

HEALTH ATTORNEY FORM

CONSENT TO MEDICAL TREATMENT/RESEARCH

Guardianship and Management of Property Act 1991

1. PROTECTED PERSON

Protected person (Patient)	Family name:
	Given name/s:
	Address:
	Date of Birth:
	Hospital/UN number:

Condition that impairs the capacity of the protected person to make decisions in relation to their health:

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Is this consent for approved low-risk research?

yes

no

2. NOMINATED HEALTH ATTORNEY

Duplicate the following table or attach a list if more than one health attorney is being appointed

Health attorney	Family name:
	Given name/s:
	Address:
	Date of birth:
	Mobile number:
	Other phone number:

Relationship to the protected person (tick most appropriate box)

- domestic partner
- carer
- close relative or friend

Reason for choice:

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3. HEALTH PROFESSIONAL PREPARING THIS FORM

I am the senior treating health professional for the protected person:

Health professional	Family name:
	Given name/s:
	Profession:
	Signature:
	Date:

GENERAL INFORMATION ON HEALTH ATTORNEYS

What is a health attorney?

A health attorney is a person authorised to give substitute consent to medical or dental treatment or participation in approved low-risk research for a person with impaired decision-making ability (referred to as the protected person) who does not have an advance consent direction under the *Mental Health Act 2015*.

Validity of health attorney consent

- If the protected person continues to be given medical treatment or mental health treatment in accordance with the health attorney's 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.
- Consent by a health attorney for mental health treatment under the *Mental Health Act 2015* is valid for 21 days initially, if consent is required for a longer period, approval from the ACT Civil and Administrative Tribunal is required.

Who can appoint a health attorney?

A health attorney is appointed by the senior treating health professional at the time the medical consent is required.

Who can be a health attorney for a protected person?

Each of the following people, *in order of priority*, can be a health attorney for a protected person:

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

Note: a person cannot be a health attorney if they are a child or a person who has impaired decision-making ability.

Choice of health attorney

- In considering who is best able to represent the views of the protected person, the health professional 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, the ready availability of 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.
- 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 Trustee and Guardian for 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:

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

Decision-making principles to be followed by health attorneys

Health attorneys must follow the decision-making principles in the *Guardianship and Management of Property Act 1991*. These include:

- 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.
- 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.
- If the protected person's wishes cannot be given effect to at all, the interests of the protected person must be promoted.

Health attorney refuses consent or conflict between possible attorneys

- If a health attorney refuses to provide consent, and the health professional believes this refusal is inconsistent with the person's health direction under the *Medical Treatment (Health Directions) Act 2006*, the health professional **must** refer the matter to the Public Trustee and Guardian for 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 Trustee and Guardian for the ACT unless the health professional is aware of any health direction under the *Medical Treatment (Health Directions) Act 2006* that is relevant to the issue of whether consent to the medical treatment should be given or not.