“Please don’t go!” Healthcare professionals’ duty of care in the face of self-discharge

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What is Self-Discharge?

* Terminology
  * Discharge against medical advice?
* Process
* Self-discharge in context:
  * Approx 1 – 2% of patients decide not to follow health professionals' advice each year
  * Particular sections of society thought to be more vulnerable to self-discharging
  * The reasons given for self-discharge include long waiting times, poor bedside manner, and failure of communication amongst hospital staff
  * Self-dischargers have higher readmission and in-hospital mortality rates

Ashya King missing: Police hunt five-year-old boy with brain tumour snatched from Southampton hospital by his parents

Ashya King's parents hauled before Spanish court while terminally-ill son is treated under police guard

Ashya doctor: 'We regret communication break-down'

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The head of the NHS Trust running Southampton General Hospital, where Ashya King was being treated for a brain tumour, has said he regrets the break-down in communication with the child's family.

Ashya King's doctors signal U-turn over proton therapy

Doctors who treated five-year-old Ashya King are now considering Proton treatment parents asked for as Boris Johnson puts pressure on prosecutors to drop the case

Duty of Care

* The duties of HCPs laid out in the Hippocratic Oath
* GMC – the patient is the first concern, and to work in ways which best serve the patient's interests.
* "*Ethical foundations of the duty to provide care… is the principle of beneficence, which recognises and defines the special moral obligation on the part of HCPs to further the welfare of patients and to advance patients' well-being*" (Ruderman *et al*, 2006)

Duty of Care

* Debate over the source of the 'duty':
  * Reid (2005) "it is more agreeable, to do good out of generosity than because one is expected or compelled to"
  * Downie (2002) "*we expect doctors to work to the best of their ability to benefit rather than harm us just as we expect this of our automechanics*"
  * Clark (2003; 2004) medicine is a "*selfless service*" in return for self-regulation, independence, and beholden to no outside social body.
* 'Duty of care' typically applied in the context of epidemics.
  * The risk challenges the HCPs' duty of care, thereby flagging up the extent of their duty of care towards pts.

* Started Feb 2012, funded by Lancaster University Early Career Small Grant Scheme, collaborating with Dr David Warriner, Emily Ford, and Steffi Siby

* Project Aims:
  * How do self-dischargers and health professionals understand and make sense of the concepts 'self-discharge' , 'self-dischargers', and the self-discharge process?

* Institutional ethical approval, and R&D approval granted

  * 32 qualitative interviews with self dischargers (11), NOK of self-dischargers (4), and **health professionals (17)**
  * **consultants, foundation year doctors, gps, hospital managers, senior nurses, & registrars**
  * **across two NHS Trusts in England (4 hospital sites)**
  * **range of medical specialities / hospital wards**

  * Transcribed and coded for themes

Duty of care: Beyond the hospital

* *"We're not obliged to do anything. We're not obliged to give medicines. We're not obliged to give transport."* (HP_01_MGR_MB)

* *"Once the patient has left the hospital… [and] I've done whatever I can without leaving the hospital, it's up to the patient then. I'm employed and under contract to fulfil the duties as a hospital based practitioner…"* (HP_06_REG_STH)

Duty of care: Beyond the hospital

* *"Personally, I think we still have a responsibility for doing what we can which is why I think it's appropriate to contact the patient's GP. Assuming that you've given them tablets, given them advice, advise them to go to the GP. I think to simply say, right, you've discharged it's your fault. I think we're actually failing if we do that…I think we have a duty of care."* (HP_04_NURSE_STH)
* *"I think we've got a duty beyond [the hospital]… we endeavour to communicate with their GP and any other medical team they may be involved with so that they get appropriate follow up."* (HP_08_CON_STH)
* *"I'd rather them go home with medication even if they are discharging against our advice. Because it's a nurse's instinct and you're not going to let someone suffer."* (HP_09_NURSE_STH)

Responsibility for patients' health: GP

- *"…the thing to do would be to phone through to inform their GP about it to see if they could then pick them up in the community. At the end of the day, the patient is the patient of the GP as well and should be informed about it."* (HP_07_REG_STH)
- *"I have been in touch with GPs to say, look, Fred has been with us and has self-discharged…we will spend a little bit of time to try and just make sure that they're looked after on the other side."* (HP_04_NURSE_STH)
- *"And in the end she got home. The next morning before I went off shift I phoned the patient's GP and asked her to go out and make sure she was okay…"* (HP_05_REG_STH)

Responsibility for patients' health: Patient

* *But I'm very much it's your body, it's your health, these are the reasons we want you to stay but if you want to go that's your choice. I'm not going to lay down the law. I'm not going to chain them to the bed. As long as they understand the reasons that we want to keep them in and they've made an informed choice that they want to go home then that's their responsibility.* (HP_01_CON_MB)
* *…it just basically says that they are leaving against medical advice and they are happy to take the consequences on themselves. That they understand the decision they're taking and it's no longer our responsibility*. (HP_01_FY_MB)
* *But they have to have some responsibility for the management of themselves. So I can do so much. I will work with you but if you don't want to accept anymore then that's fine…I haven't failed in my job.* (HP_01_MGR_MB)

Accountable for patients' actions?

* *"And mostly it's all about litigation and getting the proof."* (HP_03_FY_MB)
* *"…but they need to sign a self-discharge thingy almost to cover themselves."* (HP_04_GP_MB)
* *"I'm sure it's about self-protection for the hospital and the practitioner. That they're saying that the patient must take responsibility for their own actions and that we couldn't be liable. So I think it's very much about protecting our interests rather than anything else."* (HP_08_CON_STH)
* *"As a nurse you worry that something might happen and it might come back on you. It's obviously always best if you've got something written in to say this patient decided to take their own discharge and they're signing to say that they know the risks."* (HP_09_NUR_STH)

Accountable for patients' actions?

* *"Having said that, if you let a patient go out of hospital and they do drop dead you know where all the blame will come. No one is going to blame the dead patient even if it was their decision. They will just come to you and say what happened and there will be a lot of criticism. So this is where I think all the paranoia and back-covering comes from and defensive behaviour"* (HP_05_Reg_STH)
* *"And I suppose if anything did happen… if it ended up at the coroners what would I do then… probably a coroner would turn round and say you were the nurse looking after that patient what were you doing when they absconded? Did you have that conversation with them? You have to unfortunately think in this day and age always about what if it ended up in this way."* (HP_09_NUR_STH)
* *"And they [FYs] don't appear to appreciate that if that patient goes away and dies and there's an inquest and you're called to the inquest the coroner will be saying you let them go and they've killed themselves."* (HP_02_CON_MB)

A legal duty of care?

* *"I wouldn't say we've got better, I think we've got more worried… I imagine 20 or 30 years ago if somebody wanted to self-discharge we acted more out of the patient's interest than our own interests. I think now what happens in hospitals a lot is… that they're number one priority is to cover their back and the number two attitude is to cover the patient's back. And I think that this shift has become as medical-legal activity has increased. No one likes complaints. Nobody wants to be criticised… we've just become more worried because of that and therefore we act more defensively.*(HP_05_REG_STH)
* *if you're classed as an inpatient you're under our care. But it is obviously a worry for nurses if someone does go, because they think, if something happens to them what is going to happen to me kind of thing. So it is a worry*. (HP_09_NUR_STH)
* *I wouldn't like to stand up in a coroner's court and say, well, you want to discharge yourself, that's your business. Even if legally that may be the only requirement* (HP_04_NURSE_STH)

Initial conclusions

* The extent of HCPs' duty of care to SDrgrs?
  * The medication given to SDrgrs and the contact with SDrgrs GPs suggests that HCPs' duty of care does extend beyond the hospital grounds.
  * HCPs' response can be deemed an expression of care and compassion towards SDrgrs.
  * The duty of care consists of a felt responsibility for SDrgrs' health.
  * A decision to SD was portrayed as severing HCPs responsibility for pts' health, which was then passed onto GPs or the SDrgr.

Initial conclusions

* HCPs' duty of care shifting from being underpinned by ethics and morality to law?
  * Source of the felt responsibility generated by the fear of litigation and inquests.
  * The 'risk' for HCPs associated with the duty of care within the context of SD is litigation.
  * The legal elements of SD is inhibiting the 'care' that pts receive.
  * Ensuring 'care' delivered, albeit through GP, but emerged out of fear of litigation rather than altruism.
  * Medicine may no longer be classed as a "selfless service".
  * Portraying their duties in this way may be in response to being held to account.