

MILLER THOMSON LLP

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Strategies to Manage the Difficult Client/Family Member

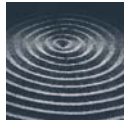
Kathryn Frelick

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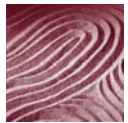
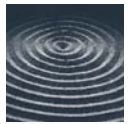
January 11, 2007

Background



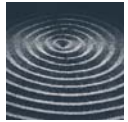
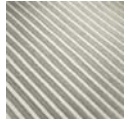
- Organizational/professional goal → provide quality client care
 - Limited resources/many demands
- Individual demands/behaviours →
 - Compromise ability to provide care
 - Negative effect on staff, organization, other clients

Situations are fact-specific



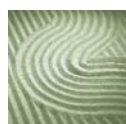
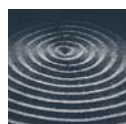
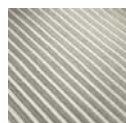
- Depends on individual (i.e. client, SDM, visitor)
- Nature of organization/professional relationship
- Depends on specific behaviour

Common Types of Inappropriate Behaviour



- Abuse and Harassment
 - Emotional, verbal, physical, sexual
- Non-compliance
- Excessive/inappropriate demands
- Actual interference in care

Presentation Overview



- Organizational and professional obligations
- Strategies to manage difficult clients/SDMs/family members
- Potential legal options



Organizational Responsibilities

Overriding duties:

- Ensure quality of client care
- Protect safety of clients, staff and others
- Ensure safe workplace environment



Organizational Responsibilities

How accomplished:

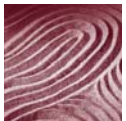
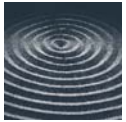
- Create culture of safety → i.e. position statement, policies and procedures
- Resources → i.e. training and education, staffing, contingency plans
- Communication processes → i.e. prevention and support, reporting and investigation



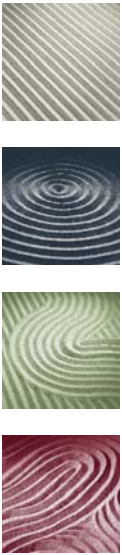
Professional Responsibilities

- Health professional obligations vary
 - Practice Guidelines (i.e. Nurse Abuse)
 - Ability to withdraw
 - Obligations owed to client and others
- Expected to comply with obligations of employer
- Expected to comply with professional obligations

Organizational and Professional Obligations



- Not always identical and may at times conflict
- Determine appropriate level of response
- Develop coordinated strategy

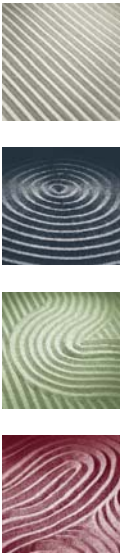


Strategies to Manage the Difficult Client/SDM/Family Member

- Ensure that you are communicating with the appropriate individual(s)
 - Authority to make decisions
 - Authority to share information
 - Support for client/health care team

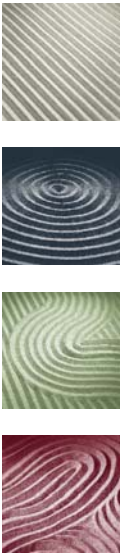
Strategies to Manage the Difficult Client/SDM/Family Member

- Consider development of detailed plan of treatment
 - Capacity fluctuations
 - Unrealistic expectations
 - Changing expectations



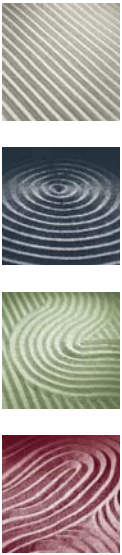
Strategies to Manage the Difficult Client/SDM/Family Member

- Establish communication strategy to ensure consistent messaging, set limits and manage expectations
 - Designated individual(s), availability and manner of communication
 - Refer back to designate(s)



Strategies to Manage the Difficult Client/SDM/Family Member

- Utilize client/family meetings and conferences to identify concerns and manage expectations
 - Address concerns directly
 - Set out expectations
 - Document as appropriate
 - Follow up in writing, as appropriate



Strategies to Manage the Difficult Client/SDM/Family Member

- Offer institutional or other support services (i.e. pastoral care, social work, counseling) to the client, SDM or family member
 - Manage stress and frustration levels
 - Manage expectations
 - Determine plan

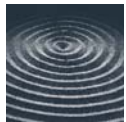
Strategies to Manage the Difficult Client/SDM/Family Member

- Consider whether a “behavioural contract” with the client or SDM may be effective
 - Set out expectations/appropriate behaviour
 - Individual to agree to abide by terms
 - Identify consequences for failure to comply

Legal Options

- Consider contacting legal counsel early on:
 - Identify your legal rights and obligations
 - Identify possible options and solutions
 - Solicitor and client privilege – investigations and communications

Police Assistance

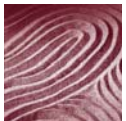
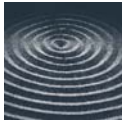


- Contact police if immediate safety concern, threat or illegal activity
 - Most organizations have policies re: contacting police
 - Individual may lay criminal charges or police may do so independently
 - If threat, police may place restrictions on individual (i.e. peace bond)

Immediate Options

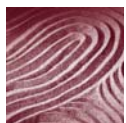
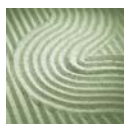
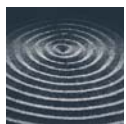
- Exercise powers under trespass legislation
 - Public hospitals and other health care facilities are private property
 - Ask individual to leave
 - Exception → emergency treatment

Trespass



- If longer term, preferable to provide written Notice Prohibiting Entry
 - Set out limitations/restrictions
 - Communicate process if concerns
 - May have security requirements
- Assistance from police to enforce
- Communicate within organization

Peace Bond



- Individual may obtain peace bond:
 - Enforceable order under the *Criminal Code*, to restrain an individual from having contact, as specified
 - Reasonable grounds to fear that individual will cause personal injury to self or family, or damage property

Legal Options

- Identify whether specific behaviour is illegal or otherwise actionable
 - cease and desist letter
 - commence legal proceeding (i.e. defamation)
 - pursue criminal charges



Consent and Capacity Board

Consider recourse to CCB:

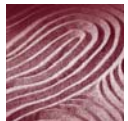
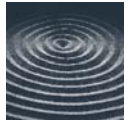
- SDM is not acting in accordance with the client's prior capable wishes or best interests (treatment, admission to care facility, PAS)
- Clarification of wishes
- Appointment of representative



Investigation of Abuse

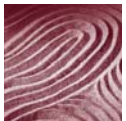
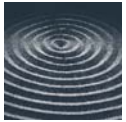
- PGT has obligation to investigate allegations of potential abuse (financial and personal care) where individual is incapable and is at risk of serious adverse effects
- May bring guardianship application

Child Abuse



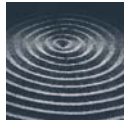
- Obligation to report suspicion of child abuse or neglect and information upon which it is based to Children's Aid Society
- Ongoing obligation

Transfer/Discharge/Discontinue Services



- Ability to transfer, discharge or discontinue services will depend upon the organization/ professional
- Must consider legislative, professional, ethical and contractual obligations, if any

Conclusion



- Current reality
- Proactive strategies
- Early identification of issues

- Questions?

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