

SOUTH STAFFORDSHIRE LOCAL MEDICAL COMMITTEE

'Suite 5b' Anson Court, Horninglow Street, Burton on Trent, Staffs DE14 1NG

Tel: 01283 534384 Fax: 01283 562824

Email: enquiry@sslmc.co.uk

Website: www.sslmc.co.uk

Dear

Re: **Mental Capacity Act/Do Not Resuscitate Forms/Advance Directives**

Thank you for your enquiry about Do Not Resuscitate Forms (DNRs).

It is likely that you will have in the home a number of residents who have the capacity to make decisions about resuscitation. It should be remembered that the Mental Capacity Act 2005 lays down very clearly that all adults should be presumed to have capacity unless incapacity can be demonstrated. For such residents who have capacity, it is necessary for those caring for them to ascertain their views and to act upon them. To act, or fail to act, in a way that contradicts a resident's known and expressed views would be deemed to be unlawful. People who do not wish to receive potentially life saving treatment should sign a written declaration to that effect. Some people may be capable of making such a decision but physically incapable of signing their name. Other procedures may be required to ensure that their wishes are recorded in writing and that appropriate others attest in writing that this is the situation.

You will have some residents who clearly lack capacity to make a decision about resuscitation. These residents are likely to lack the capacity to make other decisions as well. The Act requires those caring for such people to consult with each other and with any known relatives or friends to try to determine what the person would have regarded as being in his/her best interest if he/she had capacity. Such decisions may well include the GP but, in many cases, the resident's personal lifestyle preferences and aspirations may well be better known to you and your staff and to the family than they are to the doctor.

There will be some residents whose capacity to make the decision about resuscitation is in doubt. Such residents should be assessed in accordance with the precepts of the Mental Capacity Act and decisions should then be made according to the outcome of the assessment. Such assessments may well involve the GP, a psychiatrist, a psycho-geriatrician or another mental health worker.

Do Not Attempt Resuscitation orders have no legal standing. They are not a statutory requirement. They may be a helpful way of ensuring that all staff involved in a resident's care are aware of the resident's wishes or of the considered opinion of his/her carers and family where capacity is lacking but there are other ways of recording such information. GPs are not ethically or legally obliged to sign or not to sign such orders.

The ethical and legal responsibilities of a doctor are to be appropriately involved in giving information to patients who have capacity and in the assessment and decision making process for patients who lack capacity. Once decisions have been made they should be recorded in such a way as to show how they have been arrived at.

If your organisation has decided, for its administrative convenience, that it wishes to have a particular form of wording, it may do so but that does not absolve any member of the team from playing their full part in the processes I have described above, nor can it imply that any particular member of the team assumes ultimate responsibility for the decision.

I hope this information is helpful.

Yours sincerely

Dr D Dickson
South Staffordshire LMC Secretary