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WELSH STATUTORY INSTRUMENTS

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**2007 No. 852**

**The Mental Capacity Act 2005 (Independent Mental Capacity Advocates) (Wales) Regulations 2007**

**Functions of an independent mental capacity advocate**

6.—(1) This regulation applies where an NHS body or a local authority instructs a person to act as an IMCA to represent a person (P).

(2) The IMCA must determine in all the circumstances how best to represent and support P and must act in accordance with the requirements in paragraph (3).

(3) The IMCA must—

- (a) verify that the instructions have been issued by an NHS body or a local authority;
- (b) to the extent that it is practicable and appropriate to do so—
  - (i) interview P in private, and
  - (ii) examine the records relevant to P to which the IMCA has access under section 35(6) of the Act;
- (c) to the extent that it is practicable and appropriate to do so, consult—
  - (i) persons engaged in providing care or treatment for P in a professional capacity or for remuneration, and
  - (ii) other persons who may be in a position to comment on P's wishes, feelings, beliefs or values; and
- (d) take all practicable steps to obtain such other information about P, or the act or decision that is proposed in relation to P, as the IMCA considers necessary.

(4) The IMCA must evaluate all the information that he or she has obtained for the purpose of—

- (a) ascertaining the extent of the support provided to P to enable P to participate in making any decision about the matter in relation to which the IMCA has been instructed;
- (b) ascertaining how P would feel, what P would wish and the beliefs and values that would be likely to influence P if P had capacity in relation to the proposed act or decision;
- (c) ascertaining what alternative courses of action are available in relation to P;
- (d) where medical treatment is proposed for P, ascertaining whether P would be likely to benefit from a further medical opinion.

(5) The IMCA must prepare a report for the NHS body or the local authority who instructed him or her.

(6) The IMCA may include in the report such submissions as he or she considers appropriate in relation to P and the acts or decisions which are proposed in relation to P.