

Determining whether to consent to proposed medical intervention involving amputation

For the purpose of this position statement 'amputation' is defined as the surgical removal of part, or all, of a person's limb, or any other bodily appendage(s).

RELEVANT LEGISLATION:

NSW Guardianship Act 1987:

Section 4 - General Principles require that:

- the welfare and interests of such persons should be given consideration;
- the freedom of decision and freedom of action of such persons be restricted as little as possible.

Part 5 Section 32 states:

- to ensure that people are not deprived of necessary medical treatment merely because they lack the capacity to consent to the carrying out of such treatment;
- to ensure that any medical treatment that is carried out on such people is carried out for the purpose only of promoting and maintaining their health and well-being.

POSITION STATEMENT:

The Public Guardian believes that amputation should only occur where a situation is potentially life threatening.

A request for consent to proposed amputation should be made in writing by the treating physician/specialist. This should document details of the procedure being proposed, the need for treatment and any other relevant information.

FACTORS CONSIDERED BY THE PUBLIC GUARDIAN BEFORE GIVING CONSENT:

Views available

- Has the view of the person under guardianship been sought?
- What are the views of the person's family or others important in the person's life?
- Is there any evidence of the person's previously held and expressed views regarding amputation?

Information from service providers concerning whether:

- the procedure is necessary and likely to lead to a significant improvement in the person's health and well being;
- the proposed treatment will effect the person's mobility and functioning;
- the person will need only remedial therapy;
- there are any other medical treatment options available and whether other treatment has been considered and excluded;
- the opinion of all relevant professionals and family members has been sought;
- there are any cultural and religious issues arising for the person or his/her family.

The Public Guardian may seek a second medical opinion if this is considered necessary.

Section 37(1) of the Guardianship Act, 1987, allows medical practitioners to carry out medical procedures without consent under certain circumstances. However where the treatment is not considered to be immediately life threatening, medical practitioners should seek consent for the proposed treatment/procedure. The Public Guardian cannot override a patient's objection to an amputation procedure unless specific authority has been given in a guardianship order of the Guardianship Tribunal to override the person's objections to that treatment.

Other issues which may result in either referral to the Guardianship Tribunal or withholding of consent include situations where:

- there is conflicting medical opinion as to the benefits of the proposed procedure;
- there is significant risk that the person could die as a result of the procedure;
- there is a significant chance that the person's quality of life could deteriorate rather than improve as a result of the procedure.

OTHER RELATED OPG POSITION STATEMENTS

Determining whether to consent to proposed medical or dental treatment
Valuing the cultural, linguistic and religious background of the person under guardianship