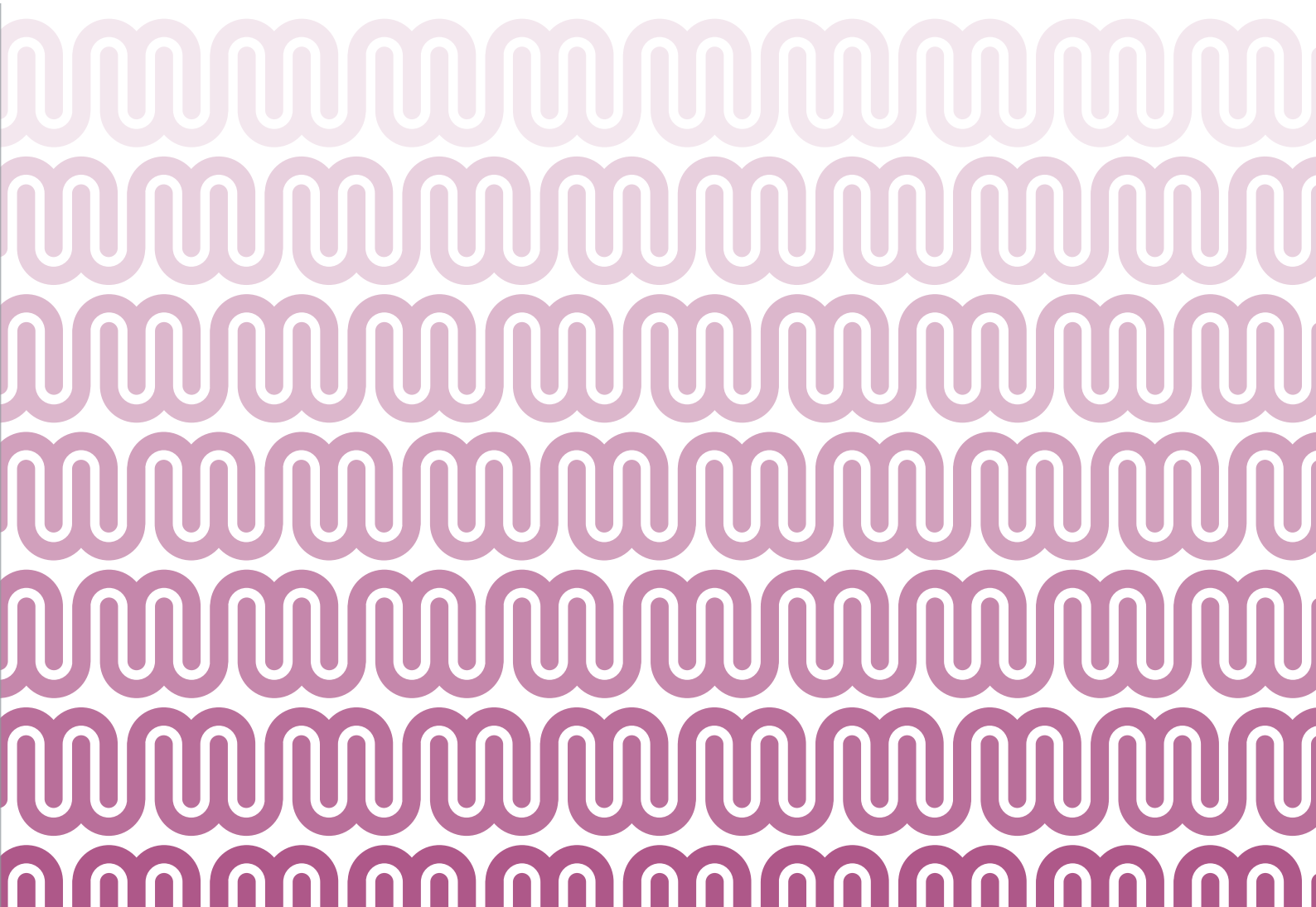
mental welfare commission for scotland

Who is the responsible medical officer?

Advice notes

June 2021



Our mission and purpose

Our Mission

To be a leading and independent voice in promoting a society where people with mental illness, learning disabilities, dementia and related conditions are treated fairly, have their rights respected, and have appropriate support to live the life of their choice.

Our Purpose

We protect and promote the human rights of people with mental illness, learning disabilities, dementia and related conditions.

Our Priorities

To achieve our mission and purpose over the next three years we have identified four strategic priorities.

- To challenge and to promote change
- Focus on the most vulnerable
- Increase our impact (in the work that we do)
- Improve our efficiency and effectiveness

Our Activity

- Influencing and empowering
- Visiting individuals
- Monitoring the law
- Investigations and casework
- Information and advice

Who is the responsible medical officer (RMO)?

Introduction

Section 230 (1) states that as soon as is reasonably practicable after the occurrence of an appropriate act in relation to a patient, the relevant mangers shall appoint an approved medical practitioner (AMP – see below) to be the patient's RMO.

The relevant managers mean the managers of the hospital in which the patient is detained. Usually the function of allocating the RMO is delegated to medical records managers. If in doubt about who is the manager, the clinician should consult with their clinical lead or medical director.

Section 230 (3a) allows the relevant managers to appoint another AMP in place of the existing RMO which for example covers leave and on call rotas.

Section 230 (3b) allows the relevant managers to authorise an approved AMP to act (whether for a particular purpose or in particular circumstances) in place of the patient's responsible medical officer. This could apply where a patient aged under 18 has been placed in an adult ward and the RMO is not a child specialist. Another RMO from the specialist CAMHS service could be appointed to issue any T2 required.

Issues that have come to our attention

- Consultants/ RMOs should note that they do not have the authority to delegate RMO functions to specialty doctors or senior trainees even if they are AMPs. It is hospital managers who have the authority to delegate these functions. We recommend this delegation, agreed by hospital managers, is made in writing.
- There is always a RMO. Records departments should have a scheme of delegation if the patient's own RMO is unavailable. This is likely to be a cross-covering colleague and, failing that, the duty approved medical practitioner.
- Sometimes there are separate RMOs for hospital and community care. Records departments should have a clear record of who is the RMO at any one time. If a patient from the community is readmitted and the community consultant agrees with the inpatient consultant they should keep RMO responsibility and they should ensure the medical records department or relevant managers are aware of this proposal.
- Specialty doctors and trainees who are AMPs are advised to ensure they have in writing from hospital managers that they have authority to act as a RMO before doing so. Many non-consultant staff do undertake important RMO duties as a consequence of their seniority or as an essential part of senior training. This is perfectly appropriate but they must ensure they have legal authority to do so.

Certain functions must be carried out by the patient's RMO and cannot be delegated to an AMP who is not a RMO.

Failure to observe this advice could lead to actions being declared unlawful. The following have led to particular difficulties:

1. **Extension of CTOs/COs.** We found situations where the extension certificate was signed (i.e "granted" under the Act) by an AMP who was not the RMO. This could make the order challengeable. Another AMP can conduct the examination but cannot sign the certificate unless given the authority to do so by hospital managers.
2. **T2 Certificates must be issued by the RMO.** If authorised by hospital managers, this can be delegated to a specialty doctor or senior trainee who is an AMP. It cannot be delegated to a trainee who is not an AMP.
3. **T2 certificates for individuals under the age of 18.** In this case, the RMO must be a child specialist. If the individual is on an adult ward and the RMO is not a child specialist, hospital managers can delegate this function to a child specialist AMP.
4. **Recall of patient under section 113.** This must be done by the RMO (noting the above arrangements for deputising when the individual's own RMO is unavailable). A different AMP may undertake an examination on behalf of the RMO for a section 114 certificate. See our thematic advice note on admission of individuals subject to community compulsion for more on this.

Approved medical practitioner

This term was introduced in the 2003 Act in Section 22. To act as an AMP a psychiatrist must have the required qualifications and experience and be approved by a health board as having special experience in the diagnosis and treatment of mental disorder.

Those who have retired and subsequently take on locum work, and those moving posts or taking up locum work in general are advised to personally check they are on a board list before acting as an AMP. There have been examples of RMOs being removed in error from board lists, and having this drawn to their attention at a tribunal by a patient's solicitor.

The AMP list is also available on the Scottish Government website in the public domain. Every month, the Scottish Government produces an updated list of AMPs.

- To access this you can go to the SHOW website at: https://www.sehd.scot.nhs.uk/index.asp
- In the keyword box, you need to insert the word "approved"
- Hit "Go", and then a link to the list will appear underneath.

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