

POLICY FOR STAFF WITNESSING PATIENT'S SIGNATURES ON DOCUMENTS

Policy for staff witnessing signatures on documents for patients

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| Key Messages | <p>Patients, their relatives or legal representatives, may ask for the patient's signature to be witnessed on several different documents.</p> <p>These may include:</p> <ul style="list-style-type: none">• Last Will and Testament• Lasting Power of Attorney• Advance Decisions to Refuse Treatment• Access to Pension Books/Banks/Building Society Accounts <p>There is no legal requirement that prevents any healthcare professional from witnessing a patient's signature, but all staff should be aware that they may be drawn into legal proceedings at a later date.</p> <p>Ideally this role should be undertaken by a Clinical Nurse Manager (or similar professional) not involved in the direct clinical care of the patient. It is however recognised that in emergency situations this may not be possible.</p> <p>This policy is available at Homepage > Healthcare > Clinical Guidance</p> |
| Minimum Implementation Standards | <p>This policy applies to all staff who may be asked to witness a patient's signing of documents.</p> |

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1. Introduction

Patients, their relatives or legal representatives, may ask for the patient's signature to be witnessed on several different documents.

These may include:

- Last Will and Testament
- Lasting Power of Attorney
- Advance Decisions to Refuse Treatment
- Access to Pension Books/Banks/Building Society Accounts

NHS Lothian staff have no legal responsibility to witness the signing of any of the above documents.

Patients should be encouraged to have such documents formalised (with others) where possible before admission, or after discharge from hospital.

Patients must be assessed as to whether they have capacity and this fact must be documented in the healthcare record before any signature can be witnessed (see sec 5 below).

The process of witnessing signing of any document will only be undertaken in emergency circumstances and where a signature is urgently required.

2. Aim of the policy

To ensure timely and appropriate response to requests for witnessing of signatures on documents.

3. Policy scope

This policy applies to all staff who may be asked to witness a patient's signing of documents.

This policy should be read in conjunction with NHS Lothian's policy on:

Consent

Caring for a Patient with a cognitive impairment in a hospital setting

Caring for a Patient with a learning difficulty in a hospital setting

4. Who can witness documents

There is no legal requirement that prevents any healthcare professional from witnessing a patient's signature, but all staff should be aware that they may be drawn into legal proceedings at a later date.

Ideally this role should be undertaken by a Clinical Nurse Manager (or similar professional) not involved in the direct clinical care of the patient. It is however recognised that in emergency situations this may not be possible.

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Wherever possible such the witnessing of a signature should be fulfilled during office hours. Outwith these hours and during public holidays, the role should be undertaken by the site co-ordinator (or similar).

When a signature is witnessed, the fact that it has been done must be documented in the patient's healthcare record and if known the type of document on which the signature was witnessed.

In addition the name and designation of the staff member witnessing and the reason for witnessing the signature should also be given e.g. no next of kin available or patient's condition deteriorating.

5. Assessing the Patient's Capacity

The law of Scotland generally presumes that adults (those aged 16 or over) are legally capable of making personal decisions for themselves and managing their own affairs. That presumption can only be overturned on evidence of impaired capacity. The Adults with Incapacity (Scotland) Act 2000 ('The 2000 Act') sets out a framework for regulating intervention in the affairs of adults who have impaired capacity, in the circumstances covered by the Act.

5.1 Incapacity

For the purposes of the Act, 'incapable' means incapable of:

- acting or
- making decisions or
- communicating decisions or
- understanding decisions or
- retaining the memory of decisions

In relation to any particular matter, by reason of mental disorder or due to an inability to communicate because of physical disability, a person shall not fall within the definition by reason only of a lack or deficiency of communication if that can be made good by human or mechanical aid (whether of an interpretative nature or otherwise).

In the event that the person is deemed incapable, a Certificate of Incapacity must be completed and signed by the medical practitioner primarily responsible for the patient's treatment, this being the medical practitioner who has undertaken the assessment of capacity.

Forms are available here:

<http://www.scotland.gov.uk/Topics/Justice/law/awi/forms/Medical-Report-Forms#a2>

6. References

The Scottish Government Adults with Incapacity a short guide to the law available from: <http://www.scotland.gov.uk/Publications/2008/03/25120154/1>
Last Accessed: 23rd January 2013

Ashford and St. Peter's Hospital NHS Trust Policy for Staff Witnessing Documents for Patients available from:
http://www.ashfordstpeters.nhs.uk/attachments/1232_Witnessing%20Documents%20for%20Patients.pdf Last Accessed: 23rd January 2013-01-23