**To:**

[*This letter should be sent by email to the ward on which the patient is being treated, and copied to the hospital’s medical director’s office and/or legal department and/or the office of the chief executive of the trust. If you are not able to obtain the relevant email addresses, you should print a hard copy of the letter and hand it to a member of staff on the ward.]*

**URGENT - [*insert name of patient and their date of birth here*]**

I am writing in respect of [*name of patient*] who is currently a patient at [*name of hospital including, if possible, the name of the ward*].

[*Include a short summary here of the date of admission to hospital and the circumstances of their admission*].

I understand that [*name of patient*]’s treating team wish to withdraw life-sustaining medical treatment and that [*name of patient*] should be allowed to die. I wish to make it clear that [*I*] / [[*name of patient*]*’s family*] do not agree to this course of action.

[So far as I am aware, no second opinion has yet been sought from an expert from outside of the hospital. If such an opinion has been sought, please provide me with the details of this. If not, we would wish to request that a second opinion is sought and we would wish to be consulted about the identity of the clinician providing the second opinion.]

[*name of patient*] is currently in a [*unconscious/partially conscious*] state as a result of [*his/her*] illness or injury and I therefore believe that [he/she] does not have the mental capacity to make this decision, in accordance with the Mental Capacity Act 2005. No assessments concluding brain stem death have been produced.[[1]](#footnote-1)

Under the provisions of the Mental Capacity Act 2005, together with the relevant Code of Practice, any decision making in relation to withdrawal of medical treatment must be made in the best interests of the patient and has to take account of the views of others involved in the patient’s life.

Furthermore the guidance note of the Vice President of the Court of Protection, dated 17 January 2020, which can be found here - <https://www.bailii.org/ew/cases/EWCOP/2020/2.html> - makes it clear that in cases where there is “a lack of agreement as to a proposed course of action from those with an interest in the person’s welfare … and the decision relates to the provision of life-sustaining treatment an application to the Court of Protection **must** be made. This is to be regarded as an inalienable facet of the individual's rights, guaranteed by the European Convention on Human Rights ('ECHR'). For the avoidance of any doubt, this specifically includes the withdrawal or withholding of clinically assisted nutrition and hydration.”[[2]](#footnote-2)

In circumstances, such as here, where agreement cannot be reached as to a patient’s best interests in respect of life-sustaining medical treatment, an urgent application to the Court of Protection ***must*** therefore be made before any steps can be lawfully taken to withdraw treatment.

If you take steps to withdraw life-sustaining treatment from [*name of patient*] without the necessary authorisation from the Court of Protection, I consider that this would be a clear breach of the hospital’s statutory duties pursuant to the Mental Capacity Act 2005, and the Human Rights Act 1998, and a clear breach of [*name of patient*]’s rights pursuant to Article 2 of the European Convention on Human Rights and both [*name of patient*] and [*his/her*] family’s rights under Article 8 of the European Convention on Human Rights.

In the circumstances, I therefore request that you confirm in writing that you will not take any steps to withdraw life sustaining treatment from [*name of patient*] without first seeking authority from a Judge of the Court of Protection to do so. Please provide this confirmation as a matter of urgency, and by no later than [*XXam/pm*] [*today/tomorrow*].

Yours sincerely

1. Code of practice for diagnosis and confirmation of death <https://aomrc.org.uk/wp-content/uploads/2016/04/Code_Practice_Confirmation_Diagnosis_Death_1008-4.pdf> [↑](#footnote-ref-1)
2. Guidance on cases of withdrawing or withholding clinically assisted nutrition and hydration you are referred to the relevant national clinical guidance which can be found at the following links: (1) <https://www.bma.org.uk/canh> and (2) <https://www.rcplondon.ac.uk/guidelines-policy/prolonged-disorders-consciousness-following-sudden-onset-brain-injury-national-clinical-guidelines> [↑](#footnote-ref-2)