Responding To Sexual Activity On The Inpatient Unit

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Introduction: Sexual attraction – and even sexual activity – sometimes occurs among individuals staying together in a psychiatric inpatient unit. Nevertheless, many psychiatric hospitals lack policies on patient-to-patient physical contact. This sheet describes the steps to take when sexual contact occurs on the inpatient unit, whether consensual or non-consensual.

How to respond to sexual contact in the hospital:

- First, determine what type of sexual activity occurred. In most cases on inpatient units, sexual activity occurs between fully clothed individuals and involves kissing, hugging, and fondling. Actual sexual intercourse is rare. You will generally have a good idea of what happened from the reports of the unit staff who discovered the activity but interview the patients yourself to get their side of the story.
- Separate the patients and place them under 1:1 supervision while you evaluate each privately.
- Patients should not change clothing or take showers during this time, as physical evidence may be needed.
- Inform the hospital's risk management office of the incident.
- Determine patients' capacity to consent
    - All individuals—including those with severe mental illness and intellectual disability --have sexual consent capacity once they reach the age of consent as established by their state.
    - Patients on psychiatric holds also retain sexual consent capacity; the exception is if a court previously determined a patient lacks capacity, such as in probate conservatorship.
    - The following principles have typically been used to determine sexual consent capacity:
        - Knowledge: does the patient demonstrate basic knowledge and understanding of the sexual act in question?
        - Rationality: does the patient demonstrate reasoning ability, including weighing the risks and benefits of sexual activity and appreciating its potential consequences (eg, STI transmission, pregnancy)?
        - Voluntariness: Is the patient able to decide to engage in sexual activity without coercion or undue influence? Does the patient understand they have the right to say no (withdraw consent) at any time during the sexual activity?
    - Capacity for consent is on a continuum: an individual may have the capacity to consent to activities with a low level of risk, like cuddling and kissing, but not intercourse, which carries a higher level of risk.
    - If both patients report the sexual activity was consensual and both have the capacity to consent to sexual activity, there is no need for further intervention, other than to inform them of the risks of unprotected sex and review hospital policies regarding sexual activities on the unit.
    - Offer screening and prophylactic interventions in cases of sexual intercourse:
        - Pregnancy test; if negative, repeat in 2 weeks
        - Emergency contraception – consult with ObGyn
        - Tests for STDs: HIV, Hepatitis panel, Syphilis, Gonorrhea/Chlamydia, Trichomoniasis. If initial tests are negative but infection cannot be ruled out, repeat syphilis test at 6 weeks and 3 months; repeat HIV test at 6 weeks, 3 months and 6 months.
        - Post-exposure prophylaxis:
            - For HIV: consult with medicine team.

        - Hepatitis B vaccination
    - Empiric antibiotic treatment:
        - For Chlamydia, Gonorrhea: Single dose of Ceftriaxone 500 mg IM plus doxycycline 100 mg po twice daily for 7 days
        - For Trichomoniasis: Metronidazole 500 mg po twice daily for 7 days

How to manage non-consensual sexual incidents

- If the patients claim the activity was consensual but one or both lacks the capacity to consent to sexual activity, immediately contact the surrogate decision maker for the patient(s) lacking capacity, to determine the steps they wish to take.
- If a patient reports the activity was not consensual, this constitutes sexual assault.
    - Ensure the patient is safe and is kept separated from the alleged perpetrator.
    - If the patient wants to press charges, contact the police, and arrange for a private meeting.
    - Depending on the nature of the contact, a rape kit should be offered, which is handled by a hospital's sexual assault response team. If your hospital does not have such a service, the patient may be transferred briefly to another hospital.
    - Offer the patient counseling, given the psychological impacts such activity may have (counseling can also help even in cases where the sexual activity was consensual).
    - Patients have the right to refuse the recommended examinations and interventions unless they lack capacity to make informed decisions. In those cases, identify a surrogate decision maker who can make decisions on the patient's behalf.
    - Document all details of the incident, clinical evaluations, and interventions in the medical record. Include information on the location, timing, individuals involved, witnesses, clinical evaluations (including for capacity), interventions offered and completed, follow-ups, and referrals.
    - Debrief with the team to review staff's management of the incident, with the goals of minimizing future incidents and maintaining patient safety.