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## Special Feature Article

### **The Opinions of an Advocacy System for Psychiatric Hospitalization by the Committee of the Mental Health Act, Japanese Society of Psychiatry and Neurology**

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#### **Abstract**

The committee of the Mental Health Act, Japanese Society of Psychiatry and Neurology is considering patients' advocacy for psychiatric hospitalization and a new advocate system. In order to make this system effective, the establishment of a Psychiatric Advocacy Center that is independent of government and medical institutions, the development of registered advocates, the establishment of regional councils on advocates, and public awareness activities on advocacy will be required. We plan to propose that the implementation of this system should be placed in the Mental Health Act. Together with the Psychiatric Review Board, this advocacy system will be improved, which will lead to the improvement of overall psychiatric care and discrimination against mental illness.

**Keywords:** advocacy, psychiatric hospitalization, advocate, Mental Health Act

#### **Introduction**

The importance of advocacy for people with mental disabilities has only recently begun to receive attention. Although its necessity has been recognized by the Ministry of Health, Labour and Welfare's study group,<sup>1)</sup> various opinions exist regarding its concrete form, and so it remains under consideration.

Originally, advocacy in psychiatric medical care was considered not only in the context of psychiatric treatment but also as comprehensive support concerning the overall life of all people with mental disabilities who are in situations where decision-making and its implementation are difficult. However, as the first step toward establishing an advocacy system, it is considered that enhancing advocacy for patients undergoing psychiatric hospitalization should be prioritized.

On psychiatric wards where involuntary hospitalization exists, systems such as the Psychiatric Review Board and on-site inspections are established under the Mental Health Act to protect the rights of hospitalized patients; however, these functions are insufficient. Moreover, repeated instances of abuse in psychiatric hospitals suggest that the rights of inpatients may not be adequately protected. Establishing a system to consider and protect the rights of patients hospitalized on psychiatric

wards is as important as providing appropriate medical care in psychiatric medical treatment.

The Committee on the Mental Health and Welfare Act (hereafter, the Committee) has been studying the concrete form of the advocacy system for people with mental disabilities, which is being considered for introduction in Japan in the coming years. At the 2019 and 2020 annual meetings of the society, the committee held symposia on this topic, collecting opinions from stakeholders, lawyers, practitioners of advocacy activities, and supporters in the fields of psychiatric medical care, health, and welfare, engaging in extensive discussions, and as a result, put forward concrete proposals regarding the advocacy system.

### **I. The Committee's Past Activities Regarding Establishment of the Advocacy System**

The Committee has continuously discussed the necessity of establishing a human rights advocacy system in psychiatric medical care. In the "Committee Opinion on the Amendment of the Mental Health Act"<sup>3)</sup> created in March 2016, it was proposed to establish a new advocacy system "to promote advocacy for patients undergoing psychiatric hospitalization, in accordance with the United Nations Principles," and the following

requirements were presented as conditions for this system.

(i) Individuals admitted to psychiatric hospitals can appoint a person (advocate) who represents their opinions and protects their rights.

(ii) Administrators of psychiatric hospitals must inform hospitalized patients that they can appoint an advocate and support their choice.

(iii) The national and prefectural governments must train personnel to protect the rights of individuals admitted to psychiatric hospitals and implement programs to dispatch advocates in response to patients' requests.

Furthermore, toward the establishment of this system, proposals have also been made to "create a system to support advocacy activities for people with mental disabilities, providing financial support for advocacy activities conducted by civil society organizations such as NPOs," and to "amend the Act on the Prevention of Abuse of Persons with Disabilities to include abuse of persons with disabilities in medical institutions as a subject of reporting."

## II. The Advocacy System in Psychiatric Hospitalization as Considered by the Committee

Based on the discussions to date, the Committee considers that the advocacy

system in psychiatric hospitalization should be as follows.<sup>2)</sup>

### 1. Purpose of the Advocacy System

The advocacy system considered by the Committee (hereafter, the system) aims to protect the rights of all patients receiving inpatient treatment on psychiatric wards, enable "decision-making and expression of intention," and facilitate the "provision of effective support desired by the individual" so that patients can fully exercise their rights. Furthermore, even in cases of voluntary hospitalization, the system can be utilized if it is judged that the rights of the patient during hospitalization are not protected.

### 2. Roles of Advocates

Originally, the term "advocate" was a "representative," but in this system, the providers of advocacy services are referred to as "advocates."

The roles of advocates in this system include the following four areas: "sharing information," "collecting information," "assisting the patient's expression of intention," and "monitoring the medical providers."

The "sharing information" that an advocate should carry out involves first making efforts to understand the patient's situation — specifically, understanding and sharing what the patient feels and hopes for; confirming

and sharing the patient's needs. It is also important to assist the patient in understanding the circumstances leading to hospitalization and current situation. Furthermore, clear explanations should be provided regarding the patient's rights to request discharge and improvement of treatment conditions.

The advocate also collects information necessary for realizing the life the patient desires in the future. For example, information about services provided by administrative agencies and support organizations during hospitalization and after discharge, information about candidate medical institutions for transfer if the patient wishes to receive treatment at another medical institution, and information on necessary legal systems are collected and given to the patient. This also includes requesting information from hospitals or other institutions as needed.

When the patient expresses intentions regarding treatment and future life, the advocate first assists the patient in expressing their wishes and intentions to hospital staff, family, and supporters. The advocate confirms whether the patient's wishes are reflected in the support provided, advises supporters as necessary, and may also attend discharge support committee meetings. If the patient wishes to request discharge or

improvement of treatment conditions, the advocate assists with the relevant procedures and may attend review meetings to support the patient's expression of intention.

Furthermore, the advocate monitors whether medical providers are delivering appropriate medical care and whether proper consideration is given to the patient's advocacy, and if problems are recognized, the advocate considers the necessity of intervention.

### 3. Establishment of Psychiatric Advocacy Centers (provisional name)

For the operation of this system, it is necessary to newly establish "Psychiatric Advocacy Centers (provisional name)" (hereafter, the center) as facilities that play a central role. To ensure the quality of the system and maintain neutrality, the center should be established independently of administrative agencies and psychiatric medical institutions for each regional unit (prefectural level), and the operating costs should be borne by the local government.

The center provides education for advocate training to ensure the quality of advocate activities, and also manages the advocate registration system as well as the introduction of advocates to patients who wish to use the service. It is also important to monitor whether advocate activities and the medical

institutions' responses to them are appropriately carried out. The center will evaluate advocate functions and provide guidance and advice to advocates as necessary. Furthermore, the center will conduct public awareness activities about advocacy in psychiatric medical care not only for mental health, medical, and welfare personnel but also for the general public.

Additionally, in each jurisdiction of the center, a council on advocacy in psychiatric hospitals (provisionally named "Psychiatric Advocacy Regional Councils") will be established and operated, involving the center, psychiatric medical institutions, and administrative agencies related to mental health. These councils will monitor advocates' activities within the region. In cases where rights violations are recognized or strongly suspected, the council will have authority to issue corrective recommendations to medical institutions and notify administrative agencies.

#### 4. Legal Basis for Operating this System

Regarding laws related to advocacy for persons with mental disabilities, there are the: Act on Comprehensive Support for the Daily and Social Lives of Persons with Disabilities, and the Act on the Prevention of Abuse of Persons with Disabilities and Support for Caregivers, among others. However,

since this system aims at advocacy for "patients" hospitalized on psychiatric wards, it is necessary to position it within the Mental Health Act, and legal amendments for this purpose are also considered necessary.

To operate this system effectively, it is deemed necessary to include in the provisions of the Mental Health Act, or in related ministerial ordinances and notifications, items such as the establishment of the center, establishment of psychiatric advocacy regional councils, clear statements of municipal responsibilities regarding advocacy for hospitalized patients, clarification of responsibilities for advocacy in inpatient medical institutions, and the obligation to notify patients about advocate use upon admission.

#### 5. Registered Advocates

Because the essence of an advocate's activities is to support faithful expression of the patient's wishes, advocates must not encourage patients to accept treatments proposed by medical professionals, nor guide or evaluate patients' decision-making. Regardless of clinical findings or the social environment, to be unwavering supporters of patients' rights, it is necessary to ensure that advocates are independent, having no direct conflicts of interest with the patient, and no

conflicting responsibilities with administrative bodies or the medical institution where the patient is hospitalized, and they must not possess decision-making authority.

Ideally, patients themselves would be able to request advocates of their choosing; however, such cases are extremely limited. Therefore, under this system, the first step is to train "registered advocates (tentative name)" who have acquired the necessary knowledge to act as advocates. Designing a system in which persons other than registered advocates may also serve as advocates is a matter for consideration after this system has been established.

Registered advocates are not required to hold specialized qualifications in law, medicine, or welfare, but must complete preliminary training provided by the center. Those who complete the training will be able to register with the center. If a patient wishes to use a registered advocate, they will be introduced by the center and may use the service free of charge.

#### 6. Advocacy Activities in Practice

For advocate activities to be properly carried out, it is important for information about this system to be appropriately provided to hospitalized patients. Psychiatric medical institutions must explain both orally

and in writing, at the time of admission and as appropriate, the role of advocates, the patient's right to use an advocate, and the center that serves as the contact point for those who wish to use the service. Additionally, information containing these details must be posted within the ward.

The procedure for using this system is as follows: A hospitalized patient who wishes to use the system contacts the center. The center listens to an overview of the patient's wishes, selects a registered advocate deemed appropriate, and dispatches them. The advocate meets directly with the hospitalized patient and conducts a needs assessment, gathers and provides information, assists with necessary procedures, and supports the expression of the patient's wishes. Multiple meetings may be held if necessary. Psychiatric medical institutions must not restrict a hospitalized patient from contacting the center or meeting with a registered advocate, and are expected to co-operate with the patient's advocate.

### III. Challenges in Establishing the Advocate System

There are various challenges to establishing the system as described above.

The first is the revision of the Mental Health Act. As previously noted, in order to establish the legal basis of this

system within the Mental Health Act, the law must be revised to ensure the system's effectiveness, including securing sufficient personnel and financial resources. In the next amendment of the act, it is considered necessary to add provisions so that concrete policies on advocacy can be realized.

Second, it is necessary to examine the relationship between this system and the Psychiatric Review Board. They are expected to function as complementary mechanisms to realize the advocacy of patients undergoing psychiatric hospitalization. Through advocate activities, the system may promote more timely and effective reviews by the Psychiatric Review Board, thereby improving advocacy for hospitalized patients.

Furthermore, to disseminate this system nationwide, it is essential to ensure the quality of advocates. It will be necessary to develop training programs, establish systems for monitoring advocate activities, and conduct performance evaluations to ensure that registered advocates can fulfill their roles.

Finally, in order to establish the effectiveness of this system, it is crucial for medical institutions, life support organizations, and administrative bodies involved in treatment and community life support to cooperate

with and actively participate in this system. Centered on the psychiatric advocacy regional councils, efforts should be made to raise awareness and interest in advocacy within each region and build cooperative frameworks across relevant fields.

### Conclusion

After several years of discussion within the committee, a concrete vision for this system in psychiatric medical care is finally taking shape. Moving forward, the committee plans to propose the system through academic society statements and other channels. While there are many challenges, the introduction of this system is expected not only to protect patients' rights but also make psychiatric care more open, and further promote public understanding of psychiatric medicine.

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### Editorial Note

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