



Mental Health (Scotland) Act 2015

2015 asp 9

PART 1

THE 2003 ACT

Advance statements and patients' rights

26 Advance statements to be registered

- (1) The Mental Health (Care and Treatment) (Scotland) Act 2003 is amended as follows.
- (2) After section 276 there is inserted—

“276A Advance statements to be put with medical records

- (1) Subsection (2) below applies where a Health Board receives a copy of an advance statement, or a copy of a document withdrawing an advance statement, from—
 - (a) the person who made the statement, or
 - (b) any individual acting with the person's authority in relation to the statement.
- (2) The Health Board must—
 - (a) place a copy of the statement or document with the person's medical records, and
 - (b) inform the Commission—
 - (i) that a copy of the statement or document is held with the person's medical records, and
 - (ii) of the premises at which the medical records are kept (and the personal and administrative details essential for identifying the records as the person's).

276B Advance statements to be registered by the Commission

- (1) Where the Commission receives information by virtue of section 276A(2) of this Act, the Commission must enter the information in a register of advance statements maintained by it (and mark the date on which the entry is made).
- (2) The Commission must allow an entry in the register to be inspected at a reasonable time—
 - (a) by the person whose medical records are referred to in the entry,
 - (b) with respect to treatment of the person for mental disorder, by any individual acting on the person's behalf,
 - (c) for the purpose of making decisions or taking steps with respect to the treatment of the person for a mental disorder, by—
 - (i) a mental health officer dealing with the person's case,
 - (ii) the person's responsible medical officer,
 - (iii) the Health Board responsible for the person's treatment.

276C Publicising support for making advance statements

- (1) A Health Board is to publicise any support that it offers for—
 - (a) making or withdrawing an advance statement,
 - (b) sending a copy of an advance statement, or a copy of a document withdrawing an advance statement, to a Health Board.
- (2) A Health Board must give the Commission such information as the Commission may from time to time seek on what the Health Board is doing in order to comply with subsection (1) above.”.