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What is This?
Decisions of psychiatric nurses about duty to warn, compulsory hospitalization, and competence of patients

Mine Sehiralti and Rahime A Er
Kocaeli University, Turkey

Abstract
Nurses who attend patients with psychiatric disorders often encounter ethical dilemmas and experience difficulties in making the right decision. The present study aimed to evaluate the decisions of psychiatric nurses regarding their duty to warn third parties about the dangerousness of the patient, the need for compulsory hospitalization, and the competence of patients. In total, 111 nurses working in the field of psychiatry in Turkey completed a questionnaire form consisting of 33 questions. The nurses generally assessed the decision-making competency of the patient correctly. However, their decisions regarding whether the patient should be compulsorily hospitalized and their understanding of their duty to warn/protect were less consistent. A significant relationship was found between the decisions of the psychiatric nurses and their work experience, them having children, and them having postgraduate education in psychiatric nursing. The nurses stated their desire to be part of the team that decided on ethical problems in psychiatry.

Keywords
Psychiatric ethics, competence, compulsory hospitalization, duty to warn, psychiatric nursing

Introduction
Psychiatry is distinguished from other medical branches because it is sometimes necessary for mental health practitioners to apply coercive measures such as compulsory hospitalization. The need to use coercive measures constitutes a significant ethical conundrum for psychiatry staff, who must balance the need to promote patient well-being and respect patient self-determination. Another ethical conundrum is that the decision-making capacity of some psychiatric patients is so diminished that they cannot protect their own interests. In such cases, other people must make the decisions for the patient, even though this violates patient autonomy. Determining patient competency and when to apply proxy consent and compulsory hospitalization are significant ethical issues that plague mental health practitioners. In addition to these issues, when there is a need to protect third parties, other ethical problems may emerge about confidentiality.

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Background of the ethical issues

Involuntary/compulsory treatment or hospitalization is a situation often encountered in patients with psychiatric disorders. It is stated that the laws a society adopts show how a society balances the rights of self-determination and the duties to protect people. Jurisdictional statutes may differ, but they are generally based on two main opinions. The first opinion focuses on the presence or the possibility of a dangerous situation. The second is based on the need for treatment.1,3

Another important ethical issue in psychiatry is the patient’s right to privacy and confidentiality of information. Since Hippocratic times, there has been widespread acceptance of the rule that any personal information of a patient must be kept confidential. One justification for maintaining confidentiality is utilitarian: patients will withhold information that is needed for treatment if there is no guarantee of privacy. The second argument is deontological: it states that privacy promotes individual autonomy.1,4 However, it is ethically justifiable to break the rule of confidentiality when there is a need to protect third parties. For example, health professionals have the duty to warn third parties when their patient has a psychiatric disorder and could harm the third party or when their patients have genetically transmitted diseases, a human immunodeficiency virus (HIV) infection, or a disease that prevents them from driving public transportation vehicles. This duty was first proposed in the psychiatric field after the Tarasoff Case, and in 1974, the first statute relating to this issue was enacted in California. After this, other states of the United States and other countries started to debate the necessity to enact similar statutes about the duty to warn. The debates became intensified by the objections of the psychiatric associations, who stated that this duty would harm the doctor–patient relationship, which is based on trust. However, in practice, it has been difficult to formulate good laws that make it mandatory for health professionals to warn third parties who are at risk. Indeed, the laws about the duty to warn have changed with every case that has been brought before the courts.5–7 At present, the focus is on actively protecting third persons under threat rather than just warning them, and it is considered that health professionals have the responsibility to institute protective measures for potential victims of their patients.6–8 Indeed, warning the third person is only one of the options, and it should be the last one that is taken. The other options are compulsory hospitalization, following the appropriate procedure for compulsory hospitalization, and informing the local authorities. In addition, it is considered appropriate to inform the patient about the limits of doctor–patient confidentiality at the beginning or during a doctor–patient relationship and to inform the patient about the intent and limits of the information that will be given in cases where doctor–patient confidentiality will be breached.6–9 These options thus lead to significant ethical issues in psychiatry, namely, determining patient competence, providing proxy consent, and inducing compulsory hospitalization.

Codes of professional ethics and legal regulations related to psychiatric patients in Turkey

In developed countries, health policies, mental health laws, and professional ethics codes help psychiatric staff to solve the ethical problems relating to involuntary hospitalization and the treatment of psychiatric patients without their consent.10,11 However, in Turkey, a comprehensive guide to mental health and mental health laws is lacking. The draft of the Mental Health Law12 that was prepared by the Psychiatric Association of Turkey has not yet been accepted, and thus, the rights of patients with psychiatric disorders are not being routinely respected. With regard to the ethical conundrums mentioned above, the present laws and ethical codes in Turkey state that compulsory treatment and involuntary hospitalization should be imposed if there is a risk of danger to other people.13,14 However, while the Psychiatric Association of Turkey,15 the Turkish Psychological Association,16 and the Turkish Nurses Association17 have provided general guidelines about this issue, specific statements regarding the duty to warn and protect are lacking, although the draft of the Mental Health Law that was prepared by the Psychiatric Association of Turkey does suggest that the psychiatrist or a team of psychiatrists should be authorized to make decisions until the patient’s risk of danger is
eliminated. In addition, in Turkey, psychiatrists are responsible for making the decision to impose involuntary hospitalization, and informed consent can be obtained from relatives of the patient. Moreover, the laws in Turkey stipulate that people generally have the right to medical confidentiality and privacy. Indeed, the Turkish Civil Code states that “personal secrets can only be declared in cases of public gain or legal situations.” Moreover, the Patient Rights Regulations state that apart from the exceptions pointed out in the Civil Code and medical necessity, the privacy of patients should be protected. With regard to determining competence in Turkey, forensic medicine specialists determine the legal competence of a person. If necessary, a psychiatric assessment may be required. However, in everyday practice, forensic medicine and psychiatry departments are rarely involved in determining the competence of a patient. Instead, it is usually the physician who evaluates the competence of a patient on the basis of his or her clinical experience. However, it can be difficult for physicians to make a suitable judgment in cases where their patient’s competence is unclear.

The role of a psychiatric nurse in Turkey

In our country, the duties, authorities, and responsibilities of nurses in general are to evaluate the needs of the patient, the patient’s family, and society, and to plan and execute the treatments given by the physician. Other duties are to conduct educational programs, aid scientific research, and conduct research in the field of nursing. Psychiatric nursing is a specific field of nursing that was first established in the 1960s. Psychiatric nurses, currently, not only have to perform general nursing tasks but they are also expected to evaluate the risk of harm that their patients pose to themselves or others and to recommend the method of hospitalization after communicating with the relatives and the physician. Indeed, although the decision-making responsibility belongs primarily to the physician, psychiatric nurses are expected to report to the physician in cases when they predict that the treatment may harm the patient. Thus, in line with the developments elsewhere in the world, it is increasingly being accepted in Turkey that psychiatric nurses should participate in decisions regarding the ethical problems associated with psychiatry. This is because nurses spend more time with their patients than other health professionals (especially hospitalized patients), and thus, they are better placed to understand the aims and intentions of their patients. Indeed, our previous study revealed that psychiatric nurses evaluate the decision-making competency of their patients more accurately than the physicians or the relatives of the patient. However, in Turkey, psychiatric nurses, along with other staff in the field of psychiatry, continue to struggle with the ethical dilemmas associated with this field because there is little training and detailed guidelines about how to resolve these dilemmas.

Objective

The aim of this study is to evaluate the decisions of psychiatric nurses based on their knowledge and experience about duty to warn, compulsory hospitalization, and competence of the patient.

Methods

The study was conducted in the Fourth National Psychiatric Nursing Congress in Samsun on 24–26 June 2010. The data of the study were gathered in a questionnaire with 12 questions about personal and professional characteristics, 18 questions about the given case and the involved ethical problems, and 3 questions about the personal experiences in the field that the subject works, created by the researchers. The story of a patient undergoing treatment in the psychiatric polyclinic of Kocaeli University Hospital is used as the case, and a scenario for ethical discussion is created with certain supplements (Appendix 1). The patient’s personal information was kept confidential during the study.

The questionnaires were given to the participants of the congress with the information about the study. During the congress, 84 participants returned the filled questionnaires. A total of 25 participants who did not
At the time of the study, the local human research ethics committee in Turkey was not reviewing questionnaire studies, and an ethical approval was not necessary. The study was executed with the permission of the congress’ regulatory committee and informed consent was taken from the participants.

**Findings**

In total, 91.0% of the 111 nurses who participated in the study were women. The age range of the nurses was 21–51 years with an average age range of 33.4 ± 6.8. In all, 51.4% of the nurses did not have children. A total of 33.3% of the nurses stated that they were postgraduates, 77.5% stated that they had ethical training during professional education, and 29.7% stated that they had postgraduate education in psychiatric nursing. Overall, 55.9% of the nurses had work experience between 5 months and 30 years (average = 11.8 ± 7.8) in the profession and between 4 months and 27 years (average = 5.6 ± 5.3) in the psychiatric area; 55.9% work in a state hospital and 77.5% of them gave medical care to a patient with psychiatric disorders (Table 1).

**Nurse assessment of patients’ decision-making competence**

The nurses were asked about the decision-making competence of a patient offered hospitalization because of uncontrollable aggression, suicidal thoughts, and attempts and desire to kill his wife and daughter, along with distractibility, amnesia, anorexia, insomnia, and excessive fatigue. The first 10 case-related questions in the questionnaire were about the decision-making competence. These questions were prepared by researchers in view of the tools (MacArthur Competence Assessment Tool–Treatment (MacCAT-T))

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**Table 1. Professional characteristics of the psychiatric nurses (N = 111).***

<table>
<thead>
<tr>
<th>Nurse education</th>
<th>n</th>
<th>(%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health vocational high school</td>
<td>11</td>
<td>9.9</td>
</tr>
<tr>
<td>Undergraduate</td>
<td>30</td>
<td>27.0</td>
</tr>
<tr>
<td>Graduate</td>
<td>33</td>
<td>29.7</td>
</tr>
<tr>
<td>Postgraduate</td>
<td>37</td>
<td>33.3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Work institution</th>
<th>n</th>
<th>(%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>State</td>
<td>62</td>
<td>55.9</td>
</tr>
<tr>
<td>University</td>
<td>47</td>
<td>42.3</td>
</tr>
<tr>
<td>Private</td>
<td>2</td>
<td>1.8</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Care to the patient with psychiatric disorders</th>
<th>n</th>
<th>(%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gives</td>
<td>86</td>
<td>77.5</td>
</tr>
<tr>
<td>Does not give</td>
<td>25</td>
<td>22.5</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ethical education</th>
<th>n</th>
<th>(%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Received</td>
<td>86</td>
<td>77.5</td>
</tr>
<tr>
<td>Did not receive</td>
<td>25</td>
<td>22.5</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Postgraduate education in psychiatric nursing</th>
<th>n</th>
<th>(%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Received</td>
<td>36</td>
<td>32.4</td>
</tr>
<tr>
<td>Did not receive</td>
<td>75</td>
<td>67.6</td>
</tr>
</tbody>
</table>

*Bold values indicate the highest frequency in each characteristic group.*
used to define decision-making competence and are suitable to the dimensions of understanding, appreciation, reasoning, and expressing a choice.

Only 2.3% of the nurses deemed that the patient was completely competent to make decisions. More than half of them stated that the patient partially understood information about his situation (63.1%) and the treatment (50.5%), whereas some felt he did not understand the benefits and risks of the treatment (51.2%). More than half the nurses stated that the patient did not recognize the effects of the chosen treatment on his health (66.7%), daily life (57.7%), and family (58.6%), and almost half of them (46.8%) thought that the patient can partially express his choice about the recommended treatment. More than half the nurses (54.1%) stated that the patient could not express the reasons for refusing the recommended treatment and that his choice of treatment was not consistent with his own explanations (63.1%; Table 2).

A significant statistical difference is observed between the situation of the nurses who received postgraduate education in psychiatric nursing and their assessments in the patient’s expression of acceptance or refusal of the treatment ($\chi^2 = 8.73; p = 0.01$). The nurses who received postgraduate education in psychiatric nursing report that the patient can express his choice about the recommended treatment more than the other nurses.
Decisions of the nurses about compulsory hospitalization

Six of the questions in the questionnaire assess the decisions of the nurses about hospitalization. Most of the nurses who participated in the study (70.3\%) thought that the patient should be hospitalized regardless of his will. To the multiple-choice question about who should decide to hospitalize, 77.5\% of the nurses answered that this decision should be taken by the psychiatrists in the department, whereas the others answered that this decision should be taken by the psychiatrists along with the nurses in the department and the treating psychiatrist. Only few of them (15.3\%) found a court order necessary in order to compulsorily hospitalize. In total, 58.1\% of the nurses agreed that the spouse can be accepted as a proxy, and her choice would be accepted after she is informed of the danger the patient posed; 29.7\% of the nurses state that the patient treatment should be followed with an outpatient treatment regarding his will; 40.5\% prefer that the patient be away from his wife and daughter for a while, as an alternative option (Table 3). Besides these results, one nurse suggests that the patient should be hospitalized compulsorily, and a court order must be taken within 24 h; another nurse suggests that the patient should undertake a program to increase his awareness about his situation.

When the relationship between the data and independent variables was evaluated, a significant statistical difference was observed between being a parent and the work experience in the psychiatric field, and the ethical decisions of compulsory hospitalization. The nurses who had children preferred more that the wife and the daughter of the patient should be warned about the danger the patient poses; 29.7\% of the nurses state that the patient treatment should be followed with an outpatient treatment regarding his will; 40.5\% prefer that the patient be away from his wife and daughter for a while, as an alternative option (Table 3). Besides these results, one nurse suggests that the patient should be hospitalized compulsorily, and a court order must be taken within 24 h; another nurse suggests that the patient should undertake a program to increase his awareness about his situation.

The decisions of the nurses about the duty to warn

The decisions of the nurses about the duty to warn are evaluated in the questionnaire with two questions. More than half the total number of nurses (59.5\%) felt that the patient’s sister should be warned about the danger the patient poses, and a majority of them (88.3\%) felt that the wife and the daughter of the patient should be warned. The nurses who had children preferred more that the wife and the daughter of the patient should be warned. The nurses who had children preferred more that the wife and the daughter of the patient

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### Table 3. Nurses’ decisions about the compulsory hospitalization of the case (N = 111).*

<table>
<thead>
<tr>
<th>Who should take the decision regarding compulsory hospitalization of the patient</th>
<th>n</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>The treating psychiatrist</td>
<td>83</td>
<td>74.8</td>
</tr>
<tr>
<td>The psychiatrists in the department</td>
<td>86</td>
<td>77.5</td>
</tr>
<tr>
<td>The psychiatrists along with the nurses in the department</td>
<td>83</td>
<td>74.8</td>
</tr>
<tr>
<td>The court</td>
<td>17</td>
<td>15.3</td>
</tr>
<tr>
<td>The informed spouse should take the decision</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agree</td>
<td>65</td>
<td>58.6</td>
</tr>
<tr>
<td>Undecided</td>
<td>16</td>
<td>14.4</td>
</tr>
<tr>
<td>Disagree</td>
<td>30</td>
<td>27.0</td>
</tr>
<tr>
<td>The patient should receive outpatient treatment regarding his will</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agree</td>
<td>33</td>
<td>29.7</td>
</tr>
<tr>
<td>Undecided</td>
<td>15</td>
<td>13.5</td>
</tr>
<tr>
<td>Disagree</td>
<td>63</td>
<td>56.8</td>
</tr>
<tr>
<td>The patient should stay away from his wife and daughter for a while</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agree</td>
<td>45</td>
<td>40.5</td>
</tr>
<tr>
<td>Undecided</td>
<td>25</td>
<td>22.5</td>
</tr>
<tr>
<td>Disagree</td>
<td>41</td>
<td>36.9</td>
</tr>
</tbody>
</table>

*Multiple choices were given.

**Bold values indicate the highest frequencies in each decision of nurses.
be warned about the danger ($\chi^2 = 14.70; p = 0.02$). The nurses who had undergraduate degrees preferred more that the patient’s sister be warned about the danger the patient poses ($\chi^2 = 14.70; p = 0.02$).

Nurses reported that they often encountered a similar situation, as the present case (40.5%), during which people are usually warned that the patient is a threat to him or her (67.5%), and in such situations (cases), the decision of outpatient–inpatient treatment is made by the physician (56.8%).

### Discussion

Theories about autonomy agree that two conditions are essential for autonomy. The first condition is liberty, namely, independence from controlling influences. The second is the capacity for intentional action. The latter was the important factor for the patient in our scenario who refused hospitalization. The assessment of a person’s capacity for intentional action in a clinical situation means to assess his or her decision-making competency with regard to treatment. Debates between health professionals, ethics specialists, and law professionals have resulted in the identification of at least four criteria that indicate a patient’s decision-making competence: (a) understanding of the given information about his or her treatment and disorder, (b) appreciation of the given information about the disease and benefits of the treatment, (c) reasoning of the potential risks and benefits of the choices, and (d) expressing a choice about the treatment. A patient who does not fulfill one of these criteria is deemed to be incompetent regarding decision-making about treatment.

The findings of the present study revealed that only a minority of the nurses evaluated the patient in the case described in the questionnaire as competent to make decisions about his treatment. Most participants thought that the patient was partially competent in all dimensions (Table 2). Our own assessment was that the patient was particularly incompetent in terms of being able to evaluate his situation and the information about his treatment. Given that competency should be seen as a whole and that partial incompetence means incompetence to make decisions, it can be stated that the participant nurses correctly evaluated the patient’s competency. However, the nurses considered the patient to be less competent than our assessment. Nurses who specialized in psychiatry were more likely than other nurses to state that the patient was competent in terms of stating his choice. This is consistent with our own assessment. This may reflect the fact that specializing in psychiatry improves the accuracy with which competency is assessed. However, a specialist training that covers all the areas of competency can help the nurses to make better assessments about competency.

Most of the nurses in our study (70.3%) did not agree that the patient should receive outpatient treatment. This probably reflected their evaluation of the incompetency of the patient. Most of the nurses who thought that the patient should be hospitalized stated that health professionals should decide whether the hospitalization should take place. However, more than half the total number of nurses (58.6%) found it appropriate for the patient’s wife to decide (Table 3). This may reflect the following line of thinking: since the nurses found the patient to be incompetent, they considered that a proxy consent should be given by the patient’s wife because this is consistent with the legal regulations in Turkey. Only a minority of the nurses thought that a
court order should be obtained (Table 3). With regard to this complicated case, our view is that obtaining informed consent from relatives is problematic because of the confidentiality issue. In Turkey, psychiatrists can apply to the court for a legal consent in cases when they decide that a serious risk of harm is present.28

Most of the nurses (88.3%) believed that the patient’s wife should be warned about the danger the patient posed to her and her daughter. More than half the nurses also thought that the patient’s sister should be warned. Nurses with an undergraduate degree were particularly likely to state that the sister should be warned about the danger that the patient posed. However, since the patient did not pose a danger to his sister, warning her cannot be justified ethically. It was also noted that the nurses who had children were more likely to recommend that the wife of the patient be warned about the danger the patient posed. This may be because the nurses with children may have had a higher level of empathy for the patient’s wife and daughter than the nurses who did not have children.

According to the guidelines about the duty to warn/protect, the duty to warn should be the last option that is taken.5,6 Hospitalizing the patient would automatically protect the third parties, and thus, the duty to warn would disappear. Since most of the participants found the patient incompetent and thought that he should be compulsorily hospitalized, the knowledge of the nurses about the duty to warn may have been inadequate. However, some participants preferred that the patient be away from his wife and daughter for a while as an alternative option. This preference is important since it places the patient’s autonomy over the need for compulsory hospitalization. However, it may have been difficult to execute because of doubts regarding the patient’s competence in decision making about treatment. Notably, in Turkey, the preference for obtaining the spouse’s consent, rather than waiting for a court order, can be impeded by legal processes. The participants who had children and had more experience in psychiatric nursing were more likely to prefer to wait for a court order, while the nurses with less experience were undecided (Table 4). Some of the participants with more work experience in the psychiatry department stated verbally that when they started procedures to get a court order previously, it took a long time before it was granted. These statements suggest that the nurses who had less experience were either less experienced in cases that require legal processes and thus could not make decisions as easily as the experienced nurses or they did not have sufficient knowledge to make a decision. Further studies may be needed to determine which factors played a role in the different decisions of the nurses with children about getting a court order.

Conclusion

The present study showed that the psychiatric nurses who participated in our study generally evaluated the patient’s decision-making competency accurately. However, it is also seen that there are deficiencies in the subjects of compulsory hospitalization and the duty to warn/protect. In situations like the case used in the questionnaire, nurses are not positioned as the primary decision makers. However, the latest regulations require that after psychiatric nurses have interacted with the patient’s relatives and the physician, they must state their opinions about the method of hospitalization. They are also expected to evaluate the risk of harm that their patients pose to themselves or others and to inform the physician. The present observations and the current requirements indicate that the education programs of psychiatric nurses should include ethical aspects regarding the duty to warn/protect, informed consent and proxy consent signing, and voluntary or compulsory hospitalization. In addition, regulations that include nurses in the decision-making team (as suggested by the younger participants in the study) should be established.

Limitations and future research

This study has limitations because it is conducted only with attendees of a nursing conference, and the limited number of psychiatric nurses who attended was the total target group. Further investigations with a more systematic study of the matters of the study and more attendees could provide more detailed results.
In addition, the results of further studies with other health professionals like psychiatrists and psychologists would be helpful to develop an ethically appropriate and common approach to these subjects. Also, the subject of duty to warn/protect should be debated in the psychiatric area, and guidelines should be prepared before it creates big problems in Turkey.

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Conflict of interest
The authors declare that there is no conflict of interest.

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Appendix I

The 32-year-old married man with one child attended a psychiatric outpatient clinic of his own free will, following the recommendation of a relative who works in the same hospital. His complaints were distractibility, amnesia, excessive fatigue, anorexia, insomnia, uncontrollable aggression, and suicidal thoughts and attempts. The patient stated that he had a registered gun, which he held to his temple many times but gave up shooting the gun at the last minute. He also said that sometimes he thought of killing his wife and daughter along with him. He explained that he was overjealous of his wife and that he was even jealous of her shaking hands with male visitors who came to their house. A short time ago, he started drinking alcohol and was drinking three to four bottles of beer every night. He injured two people with a knife; one when he was 16 and the other when he was 20, during military service. The hospitalization was recommended to the patient because of his suicidal thoughts and uncontrolled aggression. The patient refused to be hospitalized or to share his situation with a family member.