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ABSTRACT 218

Title

The Potential Impact of the Mental Capacity Act on the Elderly in Singapore

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Keywords

Law, capacity, decision-making

Background

The passing of the Mental Capacity Act ushered a sea change in the law in Singapore that had previously been based on the 17th Century Lunacy Acts of England. The new legislation empowers individuals to appoint proxy decision-makers to make decisions on their behalf when they no longer have capacity, and codifies the best interests test as the standard to be applied when a proxy makes a decision on behalf of an incapacitated person. It clarifies the law on consent, capacity and best interests, and introduces new offences of elder abuse.

Objectives

This paper analyzes the potential impact of the Mental Capacity Act on the elderly in Singapore.

Methods

The author explains the rationale for introducing the new legislative regime, comparing it with the previous one. The potential ethical, legal and practical difficulties in applying the new law in everyday settings in the context of the elderly are assessed and the new practices as set out in Code of Practice for the Act are discussed.

Results

There will be some challenges with implementation on the ground in most healthcare settings such as nursing homes and hospitals – with health professionals and families. These challenges include caring for individuals with fluctuating capacity, communicating with persons who may lack capacity and applying the non-exhaustive best interests factors when making decisions on behalf of the incapacitated person.

Conclusions

The Mental Capacity Act is a positive step forward in overhauling an outdated law. As the new law has only recently come into force, there have not yet been any important legal decisions on the Act and new research needs to be conducted to ascertain stakeholders understanding of the new regime.