

Medical Treatment Decision Maker

Under Victoria's Medical Treatment Planning and Decisions Act 2016 you can choose who makes medical treatment decisions for you. This person is called your medical treatment decision maker.

You always have the right to make your own medical treatment decisions however if you are hurt or suffer a condition temporarily or permanently that prevents you from making your own decisions, then you can appoint someone to make them for you (you must have decision-making capacity when you appoint a medical treatment decision-maker).

In contrast - an Enduring Power of Attorney allows you to appoint someone to act for you financially. This power is contained in a separate document.

Who can make a Medical Treatment Decision Maker?

Any person who is 18 years of age or older and has decision making capacity.

When does the Appointment begin?

The person you appoint to act as your medical treatment decision maker can only make decisions on your behalf when you do not have the mental capacity to make medical treatment decisions for yourself.

If a health practitioner confirms you lack decision-making capacity, they will ask the appointed medical treatment decision maker to make the decision at the time it is required to be made to treat the condition you are suffering.

Who can be my Medical Treatment Decision Maker?

Any person who is 18 years of age or older and who has mental capacity.

Whoever you choose should be someone you trust to respect your values and preferences.

You can appoint more than one person, but only one person acts at any one time. Your decision makers cannot act jointly.

A Medical Treatment Decision Maker

The medical treatment decision maker is the first person in the list below who is reasonably available, and willing and able to make the decision:

1. a medical treatment decision maker appointed by you (in a valid Appointment of Medical Treatment Decision Maker document)
2. a guardian appointed by VCAT to make decisions about medical treatment for you
3. the first person in the list below who is in a close and continuing relationship with you (and if there are two or more relatives who are first on this list, it is the eldest person):
 - the patient's spouse or domestic partner
 - the patient's primary carer (not a paid service provider)
 - an adult child of the patient
 - a parent of the patient
 - an adult sibling.

If you appointed someone under:

- a medical enduring power of attorney,
- an enduring power of attorney, or
- an enduring power of guardianship

before the *Medical Treatment Planning and Decisions Act* commenced in 2018, these appointments are still valid.

When does my Appointment of Medical Treatment Decision Maker end?

The appointment of your medical treatment decision maker ends if:

- you cancel/revoke the appointment (you can only revoke the appointment if you have the decision-making capacity to do so)
- someone applies to the Victorian Civil and Administrative Tribunal (VCAT) and they revoke the power; or
- you die.

If you revoke the appointment of a medical treatment decision maker you should inform your medical treatment decision maker that their appointment has been revoked. You should also inform people who know of the appointment, such as your doctor or hospital.

Can you put limitations or conditions in an Appointment of Medical Treatment Decision Maker?

Yes, you can put limitations and/or conditions in your document. It is not usually required or necessary but there are situations where it may be relevant and some common examples are:

- You can require your appointed medical treatment decision maker to consult with a specific person or persons before they make any decisions on your behalf
- You can limit the appointment of your appointed medical treatment decision maker to a set period of time or to set circumstances
- You can limit the types of decisions your appointed medical treatment decision maker can make under the document.

How does my medical treatment decision maker make decisions for me?

If your appointed medical treatment decision maker must make a medical treatment decision for you, they must make the decision that they reasonably believe is the one that you would have made if you had decision-making capacity.

They must act in good faith and with due diligence (which can include investigating your condition to provide them with the knowledge to make decisions on your behalf and discussing with you any wishes or directives you have about your condition or treatment options).

What is the medical treatment decision maker told before making a decision?

Any health practitioner who needs a medical treatment decision to be made must obtain informed consent from your decision maker. They must give the appointed medical treatment decision maker all of the information about the medical treatment, what is involved and the potential risks.

Is an Appointment of Medical Treatment Decision Maker the same as an Advance Care Directive?

No, the Appointment of Medical Treatment Decision Maker authorises someone to make a medical treatment decision for you. An Advance Care Directive is a document that you prepare with your doctor to outline and direct what medical treatment you want. They work well together as they provide your medical treatment decision maker with your directions as to how you wish treatment to be made but they are not interchangeable – for example: if you have an Advance Care Directive it does not authorise someone to make medical treatment decisions for you.

An Advance Care Directive can only be made with your doctor or specialist, we cannot prepare this document as it is a medical, not a legal, document.

How we can help

If you do not have a Will or have not reviewed your Will recently, please contact our team to book your consultation in person or via zoom. We have a range of cost-effective set packages that include a one-hour consultation, drafting and in person follow up signing appointment.



15 Templeton Street, Woodend VIC 3442
 3A/1 Puckle Street, Moonee Ponds VIC 3039
chinkasteel.com.au