

RECORD OF CAPACITY AND CONSENT TO TREATMENT FORM

Part 1 - To be completed for voluntary and detained patients on admission, detained patients after treatment for 3 months with medication, when there is a change of Approved Clinician in charge of medication for mental disorder, and when there is a significant change in mental state. (See guidance notes)

Name of Patient _____ Interview Date ____/____/____

Date of Birth ____/____/____ Legal Status _____

Hospital _____ Ward _____

Capacity

- The patient has capacity to make a decision about the proposed treatment or
The patient does not have capacity because of inability to; (tick as appropriate):
- Understand information about the decision to be made
 - Retain that information in their mind
 - Weigh that information as part of the decision process
 - Communicate their decision (in any way whether by talking, using sign language or any other means)

Assessment of capacity to consent to treatment (factors that informed the doctor's decision):

Consent to Treatment

- The patient does not give consent to the proposed treatment either due lack of capacity or refusal
The patient gave consent to treatment; (For consent all 4 of the following are required)
- Free of unfair or undue pressure
 - Based on an adequate knowledge of the nature, purpose, likely effects and risks of that treatment including the likelihood of its success and any alternatives to it
 - After being invited to ask questions
 - Having been told that consent can be withdrawn at any time.

Views of the patient regarding the proposed treatment:

Record of Capacity and Consent to Treatment Form
completed (tick as appropriate):

- a) Assessment following admission
- b) After 3 months of treatment with medication under detention
- c) Change of Approved Clinician
- d) Significant change in mental state

If b), further action taken (tick as appropriate):

- Form T2 Completed and Signed
- SOAD visit arranged / to be arranged
- Section 62 completed

Signature _____

Date ____/____/____

Name _____

Part 2 – Where a Second Opinion Appointed Doctor (SOAD) opinion has been sought

- T3 certificate received. Dated ____/____/____

SOAD written reasons received?

- On the certificate itself, or
- Provided to the clinician in charge of the treatment separately

Disclosure of reasons

- SOAD is of the view that disclosure of the reasons to the patient would/would not be likely to cause serious harm to the patient's physical or mental health or to that of any other person.

Record of the actions of the Approved Clinician in charge in providing the patient with or withholding the reasons supplied by the SOAD.

Signature _____

Date ____/____/____

Name _____

Send original form pertaining to detained patients only to MHA Office and add one copy to notes.

Record of Capacity and Consent to Treatment Form

Code of Practice 23.37 *“Although the Mental Health Act permits some medical treatment for mental disorder to be given without consent, the patient’s consent should still be sought before treatment is given, wherever practicable. The patient’s consent or refusal should be recorded in their notes, as should the treating clinician’s assessment of the patient’s capacity to consent.”* (Use of this form is to be preferred)

Code of Practice 24.16 *“Where approved clinicians certify the treatment of a patient who consents, they should not rely on the certificate as the only record of their reasons for believing that the patient has consented to the treatment. A record of their discussion with the patient, and of the steps taken to confirm that the patient has the capacity to consent, should be made in the patient’s notes as normal.”* (Use of this form is to be preferred)

Procedure

1. The relevant clinician should complete a Record of Capacity to Consent Form:

- By first ward round following admission or detention under the MHA 1983.
- After the first 3 months of treatment of a detained patient with medication.
- When there is a change of Approved Clinician.
- When there is a significant change in the patient’s mental state.

Note that during the first 3 months of detention, lack of capacity/consent does not mean that the patient cannot be given medication or that a SOAD is required; section 63 gives authority to treat during this time.

2. In addition to completing this form, it may be helpful for the doctor to document the date that the form was completed in the patient’s progress notes.

3. The nurse in charge will ensure that the original is copied with the original being sent to the Mental Health Act Administration office., with one copy being placed in the Mental Health Act section in the patient’s notes.

4. The relevant Mental Health Act Administration office will:

- Retain the copy in the patient’s Mental Health Act file.
- Remind the Approved Clinician of the need to review capacity and consent as necessary.

5. If the Approved Clinician has indicated that a SOAD is required, the appropriate SOAD request must be completed and faxed along with the Capacity and Consent Form to the Mental Health Act Administration Office, where the request will be processed.

Part 2 – Where a SOAD opinion is sought

Disclosure of reasons

Code of Practice 24.59 *“SOADs must provide written reasons in support of their decisions to approve specific treatments for patients. SOADs do not have to give an exhaustive explanation, but should provide their reasons for what they consider to be the substantive points on which they made their clinical judgement. These reasons can be recorded on the certificate itself when it is given, or can be provided to the clinician in charge of the treatment separately as soon as possible afterwards.”*

Code of Practice 24.60 *“A certificate may be acted on even though the SOAD’s reasons have yet to be received. But if there is no pressing need for treatment to begin immediately, it is preferable to wait until the reasons are received, especially if the patient is likely to be unhappy with the decision.”*

Code of Practice 24.61 *“When giving reasons, SOADs will need to indicate whether, in their view, disclosure of the reasons to the patient would be likely to cause serious harm to the patient’s physical or mental health or to that of any other person.”*

Code of Practice 24.62 *“It is the personal responsibility of the clinician in charge of the treatment to communicate the results of the SOAD visit to the patient. This need not wait until any separate statement of reasons has been received from the SOAD. But when a separate statement is received from the SOAD, the patient should be given the opportunity to see it as soon as possible, unless the clinician in charge of the treatment (or the SOAD) thinks that it would be likely to cause serious harm to the physical or mental health of the patient or any other person.”*

Code of Practice 24.63 *“Documents provided by SOADs are a part of – and should be kept in – the patient’s notes. The clinician in charge of the treatment should record their actions in providing patients with (or withholding) the reasons supplied by a SOAD.”*

Where a SOAD opinion is sought the Approved Clinician in charge of the treatment should complete Part 2 of the Record of Capacity to Consent Form.