

Adults with Incapacity Act(2000)

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Learning outcomes

- To allow participants to understand the relevant principles of the adults with incapacity act.
- To inform participants of the paperwork required for the treatment of an adult with incapacity.
- To introduce the 5 principles of treatment planning for an adult who does not have capacity

Helpful Websites

Adults with Incapacity (Scotland) Act 2000: A short guide to the Act

www.gov.scot/Publications/2008/03/25120154/1

The Law - Adults with Incapacity Scotland

<https://www.mwcscot.org.uk/the-law/adults-with-incapacity-act>

What is the Adults with incapacity act?

- The Act introduced a system for safeguarding the welfare and managing the finances and property of adults (age 16 and over) who lack capacity to act or make some or all decisions for themselves because of mental disorder or inability to communicate due to a physical condition

- Guardianship order (Part 6 of the Act). Guardianship can cover property and financial matters or personal welfare, including health, or a combination of these.
- Power of Attorney can be welfare, continuing or both and is given by the individual when they have capacity

ADULTS WITH INCAPACITY
(SCOTLAND) ACT 2000

Certificate of Incapacity under Section 47 of the
Adults with Incapacity (Scotland) Act 2000

I _____ (name)
of _____ (address)

*am the medical practitioner primarily responsible for the medical treatment of; or

*am a person who is *a dental practitioner/an ophthalmic optician/a registered nurse and who satisfies such requirements as are prescribed by the Adults with Incapacity (Requirements for Signing Medical Treatment Certificates) (Scotland) Regulations 2007 and who is primarily responsible for treatment of the kind in question of:

_____ (name)
of _____ (address) D D M M Y Y (date of birth)

for whom the *guardian/welfare attorney/person appointed by intervention order/nearest relative/carer

is _____

I have examined the patient named above on D D M M Y Y (date). I am of the opinion that *he/she is incapable within the meaning of the Adults with Incapacity (Scotland) Act 2000 ("the 2000 Act") in relation to a decision about the following medical treatment:

because of (nature of incapacity) _____

This incapacity is likely to continue for _____ months.

*I therefore consider it appropriate for the authority conferred by section 47(2) of the 2000 Act to subsist from:

D D M M Y Y (date of examination) until D D M M Y Y, being a period which does not exceed one year from the *date of the examination on which this certificate is based/date of revocation of the certificate issued previously by me; or

*I am of the opinion that (a) *he/she is suffering from *a severe or profound learning disability/dementia/a severe neurological disorder; and (b) *what he/she is suffering from is unlikely to improve within the meaning of the Adults with Incapacity (Conditions and Circumstances Applicable to Three Year Medical Certificates) (Scotland) Regulations 2007/ Y Y and therefore consider it appropriate for the authority conferred by section 47(2) of the 2000 Act to subsist until:

D D M M Y Y being a period which does not exceed three years from the *date of the examination on which this certificate is based/date of revocation of the certificate issued previously by me.

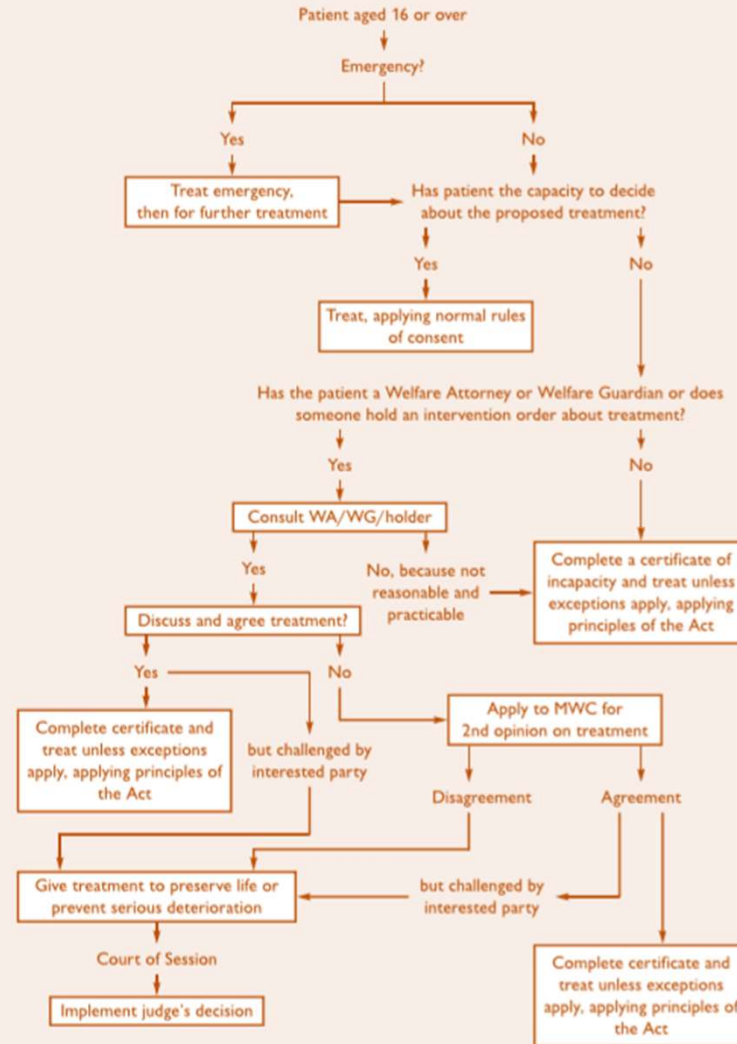
The authority conferred by section 47(2) of the 2000 Act shall subsist for the period specified above or until such earlier date as this certificate is revoked.

In assessing the capacity of the patient, I have observed the principles set out in section 1 of the 2000 Act.

Signed _____ Date D D M M Y Y

*delete as appropriate

ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000 PART 5 - MEDICAL TREATMENT - FLOWCHART

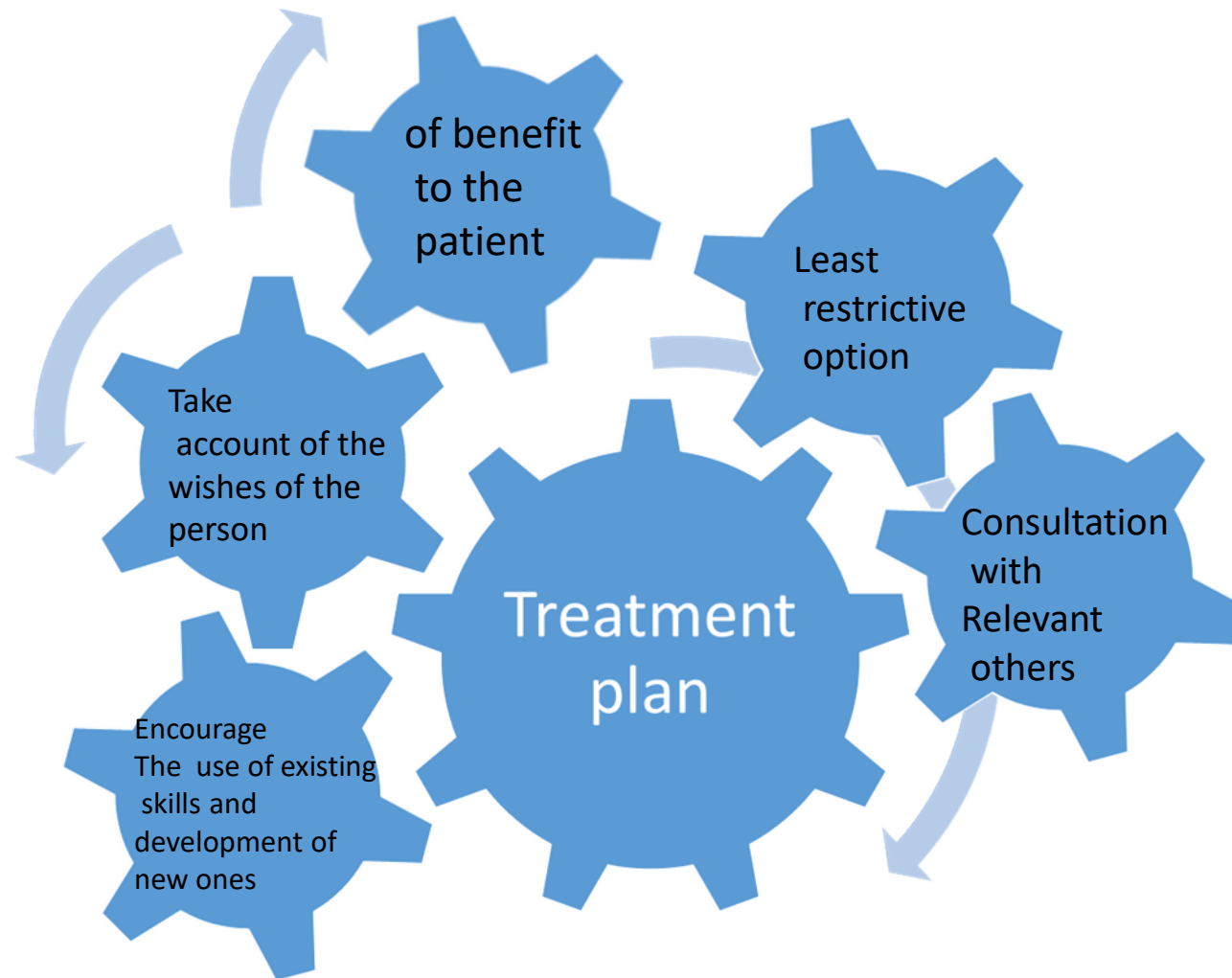


- Medical treatment decisions (Part 5 of the Act). The Act allows treatment to be given to safeguard or promote the physical or mental health of an adult who is unable to consent. The principles apply to medical treatment decisions as to other areas of decision-making. Where a welfare attorney or guardian has been appointed with health care decision-making powers the doctor must seek his/her consent where is it practicable and reasonable to do so.

Principles to be followed

- The Act aims to protect people who lack capacity to make particular decisions, but also to support their involvement in making decisions about their own lives as far as they are able to do so.
- Anyone authorised to make decisions made on behalf of someone with impaired capacity must apply the following principles:

My Brain



- Principle 1 – Benefit
- Any action or decision taken must benefit the person and only be taken when that benefit cannot reasonably be achieved without it.

- Principle 2 - least restrictive option
- Any action or decision taken should be the minimum necessary to achieve the purpose. It should be the option that restricts the person's freedom as little as possible

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- Principle 3 - take account of the wishes of the person
- • In deciding if an action or decision is to be made, and what that should be, account must be taken of the present and past wishes and feelings of the person, as far as this may be ascertained. Some adults will be able to express their wishes and feelings clearly, even although they would not be capable of taking the action or decision which you are considering. For example, he/she may continue to have opinions about a particular item of household expenditure without being able to carry out the transaction personally.
- The person must be offered help to communicate his or her views. This might mean using memory aids, pictures, non-verbal communication, advice from a speech and language therapist or support from an independent advocate. A Guide to Communication and Assessing Capacity is available at:
<http://www.scotland.gov.uk/Publications/2008/02/01151101/0>

- Principle 4 - consultation with relevant others
- Take account of the views of others with an interest in the person's welfare. The Act lists those who should be consulted whenever practicable and reasonable. It includes the person's primary carer, nearest relative, named person, attorney or guardian (if there is one).

- Principle 5 - encourage the person to use existing skills and develop new skills
- Not always the easy or straight forward, or indeed popular approach