

These notes relate to the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) which received Royal Assent on 25 April 2003

MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 17 – Patient Representation

Chapter 2: Advocacy

Advocacy

Sections 262 to 263: access to medical practitioner and inspection of medical records

514. **Section 262** enables a medical practitioner to visit a patient detained under the 2003 Act or the 1995 Act at any reasonable hour and to carry out a medical examination.
515. The visit must be for one of the purposes mentioned in subsection (2). The first of these is to advise the patient (or the patient's named person) about the making of applications to the Tribunal. The second is to provide information to the patient (or the patient's named person) about the patient's condition for the purpose of any such application or any other proceedings before the Tribunal in which the patient (or the named person) is participating.
516. The medical practitioner must be authorised by the patient or the patient's named person (subsection (4)). An authorisation by the named person may be rescinded by the patient at any time when the patient is capable (subsections (5) and (6)).
517. **Section 263** enables a medical practitioner to obtain certain records of a patient.
518. Where a person holds records relating to a patient whose detention in hospital is authorised under the Act or the 1995 Act, a duly authorised medical practitioner may require that person to produce records relating to the patient's detention or medical treatment (subsection (1)).
519. A person who holds records concerning medical treatment of a patient who is subject to a compulsory treatment order, or a compulsion order, which does not authorise detention in hospital, may be required to produce those records for inspection by a duly authorised medical practitioner (subsection (2)).
520. The records must be required for one of a list of purposes, which are set out in subsection (3) and are the same as those applying in relation to a medical examination under section 262 (see paragraphs 514 to 516 of these Notes).