NHS Lanarkshire

PROFESSIONALISM IN HEALTHCARE

These resources were created by Medical Education, NHS Lanarkshire.
They should be used as guidance for further reading around these complex topics.

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Professionalism in Healthcare

CAPACITY

"Capacity is the ability to understand information relevant to a decision or action and to appreciate the reasonably foreseeable consequences of taking or not taking that action or decision."

The Law

In Scotland, the Adults with Incapacity Act (2000) was implemented in order to protect those aged 16 and over who lack capacity, safeguarding their welfare and finances.
Adults in Scotland are all assumed to have capacity and therefore require assessment if there are concerns regarding incapacity for some or all decisions.
In order to have capacity, a person must be able to:

- Understand the decision being made and the information they are being given
- Retain the information
- Use the information in their decision-making process
- Communicate this decision

Assessing Capacity

Remember, there is not one single measure or test for capacity. A person's capacity can change and is specific to the decision being made at the time. Lacking capacity to make one decision does not mean they will be incapable of making all decisions.

'There is no all-purpose test for incapacity. The test depends on the decision to be taken... or task to be done. The principles of least restrictive alternatives and maximising the person's capacity underline the importance of not making blanket assessments of incapacity and recognising any residual capacity an adult has'

Patrick, H. et all, Mental Health, Incapacity and the Law in Scotland, Tottel Publishing, 2006

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CAPACITY IN PRACTICE

Understand the Information

A 67 year old woman attends to discuss options for hip replacement surgery. She wishes more time to make a decision and there are leaflets available for each surgery. The lady can speak English but cannot read or write.
a.Do you consider literacy levels when signposting patients to written information?
b.Patients may not feel comfortable disclosing this so think about how you would determine this?
c.What other methods of communication could you implement?

Tips:
If the patient can understand spoken information – consider longer appointment slots or return appointment to discuss further. Do they have a trusted family member who can assist with relaying information? Can you use technology to record spoken information that the patient can play back? Is this a visual problem – do they need glasses?
Try to avoid medical jargon and ensure information is pitched at an appropriate level. If there are medical words that must be used – check for understanding or offer explanation.

Communicate the Information

A GP wishes to discuss the flu vaccination with an 80 year old patient. He has been given an information leaflet from the practice nurse and wishes to discuss this further. The patient communicates through lip reading and British Sign Language.
a.What might influence a patient's ability to communicate?
b.How can we facilitate the communication of decisions?
c.How do we assess capacity of patients who are in a coma?

Tips:
Lots of factors can influence communication: hearing and language, conscious level, those with acquired loss of speech or non-verbal patients e.g. post stroke.
Think about the techniques and tools you can use: translators, writing of questions and answers. Ensure hearing aids, if needed, are worn and turned on. If someone has a tracheostomy – attach voice box. Consider PPE if your patient lip reads – use of a clear visor rather than a fabric mask. Consider the speed at which you talk.
Under the Adults with Incapacity Act, patients in a coma are deemed not to have capacity.

Retain Information Long Enough to Make Decisions

A 72 year old woman has a diagnosis of mild cognitive impairment and needs counselling on starting anticoagulant therapy for new AF.
a. How long does she need to retain the information for?
b. How are you going to assess her knowledge retention?
c. What factors are going to influence this?
d. What aids can you use to help with this?

Tips:
The length of time needed to retain information will depend on the decision we are asking patients to make.
Do they have any conditions that may cause fluctuating capacity?
Aids that may be of use – family, notebooks

Use the information being given to make Decisions

A 32 year old woman is found to have a large, suspicious looking ovarian cyst. Her gynaecologist recommends further imaging and surgery but the patient says she wishes no invasive treatment and would rather wait and see what happens.
a. Have you given all of the relevant information and discussed all possible options?
b. Have you checked for understanding (see point 1)
c. Have you considered external factors that may be influencing the decision?
d. Does the decision need to be made urgently or can you allow time for considering options?

Tips:
External factors can influence decision making – are there friends, family, cultural or religious pressures that you have not considered/addressed?
Patients may feel pressure from healthcare staff – consider your influence on the patient, your communication and body language when discussing options.
Patients may want time to process information or discuss with other relatives/friends. Is there time to allow this and then schedule another appointment to discuss further?

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Further Reading:
https://www.gov.scot/publications/adults-incapacity-scotland-act-2000-communication-assessing-capacity-guide-social-work-health-care-staff/pages/2/
Factsheet: Mental Capacity Act 2005 – Assessing capacity (medicalprotection.org)

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CONSENT

What does the GMC say?

Shared decision making and consent are fundamental to good medical practice. – GMC, 2020

The GMC sets out guidance for all doctors on decision making and consent. In this they highlight seven core principles, setting the expected standards for approaching consent for all doctors involved in patient care...

01 All patients have the right to be involved in decisions about their treatment and care and be supported to make informed decisions if they are able.

02 Decision making is an ongoing process focused on meaningful dialogue: the exchange of relevant information specific to the individual patient.

03 All patients have the right to be listened to, and to be given the information they need to make a decision and the time and support they need to understand it.

04 Doctors must try to find out what matters to patients so they can share relevant information about the benefits and harms of proposed options and reasonable alternatives, including the option to take no action.

05 Doctors must start from the presumption that all adult patients have capacity to make decisions about their treatment and care. A patientcan only be specific time, and only after assessment in line with legal requirements

06 The choice of treatment or care for patients who lack capacity must be of overall benefit to them, and decisions should be made in consultation with those who are close to them or advocating for them.

07 Patients whose right to consent is affected by law should be supported to be involved in the decision-making process, and to exercise choice if possible.

The GMC's seven principles of decision making & consent

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CONSENT

For consent to valid it must be:

Voluntary - the decision must be made by patient themselves & not influenced by unduly pressures from others e.g. family, friends or staff

Informed - the person must be given all material information in terms of what is involved, including risks & benefits, alternative management (including no treatment)

Capacity - patient must be capable of giving consent. Can they understand, retain and use the information given to them to make an informed decision?

To facilitate informed consent in clinical practice you need:

- Dialogue
- Shared decision making
- Time
- Adaptation of information to understandable formats, specific to individual patient needs.
- Knowledge & awareness of patients' circumstances, beliefs & values

Consent is a process, not an event

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What does the law say?

Montgomery vs NHS Lanarkshire

Tthe 2015 ruling in this landmark UK medicolegal case changed the legal standard expected for informed consent in medical treatments to that of a patient focused test.

The ruling enshrined in law that a doctor has a duty "to take reasonable care to ensure that the patient is aware of any material risks involved in any recommended treatment and of any reasonable alternative or variant treatments".

But what is a material risk...?

In law, under the Montgomery case ruling, a material risk is any risk of a treatment which in a particular patients circumstance a reasonable person in the patient's position would be likely to attach significance to.

For example, a 1 in 1000 risk of loss of hand sensation may be seen as very minor risk but the average person but to a professional musician whose livelihood depends on playing the guitar, may be seen as significantly important and therefore material risk in that particular patient's case.

Tips:

- Record decisions
- Review decisions
- Consent can be withdrawn at any point
- In emergency situations, if patient unable to give consent & patient at risk of harm - consent is not required.

Further Reading:

Decision making and consent - Supporting patient choices about health care, 2018. GMC

Providing consent. NES https://www.advancedpractice.scot.nhs.uk/law-ethics/consent.aspx

Consent and refusal by adults with decision making capacity. A toolkit for doctors. BMA, https://www.bma.org.uk/media/2481/bma-consent-toolkit-september-2019.pdf

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CONFIDENTIALITY

01 **Use minimum necessary personal information**
Anonymise where possible & practical

02 **Share relevant information for direct care**
If patient consents, is required by law or is in public interest

03 **Manage and protect information**
Make sure any patient info is protected against damage or loss

04 **Tell patients about disclosures**
Particularly when they wouldn't expect this & keep a clear record

05 **Ask for explicit consent**
Particularly for cases other than their care or for audit

06 **Comply with the law**
Know when disclosure may be appropriate

07 **Support patients to access information**
Respect patients' rights to access their records

08 **Be aware of your responsibilities**
Know where to access information (see below)

The GMC's eight principles of confidentiality (adults)

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CONFIDENTIALITY

Specific Circumstances – Key Facts

DVLA

Legal responsibility lies with the driver to inform the DVLA regarding medical conditions or treatment.
Doctors should inform patients if there is a concern that their ability to drive might be affected.
If a patient continues to drive when they have been advised not to, a doctor is able to breach confidentiality to inform the DVLA in order to protect the safety of others.

Serious Communicable Diseases

It must be written on a death certificate if it has contributed to the death of a patient.
A doctor can inform a close contact if they think the contact is at risk of infection which can cause serious harm/the patient will not inform the close contact themself.
When informing a close contact you must not state the identity of the patient, and you must tell the patient you are going to do this.

More information on specific circumstances here: https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/confidentiality

Useful Links

Interactive Cases: gmc-uk.org/gmpinaction/all-topics/index.asp#item_Confidentiality stations

OSCE Practice: oscestop.com/Confidentiality.pdf

BMA Toolkit: bma.org.uk/advice-and-support/ethics/confidentiality-and-health-records/confidentiality-and-health-records-toolkit

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Further Reading:

Patients' fitness to drive and reporting concerns to the DVLA or DVA, GMC https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/confidentiality---patients-fitness-to-drive-an.
Disclosing information about serious communicable diseases, GMC https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/confidentiality---disclosing-information-about-serious-communicable-diseases/disclosing-information-about-serious-communicable-diseases#paragraph-7.
Ethical Guidance for Doctors, GMC https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/confidentiality/the-main-principles-of-this-guidance.

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SOCIAL MEDIA

Benefits of Social Media Use

Building a professional network
Keeping up to date
Following public campaigns

Further Reading:
Doctors' use of social media Doctors' use of social media - ethical guidance - GMC (gmc-uk.org)
Ethics of social media use, BMA https://www.bma.org.uk/advice-and-support/ethics/personal-ethics/ethics-of-social-media-use

GMC Guidance

If you state that you are a doctor on social media then you must be known as your name
Must not breach patient confidentiality
Continue to maintain professional boundaries

Other Tips

It is important to check privacy settings as these vary depending on what form of social media you are using
always be respectful and courteous
After posting on social media - it is very difficult to undo

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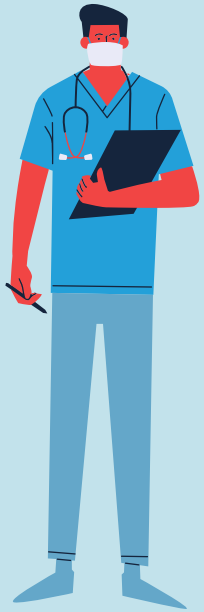
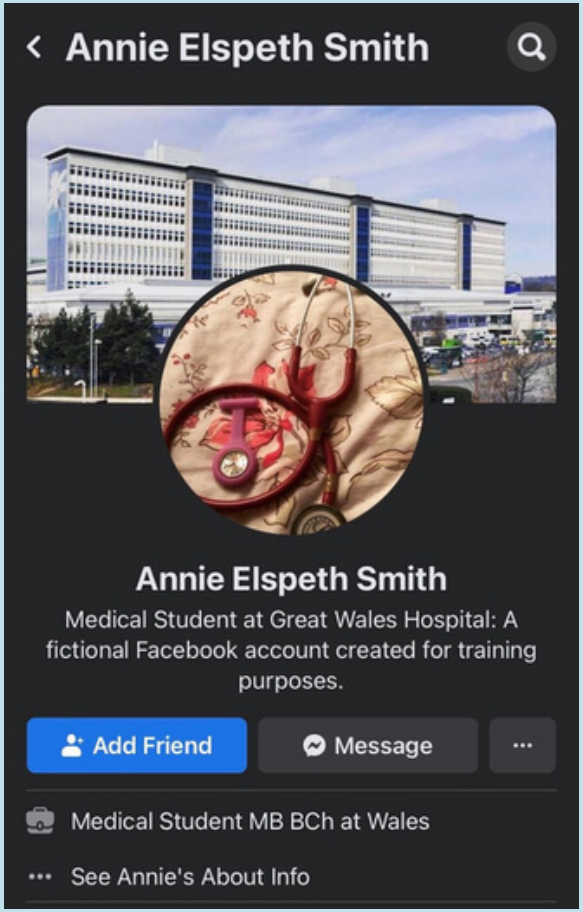
SOCIAL MEDIA

Annie Elspeth Smith - Facebook Page

Created by Cardiff Medical Students as an educational resource on how to use social media in a professional manner.

Take a look!





Clinician Social Media Influencers

- Professor Amy Brown - Breastfeeding Uncovered
- The Food Medic
- Dr Punam Krishan
- The Mind Medic

Other Use of Social Media

- #HelloMyNameIs by Dr Kate Granger
- Twitter Journal Club

Professionalism in Healthcare

Twitter @ProfinHealth (look out for #PIHC23 coming soon!)
Website https://professionalisminhealthcare.co.uk

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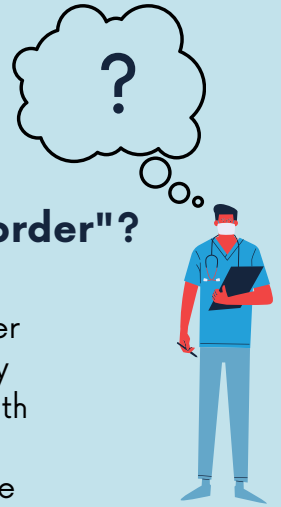
Mental Health Act



What is an Emergency Detention Certificate (EDC)?

A legal document under the Mental Health (Care and Treatment) (Scotland) Act 2003
Legal power to detain a person for assessment against their will for up to 72 hours

Criteria for EDC Completion

All of the following criteria must be met:

1) The person is likely to have a **mental disorder**.
2) Because of their mental disorder, the person's decision making ability with regards to treatment for that mental disorder is **significantly impaired.**
3) It is necessary as a matter of **urgency** to detain the patient in hospital to determine what medical treatment requires to be provided for the mental disorder
4) There is a significant **risk** to the person's health, safety or welfare, or to the safety of another person if the patient were not detained in hospital.
5) Making arrangements with a view to granting a Short Term Detention Certificate (i.e. arranging a Psychiatrist review) would involve **undesirable delay.**

What counts as a "mental disorder"?

Mental illness
Personality disorder
Learning disability
Any of the above with co-existing alcohol or drug use

What does not count as a "mental disorder"?

Dependence on or use of alcohol or drugs in absence of co-existing mental disorder
Acting as no prudent person would
Behaviour that causes or is likely to cause harassment, alarm or distress to another person

What does it mean for the patient?

- Held for up to 72 hours against their will for assessment of their mental health disorder
- No right to appeal the decision (there is a right of appeal for a Short Term Detention Certificate)
- An EDC does not confer the power to administer treatment although this can be done in an urgent situation under Section 243 of the Mental Health Act.
- Allows procedure or treatment to be performed to protect the patient's life &/wellbeing &/ wellbeing of others – only in immediately life threatening conditions

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What are the alternatives and complementary legislation?

Common Law

Allows for treatment to be given in an emergency:

- If patient unable to provide consent or obtaining consent would cause undesirable delay e.g. due to unconsciousness or intoxication
- Should act in 'patient's best interest'
- Life-saving treatment or to prevent serious deterioration
- Should explain treatment that was given if / when patient regains capacity

Short Term Detention Certificate (STDC)

Can be granted by an Approved Medical Practitioner (AMP)
Recommended by the Mental Welfare Commission as the "gateway order" because patients have more rights

Informal (voluntary) treatment

If the patient is willing to stay and accept treatment, therefore not meeting criteria for detention

Adults with Incapacity Act

- When capacity for decision making is impaired
- Required for any procedure or treatment or investigations not directly related to the acute mental health presentation
- Procedure or treatment designed to safeguard or promote physical or mental health
- Beyond immediately life threatening conditions
- Does not authorise detention, restraint, repeated IM injections, sterilization, abortion, treatment of mental disorders, electroconvulsive therapy (ECT), artificial feeding

Professionals involved in the granting and review of an EDC

1) A doctor holding **full GMC registration**, Foundation Year 2 (FY2) or more senior
2) A **Mental Health Officer** (MHO) – registered social worker with additional training to work with people with a mental disorder, employed by local authorities
3) An **Approved Medical Practitioner** (AMP) - a psychiatry specialist or consultant who has been approved by an NHS board or State Hospitals Board for Scotland as having specialty experience in the diagnosis and treatment of mental disorder under section 22 of the Mental Health (Care and Treatment) (Scotland) Act 2003

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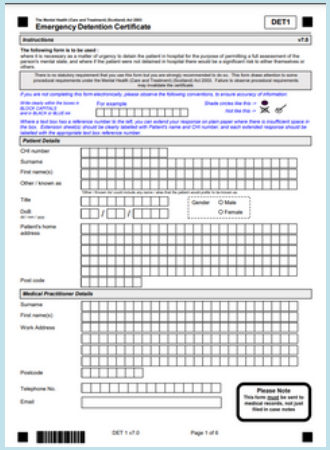
Mental Health Act

Created by Diana Chaytor from Noun Project

How do I decide to grant an EDC?

- Assess the patient – face to face interview, focus on mental state examination, decision making ability and assessment of risk
- Are the 5 criteria for EDC completion met?
  - Discuss with senior/psychiatry/MHO if unsure
- Check the patient is not already detained


Emergency Detention Certificate

DET1

Once you have decided to grant an EDC you should

Contact psychiatry (if not already done in the decision making phase) to inform them and enquire as to availability of an AMP to attend with a view to granting a short term detention certificate (STDC).
Ensure you have the **patient's full address and postcode** prior to contacting psychiatry or MHO
AMP & MHO consent is **mandatory** for STDC
If an AMP is unavailable to attend in a **timely manner** for assessment, an EDC should be granted
Note - non-AMPs cannot revoke a detention

How do I grant an EDC?

Complete the DET1 form available from: Emergency+detention+certificate+DET1+v7.0+12+July+2017.pdf (www.gov.scot)
Always visit the website as the form version may be updated periodically
Ideally download onto computer and complete digitally via a PDF editing software (eg. Adobe acrobat)
Complete in **BLOCK CAPITALS** and complete every section of Part 1 of the form and the Patient Ethnicity page 7
The patient is detained from when the assessment is completed and decision to detain is made, not when the form is completed.
The EDC must be completed on the same day as the assessment or within 4 hours, whichever is the longer timeframe

What should I do after EDC paperwork completion?

Once completed, **make a copy** of the certificate for the medical notes, document in the case notes, then send the **original certificate to medical records** (to inform hospital managers)*. It is the doctor's responsibility to ensure this is done. This will record the detention and ensure that an AMP is informed to review the EDC
•Inform patient of decision to grant EDC
•**Ensure psychiatry informed** about the detention via referral, they will arrange AMP review of the patient as soon as is practical
•The AMP can revoke the EDC if detention criteria not satisfied, or convert to STDC
*check local process

Consequences of not completing an EDC correctly

If the EDC is not completed in full and correctly the detention may be considered to be an unlawful deprivation of liberty

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Tips for form completion by page

Page 1
Provide work email address and telephone number (e.g. ward number), rather than personal information

Pages 2&3
Need to complete boxes 1-6 (not leaving any blank). **All boxes** should be completed with reference to your assessment
Box 1 - document the symptoms &/ signs that the patient has that make you think it is likely that they have a **mental disorder**. If the patient has a known diagnosis of a mental illness which is relevant to their presentation, you can document this.
Box 2 - describe the reasons you believe the patient has significantly **impaired decision making** ability
Box 3 - State the reason for the **urgency** to detain the patient (ie why you are not waiting for an AMP review to assess for STDC)
Box 4 - Remember to consider **risks** to the patient's health and welfare as well as safety, and document if relevant.
Box 5 - explain **attempts** made to contact psychiatry
Box 6 - explain **why detention** has been chosen instead of voluntary hospital management

Page 4
You **must** contact the MHO when filling in the certificate. It can only be documented in **box A** that a MHO consents to granting the EDC if they attend in person to review the patient. If you speak to them over the phone but they do not attend, you must document this in **box B**. The EDC can only be granted in the absence of MHO consent if the patient is in **immediate danger** of trying to abscond, or no MHO is available
Complete the pre-detention location as appropriate

Page 5
Remember to sign and date the form the form or it is not legal!
Part 2 - completed by hospital managers

Page 6
Completed by hospital managers.

Page 7
Complete ethnicity section if possible.

For further advice we recommend:
www.mwcscot.org.uk/good-practice/guidance-advice

Further Reading:

Mental Welfare Commission for Scotland (2016). The Mental Health Act in General Hospital. Good practice: Guidance and Advice. Available from: www.mwcscot.org.uk/good-practice/guidance-advice. 1-14.

Scottish Government. (2003). Mental Health (Care and Treatment) (Scotland) Act 2003. Available from: https://www.legislation.gov.uk/asp/2003/13/contents

Smith, M., O'Regan, R., Goldbeck, R. (2019). Detaining patients in the general hospital - current practice and pitfalls. Scottish Medical Journal. 63(3), 91-96. Available from:Detaining patients in the general hospital - current practice and pitfalls - Murray Smith, Rian O'Regan, Rainer Goldbeck, 2019 (sagepub.com)

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Working with interpreters

What resources are available in the hospital if an interpreter is required?

- Interpreter on wheels
- Language line
- Professional interpreter
- Patient relative
- Member of staff interpreting

Note: staff member may speak that language with a conversational tone, but not know the medical language or come from that specific clinical background.

Benefits and challenges of using a relative as an interpreter:

Benefits

- Relative is familiar to the patient, and might be less intimidated by clinical questions or bad news
- Less time consuming than language line/interpreter on wheels if limited access

Challenges

- There is a concern that the patient is not truthful with answers as they want to hide information and/or protect their relative
- This works vice versus, the relative may not translate all information in the worry of upsetting the patient and may not disclose all information
- Information may be lost in translation via the interpreter if they do not understand the clinical information or they may only speak limited English themselves
- Difficulty ensuring you have the patient's consent
- Need to ensure you are not breaking patient confidentiality

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Death Confirmation

Before entering the patient's room

- Confirm death was expected and CPR status**
- Check notes for events leading up to death and CPR status

This poster was designed to complement the NHS Lanarkshire Death Confirmation Video 2023

Before examining the patient

You will need:

Stethoscope

Pen torch

Watch or clock with seconds hand

- Express condolences to visitors present
- Explain why you are there and check understanding
- Ask a colleague to escort them to relative's room* or visitors may remain present if preferred
- Infection control – perform hand hygiene & PPE*

*check local arrangements/ policy

**If any concerns or at all unsure ask senior for advice

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Death Confirmation

Examining the patient checklist

Minimum 5 minutes time with the patient

Unresponsive to voice • Speak to the patient	
Patient identity checked • Wristband & board in room	
No obvious signs of life • Inspect for respiratory effort	
Presence/absence of pacemaker or other implantable device • Inspect and palpate • Any implanted device, or the absence of implanted device, should be recorded • If unsure ask senior • Check notes and chest x ray	

Ensure patient dignity – leave bed neat and cover patient

·Infection control – dispose of PPE and perform hand hygiene as appropriate

No breath sounds • auscultate both lungs 1 minute	
No carotid pulse • Palpate 1 minute	
Pupils fixed and dilated • Check pupillary light reflex both eyes	
Unresponsive to pain • supraorbital pressure	
No heart sounds • Auscultate at apex 1 minute	

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Death Confirmation

Once examination complete

Inform nursing staff & allow visitors back in to see the patient

Documentation

Created by Prollymbols from Noun Project

- Time of death as reported by the nursing staff (not when you examined the patient)
- Death confirmation including all contents of the table above explicitly
- Staff or next of kin concerns
- If death to be reported to the procurator fiscal**
- Plan for death certificate completion e.g. after discussion with consultant/ to be done by day team (ensure you hand this over)**
- Implantable devices – document presence of any implantable device including pacemakers. This is essential for death certification and cremation safety**

****If any concerns or at all unsure ask senior for advice**

References

NHS Education for Scotland. (2018). Confirmation of Death Procedure: Clinical signs. Available from: nes-confirmation-of-death-pocketcard.pdf(scot.nhs.uk)

The Scottish Government. (2018). Guidance for doctors completing medical certificate of cause of death (MCCD) and its quality assurance, advice from the Chief Medical Officer and National Records of Scotland. Available from: 00540655.pdf(222.gov.scot)

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