
No
Is he willing to be interviewed ?
Yes
1
Does he have mental illness ?
Yes
No
Section 115
ASW has right to enter and inspect premises (force cannot be used)
Does he have mental impairment ?
Yes
Does he show abnormally agressive or seriously irresponsible conduct ?
Yes
No
No
Is entrance allowed ?
Yes
Does he have psychopathic disorder ?
Yes
No
No
Section 135
If there is reason to suspect that he is alone and unable to care for himself or is being ill treated or neglected a magistrate can issue a warrant for a police officer and ASW to enter premises to consider removal to a place of saftey
Mental Health Act cannot be used

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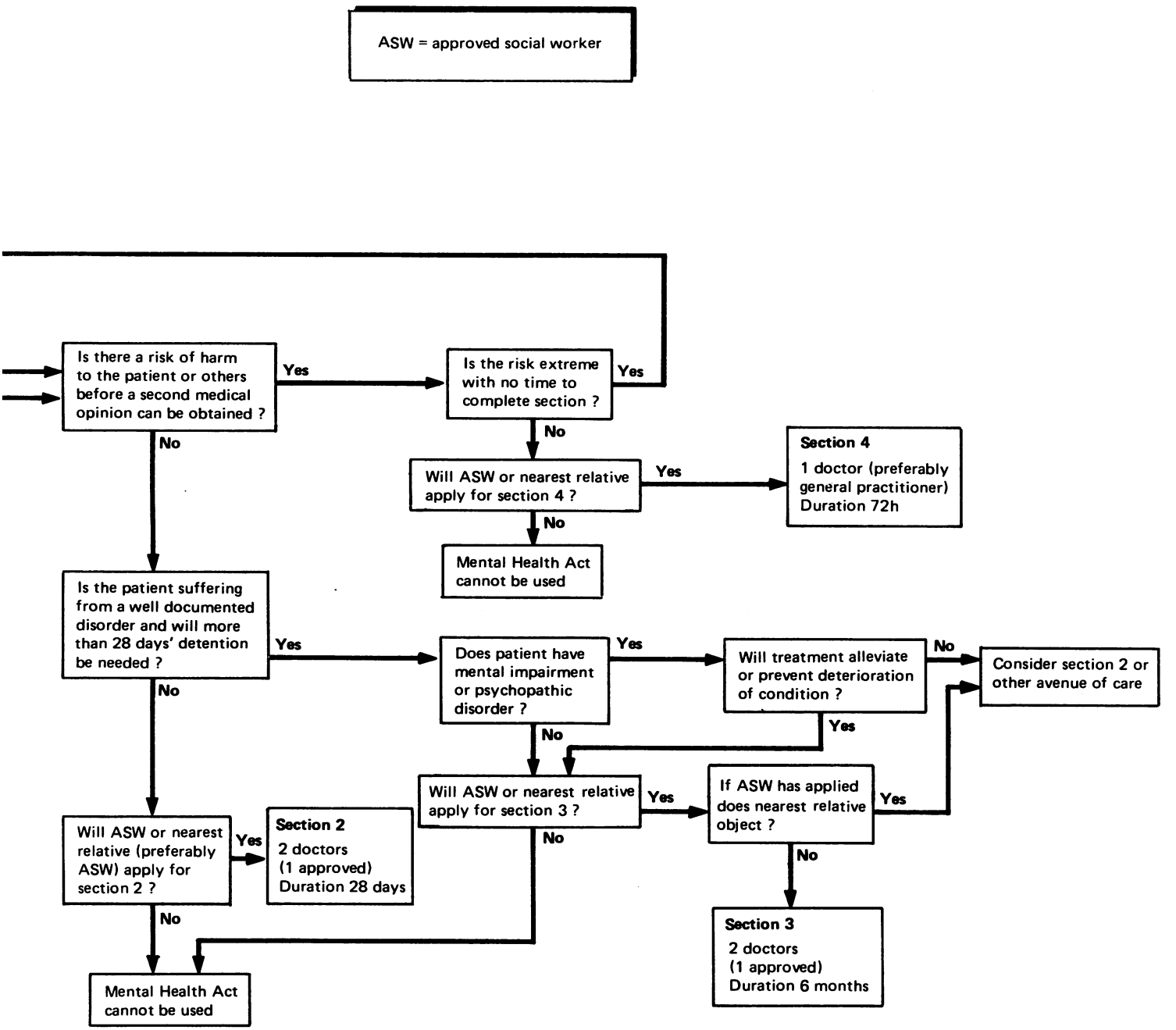

Grounds—If it appears that an application for the patient's compulsory admission to hospital should be made and that it is for the health or safety of the patient or other persons that he should be detained until such an application can be made.

Medical recommendation—The doctor in charge of the case or his nominated deputy.

SECTION 5(4)

Purpose—To allow a patient already receiving treatment for mental disorder in hospital to be detained until a doctor is found.

Duration—Maximum 6 hours, although the holding power ceases on the arrival of the doctor.

Grounds—If it appears to the nurse that (*a*) the patient is suffering from mental disorder to such a degree that it is necessary for his health or safety, or for the protection of others, for him to be immediately restrained from leaving the hospital, and (*b*) that it is not practicable to secure the immediate attendance of a doctor who can formulate a report under section 5(2).

Recommendation—A registered mental nurse must record the decision in writing and deliver it to the hospital managers.

SECTION 136

A police constable who finds a person who appears to be suffering from mental disorder in a public place may take him to a place of safety if (*a*) the person appears to be in immediate need of care and control and (*b*) the police constable thinks that it is necessary to do so in the person's interests or for the protection of other persons. The person may be detained for up to 72 hours. The purpose of this section is to enable the person to be taken to a place of safety in order for him to be assessed by a doctor and an approved social worker, who can decide what further action needs to be taken.

At times a person may act in such a way as to place his own health or safety, or that of another person, in extreme danger unless he is immediately physically restrained. On such occasions the restrainer is protected from a possible charge of assault by the common law if he is acting in good faith and believes that there is a serious risk to the health or safety of the patient or others.

The Mental Health Act gives no authority over patients who refuse necessary treatment if they do not suffer from mental disorder and it gives no authority to treat medical conditions unless it is believed that the medical condition is causing the mental disorder.

"Although it is commonly assumed that the consent of the nearest relative authorises a physician to treat an unwilling or uncertain patient, the relative's consent has no validity in law. The physician will, of course, obtain one or more second opinions from colleagues and will discuss the matter with the relatives when it is necessary to obtain support for a course of treatment proposed for a patient whose capacity to provide informed consent is uncertain, but his eventual decision will depend upon the circumstances of the case, the degree of urgency, the immediate risks to his patient and his ethical duty to act as a doctor within his competence to save life or prevent an immediate deterioration of the patient's condition. His legal authority is derived from the common law."[1]

We are indebted to Professor Robert Bluglass for his book, *A Guide to the Mental Health Act 1983*, which was used in the construction of this algorithm.

Reference

1 Bluglass R. *A guide to the Mental Health Act 1983*. Edinburgh: Churchill Livingstone, 1983.

MEDICINE AND THE MEDIA

IDEALLY, ALL charities would have their Bob Geldofs, for successful fund raising depends as much on good marketing as on good causes. It is easier to raise money for one off projects than for chronic problems for repeated exposure—whether to the starving in the Third World or to sufferers of incurable disease—may blunt social responses. How then should charities concerned with medical research capture the imagination—and the cash—of those prepared to dip into their pockets?

One way is to grab a newspaper headline. A good example of this occurred recently after a press conference held by the Imperial Cancer Research Foundation when the papers blossomed with such headlines as "Breast cancer breakthrough brings new hope" (*The Times*, 15 April) and "Breast conserved in new treatment for cancer victims" (*Daily Telegraph*, 15 April). The same message had come over strongly in the previous evening's television news programmes. These showed Mr Ian Fentiman, a breast surgeon from Guy's Hospital, fielding questions about a new technique for treating breast cancer: excision of the tumour, 48 hours' postoperative irradiation with irridium implants followed by radiotherapy, which in the controlled trial carried out by the ICRF clinical oncology unit at Guy's seems to be as effective as modified radical mastectomy and radiotherapy.

Was I the only doctor watching these programmes and reading the articles who felt confused? How come we have not seen the results of this trial published in a medical journal? How many patients have been studied? What is the length of follow up? Is this really the treatment of choice? How should we advise our patients?

Doctors often hear about "exciting new breakthroughs" in medical treatment through the media (remember green lipped mussels curing arthritis?), and most are sceptical. But what about their patients? Imagine the reaction of the woman who had just undergone mastectomy for breast cancer on reading in the *Guardian* (15 April) that she had had "needlessly disfiguring surgery."

That the press sensationalise its news on medical matters is perhaps inevitable, if regrettable, especially on days when more eye catching "news" is thin on the ground. but what of the ICRF's part in propagating this "new cancer breakthrough" story. The organisers of the press conference knew that the study had not been published in a peer review journal, and they know how the media handle medical stories. Should they not have ensured that their publicity about the trial was more balanced, that the doctors concerned were briefed to present the facts without being encouraged to make dogmatic statements about the superiority of their treatment over other established treatments?

To adopt the attitude that any publicity is good publicity if it makes people donate more money to cancer research is understandable. But it is surely unjustified if premature and sensationalised stories upset the public and throw doctors into confusion.—TESSA RICHARDS, assistant editor, *BMJ*.