



# HEALTH ATTORNEY FOR CONSENT TO MEDICAL TREATMENT

(Guardianship and Management of Property Act 1991)



Public Advocate of the ACT

## WHAT IS A HEALTH ATTORNEY?

A person authorised to give substitute consent to medical and dental treatment for people with impaired decision-making ability (referred to as the protected person).

## WHO CAN APPOINT A HEALTH ATTORNEY?

A health attorney is appointed by the senior treating doctor or dentist at the time the substitute medical consent is required.

## WHO CAN BE A HEALTH ATTORNEY FOR A PROTECTED PERSON?

Each of the following people can be a health attorney for a protected person.

- (a) the protected person's domestic partner;
- (b) a carer for the protected person; or
- (c) a close relative or close friend of the protected person.

However a person cannot be a health attorney if they are -

- (a) a child; or
- (b) a person who has impaired decision-making ability.

## CHOICE OF HEALTH ATTORNEY

- The health professional in considering who is best able to represent the views of the protected person must consider the health attorneys for the protected person in the priority order as above;
- The health professional may also take into account any circumstance that they believe on reasonable grounds is relevant and in particular how readily available is a particular health attorney;
- The health professional must also follow the decision-making principles in the *Guardianship and Management of Property Act 1991*;
- The health professional need not consider a health attorney if they believe, on reasonable grounds, the health attorney is not a suitable person to consent to medical treatment for the protected person, and
- If the health professional believes the health attorney is not a suitable person, a record of the reasons for the belief must be made.
- If no suitable person is available or willing to act as a health attorney, the health professional **must** contact the Public Advocate of the ACT.

## INFORMATION TO BE PROVIDED

A health professional **must** provide the health attorney with the following information when asking a protected person's health attorney to consent to medical treatment on their behalf:-

1. the condition that makes the protected person unable to give informed consent;
2. the protected person's current medical condition;
3. the medical treatment sought;
4. alternative treatment available;
5. likely effect of the medical treatment and any significant risks involved;
6. likely effect of not providing the medical treatment; and
7. the decision making principles.
8. any other matter relevant

---

## DECISION MAKING PRINCIPLES TO BE FOLLOWED BY HEALTH ATTORNEYS

---

- (a) the protected person's wishes, as far as they can be worked out, must be given effect to, unless making the decision in accordance with the wishes is likely to significantly adversely affect the protected person's interests;
- (b) if giving effect to the protected person's wishes is likely to significantly adversely affect the person's interests. The decision-maker must give effect to the protected person's wishes as far as possible without significantly adversely affecting the protected person's interests;
- (c) if the protected person's wishes cannot be given effect to at all, the interests of the protected person must be promoted;

## DEFINITIONS

### **DOMESTIC PARTNER:**

means a domestic partner who is in a close and continuing relationship with the person.

---

### **CARER:**

means carer of the person who gives or arranges for the giving of, care and support to the person in a domestic context but does not receive remuneration or reward for giving, or arranging for the giving of, the care and support.

---

### **CLOSE RELATIVE:**

means a relative or someone else in a close personal relationship with the person who has frequent contact with the person and a personal interest in the person's welfare but does not receive remuneration or reward for the contact.

# CHOICE OF HEALTH ATTORNEY

(Guardianship and Management of Property Act 1991)

Hospital Number: \_\_\_\_\_

## SENIOR DOCTOR/OR DENTIST TO COMPLETE:

### 1 DETAILS OF THE PROTECTED PERSON (PATIENT)

Full Name \_\_\_\_\_ Date of Birth \_\_\_\_ / \_\_\_\_ / \_\_\_\_

What condition impairs the decision-making of the protected person in relation to their health?

---

---

---

---

---

### 2 DETAILS OF NOMINATED HEALTH ATTORNEY

Full Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

Relationship to protected person  
(Please tick appropriate box)

domestic partner

carer

close relative or friend

Reason for choice: \_\_\_\_\_

---

---

---

### 3 PRINTED NAME OF HEALTH PROFESSIONAL PREPARING HEALTH ATTORNEY FORM

Full Name \_\_\_\_\_

Designation \_\_\_\_\_

Signature of health professional: \_\_\_\_\_

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

- If a health professional has requested a health attorney to give consent to medical treatment and the health attorney refuses to give the consent, the health professional **must** refer the matter to the Public Advocate of the ACT.
- If a health professional becomes aware, (**prior** to obtaining the consent from the health attorney that the health professional believes is best able to represent the views of the protected person), that one or more of the other eligible health attorneys for the protected person objects to the giving of consent, the health professional **must** refer the matter to the Public Advocate of the ACT.
- If the protected person continues to be given medical treatment in accordance with the consent six months after the consent was given, the health professional who is giving the medical treatment **must** tell the Public Advocate of the ACT that medical treatment is continuing to be given to the protected person in accordance with the consent.

For further advice/support:-

## **PUBLIC ADVOCATE OF THE ACT**

PO Box 1001  
Civic Square ACT 2608

Telephone: (02) 6207 0707  
Facsimile: (0) 6207 0688

Email: [pa@act.gov.au](mailto:pa@act.gov.au)  
Website: [www.publicadvocate.act.gov.au](http://www.publicadvocate.act.gov.au)

