61.

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Para 59(7) PD 2024

**Affidavit (Doctor’s Affidavit)**

[Enter party type here]: [Enter name of maker here]: [Enter ordinal number of affidavit (in relation to previous affidavits filed by the same party) here]: [Enter date of affidavit filed here]: [Enter hearing type and summons no. (if applicable) here][[1]](#footnote-1)

**IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE**

|  |  |
| --- | --- |
| Originating ApplicationNo. FC/OAM [number]/[year]Sub Case No. [number]/[year][[2]](#footnote-2) | Between[Applicant’s name][ID No.]… Applicant(s)And[Respondent’s name][ID No.]… Respondent(s) |

**AFFIDAVIT**

**(Doctor’s affidavit)**

Note:

If the doctor’s report is directly submitted in iFAMS, proceed to Header “Medical Report”.

**Section 1: Introduction**

|  |  |
| --- | --- |
| Name of maker: | Enter full name as per NRIC/ Passport here. |
| Identity No.: | Enter NRIC/ FIN/ Passport no. here. |
| Address: | Enter address here. |
| Occupation: | Enter occupation here. |

1. I am a registered medical practitioner in Singapore.

2. The facts contained in this affidavit and the medical report exhibited herein are within my personal knowledge or are based on documents in my possession.

3. I confirm that the medical report exhibited herein and marked as “**E**” is mine and that I accept full responsibility for the said report.

4. I am aware that my report is being adduced for the purpose of obtaining a declaration that the patient who is the subject of this application, i.e. P, [Enter full name as per NRIC/FIN/Passport here], [Enter NRIC/Fin/Passport no. here], lacks capacity in relation to matters specified in the application.

**Section 2: Affirmation**

The affidavit is to be sworn / affirmed in accordance with the Form of Attestation (Form 106) of the Family Justice (General) Rules 2024 (“FJ(G)R”).

[[3]](#footnote-3)This is the exhibit marked “**E**” referred to in the affidavit of [name of doctor]and sworn / affirmed^ before me on this [date].

Before me,

A Commissioner for Oaths

**Medical Report**

*The entries in this form should be typed and not handwritten*

**Section 1: Patient’s Particulars**

|  |  |
| --- | --- |
| Name of patient: | Enter full name as per NRIC/ Passport here. |
| Identity No.: | Enter NRIC/ FIN/ Passport no. here. |
| Age: | Enter age here. |

**Section 2: Doctor’s Particulars**

|  |  |
| --- | --- |
| Name of doctor: | Enter full name as per NRIC/ Passport here. |
| Identity No.: | Enter NRIC/ FIN/ Passport no. here. |
| MCR no. of doctor: | Enter MCR no. here. |
| Area of specialty:  | Enter area of specialty here. |
| Hospital / Clinic name and address: | Enter details here. |
| Doctor’s qualifications and experience in this area of work: | Enter details here. |
| Doctor-patient relationship: | *Please state if you have been seeing the patient regularly over a period of time (if so, please state when you first started seeing the patient and how often you see the patient) or if you saw the patient specifically for this mental capacity assessment only.* |

**Section 3: Patient’s Medical Information**

|  |  |  |
| --- | --- | --- |
| 3a. | Patient’s clinical history:

|  |
| --- |
| Please note that you should provide sufficient detail to support your opinion in respect of P’s mental capacity. Please also state the source of the information (e.g. from medical records, from the patient, from the Applicant etc. |

 |
|  |  |
| 3b. | Findings from physical examination / mental state examination:

|  |
| --- |
| Please note that you should provide sufficient detail to support your opinion in respect of P’s mental capacity. Please also note that there should not be an overly long period between the date of examination of P and the date of this report.  |

Date of physical examination / mental state examination: Enter date here. |
| 3c. | Relevant investigation results:

|  |
| --- |
| Enter details here |

 |
|  |  |
| 3d.  | Diagnosis:

|  |
| --- |
| Enter details here |

 |
|  |  |
| 3e.  | Is (or was) P attending a special education school?[ ]  No. [ ]  Yes. Enter details here. |
|  |  |

**Section 4: Opinion on Patient’s Mental Capacity**

*Note: If the doctor’s report is directly submitted in iFAMS, refer to Section 4A instead.*

|  |
| --- |
| **Opinion on patient’s mental capacity in relation to personal welfare**[[4]](#footnote-4) |
| 4a. | In your opinion, can the patient understand information relevant to a decision relating to his or her personal welfare?[ ]  No. [ ]  Yes.

|  |
| --- |
| Enter details here |

 |
|  |  |
| 4b. | In your opinion, can the patient retain information long enough to make a decision relating to his or her personal welfare?[ ]  No. [ ]  Yes.

|  |
| --- |
| Enter details here |

 |
|  |  |
| 4c. | In your opinion, can the patient weigh information as part of the process of making a decision relating to his or her personal welfare?[ ]  No. [ ]  Yes.

|  |
| --- |
| Enter details here |

 |
|  |  |
| 4d. | In your opinion, can the patient communicate his or her decision relating to his or her personal welfare?[ ]  No. [ ]  Yes.

|  |
| --- |
| Enter details here |

 |
|  |  |
| 4e. | Taking into consideration the above, in your opinion, does the patient have mental capacity in respect of personal welfare?[ ]  No. [ ]  Yes.

|  |
| --- |
| Enter details here |

 |
|  |  |
| **Opinion on patient’s mental capacity in relation to property and affairs[[5]](#footnote-5)**  |
| 4f. | In your opinion, can the patient understand information relevant to a decision relating to his or her property and affairs?[ ]  No. [ ]  Yes.

|  |
| --- |
| Enter details here |

 |
|  |  |
| 4g. | In your opinion, can the patient retain information long enough to make a decision relating to his or her property and affairs?[ ]  No. [ ]  Yes.

|  |
| --- |
| Enter details here |

 |
|  |  |
| 4h. | In your opinion, can the patient weigh information as part of the process of making a decision relating to his or her property and affairs?[ ]  No. [ ]  Yes.

|  |
| --- |
| Enter details here |

 |
|  |  |
| 4i. | In your opinion, can the patient communicate his or her decision relating to his or her property and affairs?[ ]  No. [ ]  Yes.

|  |
| --- |
| Enter details here |

 |
|  |  |
| 4j. | Taking into consideration the above, in your opinion, does the patient have mental capacity in respect of property and affairs?[ ]  No. [ ]  Yes.

|  |
| --- |
| Enter details here |

 |
|  |  |
| **Opinion** |
| 4k. | Please state the basis of your opinion above in respect of the patient’s mental capacity:

|  |
| --- |
| Enter details here |

 |
|  |  |
| 4l. | Prognosis:In your opinion, is the patient likely to regain mental capacity?[ ]  No. [ ]  Yes. [ ]  Not sure. If “Yes” or “Not Sure”, please suggest when another assessment of the patient’s mental capacity should be carried out:

|  |
| --- |
| Enter details here |

 |
|  |  |
| 4m. | In your opinion, would the patient understand if he/she were to be informed of this application?[ ]  No. [ ]  Yes.  |
|  |  |
| 4n. | Are you aware of any other doctor who holds a different professional opinion regarding the patient’s mental capacity? If so, please provide details:

|  |
| --- |
| Enter details here |

 |
|  |  |

**Section 4A: Opinion on Patient’s Mental Capacity**

*Only for use in iFAMS submission*

|  |  |
| --- | --- |
|  | Notes |
| In my professional opinion: |  |
| 1. | The patient does not have mental capacity in respect of personal welfare and property and affairs matters. |  |
| 2. | The patient is not likely to regain mental capacity. |  |
| 3. | The patient would not understand if he / she were to be informed of the proposed application to Court. |  |
| **THE PATIENT IS UNABLE TO MAKE DECISIONS ON THE FOLLOWING MATTERS:**  |  |
| [ ]  | All personal welfare and property and affairs matters. |  |
|  | I have reached this view because the patient is unable to do the following: |  |
|  | 1. | Understand information relevant to such a decision |  |
|  | 2. | Retain information relevant to such a decision  |  |
|  | 3. | Use or weigh information as part of the process of making such a decision |  |
|  | 4. | Communicate his or her decision on such a matter |  |
|  |  |  |  |
| **OR** |  |
| [ ]  | The patient has regained mental capacity in respect of personal welfare and property and affairs matters. |  |

**Section 5: Declaration**

*If the doctor’s report is directly submitted in iFAMS, refer to Section 5A instead.*

|  |  |
| --- | --- |
| 5a. | I have read and understood the provisions in sections 3, 4 and 5 of the Mental Capacity Act 2008. |
| 5b. | I understand that my medical report has to contain sufficient detailed information about P’s condition to support my opinion of P’s mental capacity. |
| 5c. | I believe in the correctness of the opinion set out herein. |
| 5d. | I understand that in giving this report my duty is to the Court and I confirm that I have complied with this duty. |

Signed by:

|  |
| --- |
| SignatureName: Enter name here. |
| Date: Enter date here.  |

**Section 5A: Declaration**

*(Only for use in iFAMS submission)*

|  |  |
| --- | --- |
|  | Notes |
| **I, [Enter name here] , confirm and declare as follows –**  |  |
| 1. | I have read and understood sections 3, 4 and 5 of the Mental Capacity Act 2008. |  |
| 2. | I am aware that my report is being adduced for the purpose of obtaining a declaration that P lacks mental capacity. |  |
| 3. | I am aware that a copy of this report may be sent to my hospital's medical records office or equivalent department. |  |
| 4. | I confirm that the medical report which I am submitting herewith is mine and that I accept full responsibility for this report. |  |
| 5. | I believe in the correctness of the opinion set out in my medical report. |  |
| 6. | As far as I am aware, no other doctor or medical professional holds a different opinion on this patient's medical condition and mental capacity. |  |
| 7. | I understand that in giving this medical report my duty is to the Court and I confirm that I have complied with this duty. |  |
|  | **Date of submission: Enter date here.**Confirmed and submitted by [Enter name here] using [ ]  Singpass [ ]  Corppass |  |

***Explanatory notes:***

*1. “Personal welfare” refers to matters such as deciding where to live and consenting to medical and dental treatment.*

*2. “Property and affairs”, as the name implies, refers to matters concerning the patient’s financial affairs and property.*

*3. When giving your opinion on the patient’s mental capacity, please note that where it is not patently obvious from the clinical history and examination that the patient has or lacks capacity, you will need to explain the basis for your opinion.*

***Section 3 of the Mental Capacity Act 2008***

*(1) The following principles apply for the purposes of this Act.*

*(2) A person must be assumed to have capacity unless it is established that he lacks capacity.*

*(3) A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.*

*(4) A person is not to be treated as unable to make a decision merely because he makes an unwise decision.*

*(5) An act done, or a decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.*

*(6) Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person’s rights and freedom of action.*

***Section 4 of the Mental Capacity Act 2008***

*(1) For the purposes of this Act, a person lacks capacity in relation to a matter if at the material time he is unable to make a decision for himself in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain.*

*(2) It does not matter whether the impairment or disturbance is permanent or temporary.*

*(3) A lack of capacity cannot be established merely by reference to —*

*(a) a person’s age or appearance; or*

*(b) a condition of his, or an aspect of his behaviour, which might lead others to make unjustified assumptions about his capacity.*

*(4) In proceedings under this Act (other than proceedings for offences under this Act), any question whether a person lacks capacity within the meaning of this Act must be decided on the balance of probabilities.*

*(5) Subject to section 21, no power which a person (“D”) may exercise under this Act —*

*(a) in relation to a person who lacks capacity; or*

*(b) where D reasonably thinks that a person lacks capacity,*

*is exercisable in relation to a person below 21 years of age.*

***Section 5 of the Mental Capacity Act 2008***

*(1) For the purposes of section 4, a person is unable to make a decision for himself if he is unable —*

*(a) to understand the information relevant to the decision;*

*(b) to retain that information;*

*(c) to use or weigh that information as part of the process of making the decision; or*

*(d) to communicate his decision (whether by talking, using sign language or any other means).*

*(2) A person is not to be regarded as unable to understand the information relevant to a decision if he is able to understand an explanation of it given to him in a way that is appropriate to his circumstances (using simple language, visual aids or any other means).*

*(3) The fact that a person is able to retain the information relevant to a decision for a short period only does not prevent him from being regarded as able to make the decision.*

*(4) The information relevant to a decision includes information about the reasonably foreseeable consequences of —*

*(a) deciding one way or another; or*

*(b) failing to make the decision.*

1. Refer to paragraph 133(5) of the Family Justice Courts Practice Directions 2024 if required. [↑](#footnote-ref-1)
2. To insert sub-case details if relevant. [↑](#footnote-ref-2)
3. The page numbers for the exhibits should run consecutively from the last page of the affidavit. [↑](#footnote-ref-3)
4. If you are unable to state “Yes” or “No” in respect of a particular question, please state your opinion of P in respect of that item and provide sufficient supporting information. [↑](#footnote-ref-4)
5. If you are unable to state “Yes” or “No” in respect of a particular question, please state your opinion of P in respect of that item and provide sufficient supporting information. [↑](#footnote-ref-5)