

National Assembly For Wales

**Report By The Health and Social Services Committee
on the
Mental Capacity Act 2005, Independent Mental Capacity Advocacy
Regulations and the Mental Capacity Act 2005 (Appropriate Body) &
(Loss of Capacity during Research Project) (Wales) Research
Regulations 2007**

1. The Committee had identified these regulations for scrutiny and they were submitted to the Committee for the meeting on 13 Dec. 06. They were handled in accordance with the protocol for dealing with secondary legislation agreed by the Committee on 11 June 2003, whereby Members notify in advance any queries or amendments they wish to make to the Regulations.

2. Members did not propose any amendments, but Helen Mary Jones AM raised a point of clarification relating to Section 41. She asked whether the Government intended to use the provision for an offer of an independent advocate to those individuals who have family or carers available to them to consult. She also asked whether there would be a specific code of practice available, and whether it would allow for patients to receive services in the language of their choice.

3. In response the Minister said that there would be provision for an independent advocate in circumstances where patients would be at risk of violence or abuse. Such decisions would be taken at the discretion of professionals within the Local Health Board or local authority. The Minister confirmed that a code of practice would be available, and would allow for the provision of service in the patient's language of choice.

4. The Committee was content with the regulations as drafted.

Rhodri Glyn Thomas AM
Chair
December 2006