

SPSO decision report



Case: 202305278, Grampian NHS Board
Sector: Health
Subject: Clinical treatment / diagnosis
Decision: upheld, recommendations

Summary

C complained on behalf of their client (B) about the care and treatment given to B's late parent (A). A was admitted to hospital and discharged a few days later. A was readmitted the next day and died the following week. B had concerns around A's diagnosis and said that they should have been consulted given that they held Welfare Power of Attorney (Welfare POA). C also complained that the board's communication with B was unreasonable.

The board said that A was treated for infection with broad spectrum antibiotics. A was discharged after their first admission as it was deemed appropriate and clinically safe to do. The board said that during A's second admission a lumbar puncture procedure was indicated. They acknowledged that an Adults with Incapacity (AWI) certificate was in place and that during that time, Welfare POA rights were in effect. However, the board said that when the AWI certificate was revoked, the Welfare POA did not maintain the ability to make decisions on the patient's behalf.

In relation to communication, the board apologised that B found the manner of staff to be abrupt and explained that the situation was urgent.

We took independent advice from a consultant physician in medicine for the elderly. We found that A received appropriate care and treatment. Appropriate investigations were carried out and various diagnoses were considered during A's treatment. However, the board did not seek appropriate informed consent from B for a medical procedure when the AWI certificate was in place which was unreasonable.

We found that the content of the communication recorded in the medical notes was reasonable. However, the tone of communication lacked sensitivity and respect of B and their role as the Welfare POA. Therefore, we upheld C's complaints.

Recommendations

What we asked the organisation to do in this case:

- Apologise to B for failing to appropriately discuss treatment plans and seek their consent as the power of attorney for an incapacitated patient, communicating with B in an inappropriate way, failing to address all of the concerns raised in their complaint response, and failing to provide full and detailed responses and explanations in their response to the complaint. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/meaningful-apologies.

What we said should change to put things right in future:

- Detailing planned treatments on patients with an AWI certificate in place should be done with the full involvement of the power of attorney holder (or equivalent). When an AWI certificate is in place, consent for procedures should be sought from the power of attorney holder (or equivalent) before procedures are

carried out.

- When communicating with patients, their families, and/or their power of attorney holders, the board should ensure that the content of the communication is accurate, whilst also paying mind to the manner in which they are communicating. Care should be taken to communicate in a way that is sensitive to the circumstances, compassionate, and respectful.

In relation to complaints handling, we recommended:

- Complaints should be investigated and responded to in line with the NHS Model Complaints Handling Procedure. When specific issues have been raised, these should be fully investigated and a meaningful response provided including, where appropriate, an explanation of the board's position and the reasons why action was taken, rather than simply stating the facts of the situation. When a complaint investigation indicates that an apology is appropriate these should, insofar as possible, be sincere and acknowledge the impact on the complainant whilst meeting the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/meaningful-apologies. We offer SPSO accredited Complaints Handling training. Details and registration forms for our online self-guided Good Complaints Handling course (Stage 1) and our online trainer-led Complaints Investigation Skills course (Stage 2) are available at <https://www.spsso.org.uk/training-courses>.