Mental Health (Care and Treatment) (Scotland) Act 2003

2003 asp 13

PART 16

MEDICAL TREATMENT

Urgent medical treatment where patient detained in hospital

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(1) This section applies where the detention in hospital of a patient is authorised by virtue of—

  (a)   this Act; or

  (b)   the 1995 Act.

(2) Where it is necessary as a matter of urgency for medical treatment to be given to the patient for any of the purposes mentioned in subsection (3) below, the treatment may, subject to subsections (4) and (5) below, be given notwithstanding that the patient—

  (a)   does not consent; or

  (b)   is incapable of consenting,

to the treatment.

(3) The purposes are—

  (a)   saving the patient's life;

  (b)   preventing serious deterioration in the patient's condition;

  (c)   alleviating serious suffering on the part of the patient; and

  (d)   preventing the patient from—

       (i) behaving violently; or

       (ii) being a danger to the patient or to others.

(4) Subsection (2) above authorises the giving of medical treatment—

  (a)   for a purpose mentioned in any of paragraphs (b) to (d) of subsection (3) above only if the treatment is not likely to entail unfavourable, and irreversible, physical or psychological consequences;

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      (b)   for a purpose mentioned in paragraph (c) or (d) of that subsection only if the treatment does not entail significant physical hazard to the patient.

(5) Subsection (2) above does not authorise the giving of electro-convulsive therapy if the patient is capable of consenting but does not consent to the treatment.

(6) Where the patient is given medical treatment by virtue of subsection (2) above, the patient's responsible medical officer shall, before the expiry of the period of 7 days beginning with the day on which such treatment is given (or first given), give notice to the Commission of—

      (a)   the type of treatment given; and

      (b)   the purpose mentioned in subsection (3) above for which it was given.