FORM 224

Para 54

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

OSM No. )

of 20 )

In the Matter of Section 20 of the Mental Capacity Act (Cap 177A)

And

In the Matter of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [*name of person alleged to lack capacity*]

(NRIC/FIN/Passport No.: \_\_\_\_\_\_\_\_\_\_), a person alleged to lack capacity (“P”)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [*name of applicant*]

(NRIC/FIN/Passport No.: \_\_\_\_\_\_\_\_\_\_)

*Applicant*

**AFFIDAVIT**

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [*name of Doctor*], of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [*address of Doctor*], do make oath / affirm\* and say as follows:

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 “A” 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 person who is the subject of this application, i.e. P, lacks capacity in relation to matters specified in the application.

Sworn (or affirmed) by )

the abovenamed on )

this day )

of 20 )

at Singapore )

Before me,

Commissioner for Oaths

This is the exhibit marked “A” referred to in the affidavit of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [*name of doctor*] and sworn / affirmed before me on this \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [*date on which the affidavit is sworn or affirmed*].

Before me,

A Commissioner for Oaths

**Medical Report**

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

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| *SECTION 1: PATIENT’S PARTICULARS* |
| **Full name of patient:** |
| **NRIC/FIN/Passport no. of patient:** |
| **Age of patient:** |

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| *SECTION 2: DOCTOR’S PARTICULARS* |
| **Full name of doctor:** |
| **NRIC/FIN/Passport no. of doctor:** |
| **MCR no. of doctor:** |
| **Hospital / Clinic name and address:** |
| **Doctor’s qualifications and experience in this area of work:** |
| **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.* |

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| *SECTION 3: PATIENT’S MEDICAL INFORMATION* |
| **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.).* |
| **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**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Relevant investigation results:** |
| **Diagnosis:** |

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| *SECTION 4: OPINION ON PATIENT’S MENTAL CAPACITY* |
| **Opinion on patient’s mental capacity in relation to personal welfare**  *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.*  **In your opinion, can the patient understand information relevant to a decision relating to his or her personal welfare?**  **🞏 Yes 🞏 No**  **In your opinion, can the patient retain information long enough to make a decision relating to his or her personal welfare?**  **🞏 Yes 🞏 No**  **In your opinion, can the patient weigh information as part of the process of making a decision relating to his or her personal welfare?**  **🞏 Yes 🞏 No**  **In your opinion, can the patient communicate his or her decision relating to his or her personal welfare?**  **🞏 Yes 🞏 No**  **Taking into consideration the above, in your opinion, does the patient have mental capacity in respect of personal welfare?**  **🞏 Yes 🞏 No** |
| **Opinion on patient’s mental capacity in relation to PROPERTY AND AFFAIRS**  ***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.***  **In your opinion, can the patient understand information relevant to a decision relating to his or her property and affairs?**  **🞏 Yes 🞏 No**  **In your opinion, can the patient retain information long enough to make a decision relating to his or her property and affairs?**  **🞏 Yes 🞏 No**  **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?**  **🞏 Yes 🞏 No**  **In your opinion, can the patient communicate his or her decision relating to his or her property and affairs?**  **🞏 Yes 🞏 No**  **Taking into consideration the above, in your opinion, does the patient have mental capacity in respect of property and affairs?**  **🞏 Yes 🞏 No** |
| **Please state the basis of your opinion above in respect of the patient’s mental capacity:** |
| **Prognosis**  **In your opinion, is the patient likely to regain mental capacity?**  **🞏 Yes 🞏 No 🞏 Not Sure**  **If “Yes” or “Not Sure”, please suggest when another assessment of the patient’s mental capacity should be carried out:** |
| **In your opinion, would the patient understand if he/she were to be informed of this application?**  **🞏 Yes 🞏 No** |
| **Are you aware of any other doctor who holds a different professional opinion regarding the patient’s mental capacity? If so, please provide details:** |

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| *SECTION 5: DECLARATION* |
| **I have read and understood the provisions in sections 3, 4 and 5 of the Mental Capacity Act.**  **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.**  **I believe in the correctness of the opinion set out herein.**  **I understand that in giving this report my duty is to the Court and I confirm that I have complied with this duty.**  **Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |

***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***

*(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***

*(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***

*(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.*