



Attorneys, deputies, guardians and other proxies

Verify whether another person has lawful decision-making authority, understand its scope and limits, and avoid the unsafe assumption that “next of kin” can consent for an adult.

Estimated learning time	Sources checked	Review due
45 minutes	17 September 2026	2026-12-17

Clinical safety: This educational module does not replace current law, statutory guidance, local policy, legal advice or patient-specific clinical judgement. Jurisdiction-specific rules must be checked for the nation in which care is delivered.

Your reflection is private. After completing the assessment you may optionally save a reflection in your Clinical Education account. Reflection is not part of this downloadable reading file, is not shown on the module certificate and is not exposed through the site administrator interface. Do not put identifiable patient, colleague or confidential employer information into reflective notes.

Learning objectives

- Differentiate consultation from legally recognised decision-making authority.
- Verify whether an attorney, deputy, guardian or other proxy has authority for the particular decision.
- Recognise limits, conflicts and situations requiring escalation.
- Avoid the unsafe shorthand that “next of kin” automatically consents.

Learning material

Why “next of kin” is not universal consent authority

“Next of kin” is commonly used as a contact label, but it does not by itself create general authority to consent to or refuse healthcare for an adult. Relatives may have valuable information and may need to be consulted, but legal decision-making power must come from the applicable framework.

Using the phrase “next of kin consent” without checking authority risks excluding the patient and relying on someone who has no legal power for the decision.

England and Wales: LPA and deputy scope

A health and welfare Lasting Power of Attorney may have authority when the donor lacks capacity for the relevant decision, subject to the instrument’s scope and any restrictions. A court-appointed deputy may also have specified powers. The existence of an LPA or deputy should be verified rather than accepted from a verbal claim alone.

Authority may be decision-specific. An attorney for property and financial affairs does not thereby gain healthcare decision-making power.

Scotland: welfare attorney and guardianship

Scotland uses its own structures, including continuing and welfare attorneys and guardianship. The relevant power must be checked against the document and the Adults with Incapacity framework. English terminology should not

be imported casually.

Northern Ireland

Northern Ireland has distinct statutory mechanisms and a staged Mental Capacity Act framework. For significant or disputed decisions, clinicians should confirm the current legal position and the person's actual authority rather than assuming labels from another jurisdiction apply.

Scope, limits, conflicts and revocation

A proxy cannot simply demand any treatment. Their authority is bounded by the law, the instrument or court order, and the requirement to act within the relevant decision-making framework. A conflict of interest, uncertainty about scope, evidence that powers have changed or disagreement with the person's known wishes may require further checks.

Where the person has capacity for the decision, a proxy generally does not replace their decision merely because a power exists for future incapacity.

Disagreement and escalation

When a proxy and clinical team disagree, first clarify the facts, the scope of authority, the person's values and the clinical options. Senior review, second opinion, safeguarding, mediation or legal advice may be appropriate depending on the seriousness.

Document who was consulted, what authority was verified, how it was verified, and whether the authority covered the specific decision.

Key terms for review

next of kin, LPA, lasting power of attorney, deputy, welfare attorney, guardian, proxy, scope, authority

Documentation exercise

Draft a record that distinguishes who was consulted, what legal authority was verified, its scope, and how that authority affected the decision.

Official sources and further reading

The links below are the authentic official sources used for this module. They should be rechecked for time-sensitive clinical or legal decisions.

MC-EW-01 - Mental Capacity Act 2005

<https://www.legislation.gov.uk/ukpga/2005/9/contents>

MC-S-04 - Adults with incapacity: continuing and welfare attorneys - code of practice

<https://www.gov.scot/publications/code-practice-continuing-welfare-attorneys-second-edition-updated-february-2018/>

MC-NI-02 - Mental Capacity Act - Department of Health NI

<https://www.health-ni.gov.uk/topics/mental-capacity-act>

MC-NI-04 - Mental Capacity Act Code of Practice and key documents - NI

<https://www.health-ni.gov.uk/ga/articles/mental-capacity-act-code-practice-and-other-key-documents>

CON-UK-01 - GMC - Decision making and consent

<https://www.gmc-uk.org/professional-standards/the-professional-standards/decision-making-and-consent>

EOL-UK-02 - GMC - Treatment and care towards the end of life: guidance

<https://www.gmc-uk.org/professional-standards/the-professional-standards/treatment-and-care-towards-the-end-of-life/guidance>

Next step

Return to clinicaledu.uk to take the module assessment. After a pass, you may obtain the module certificate and, separately, add an optional private reflection and generate a learner-controlled Learning & Reflection Record.

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