

BH UHG Ethics Committee project number & title	
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Are you the Medical Treatment Decision Maker?

You are being asked to consider _____ [patient name]'s participation in this research project, because we believe you may be the person authorized by law to make decisions on behalf of the patient. In Victoria that person is called the Medical Treatment Decision Maker.

The “Medical Treatment Decision Maker”, is the **first** person on the list below who is **reasonably available, willing and able** to make a decision on the patient’s behalf:

1. a person appointed
 - (a) as medical treatment decision maker by the patient under the *Medical Treatment Planning and Decisions Act 2016 (Vic)* or
 - (b) as a Medical Enduring Attorney under the *Powers of Attorney Act 2014 (Vic)*;
or
 - (c) as a Medical Agent under the *Medical Treatment Act 1988*;
2. a guardian appointed by VCAT to make medical treatment decisions;
3. the first person listed below *with a close and continuing relationship with the patient*.
 - (a) the patient's spouse or domestic partner (includes same-sex partners & partners not living under the same roof);
 - (b) the patient's primary carer (a person who is in a care relationship with the patient and has principal responsibility for the patient’s care, but does not include care provided on a commercial basis);
 - (c) an adult son or adult daughter;
 - (d) a father or mother;
 - (e) an adult brother or adult sister.

Where there are two or more people in the same category (for example, a brother and sister) it means the elder or eldest, regardless of sex.

Note to researcher:

- *If the first applicable person on the list refuses to allow the patient’s participation, no other person may be approached for consent.*
- *If the first applicable person on the list is not willing to be involved, the next applicable person may be approached to make a decision.*

For the Medical Treatment Decision Maker to complete:

I confirm that I am the Medical Treatment Decision Maker for this patient, in accordance with the list set out above.

Name of Medical Treatment Decision Maker:

Position in above list [1 – 3(e)]:

Signature of Medical Treatment Decision Maker:

Date:/...../.....

For the researcher to complete:

The following attempts have been made to establish whether there is a person in a higher category than the signatory:

Name of researcher:

Signature of researcher:..... Date:/...../.....

**THIS FORM IS TO BE COMPLETED AT THE BEGINNING OF THE CONSENT DISCUSSION
AND MUST BE KEPT IN THE RESEARCH FILE WITH THE SIGNED
PERSON RESPONSIBLE/MEDICAL TREATMENT DECISION MAKER INFORMATION AND
CONSENT FORM**

Steps the Medical Treatment Decision Maker must take in deciding whether to consent to a medical procedure on behalf of a patient

Victorian law says: “A person's medical treatment decision maker **may consent** to the administration of a medical research procedure to the person if the medical treatment decision maker reasonably believes that the person would have consented to the procedure if the person had decision-making capacity.”

We understand that you are the designated “Medical Treatment Decision Maker” for the patient. Because the patient is unable to provide consent, and did not prepare a Victorian instructional directive which has clear application in the patient’s current circumstances, Victorian law requires us to seek your consent to include the patient in this project.

We ask you to read the information below, which explains what Victorian law requires you to think about when making the decision.

You must also read the Participant Information and Consent Form which the researcher will give you, which explains what the research study is about, and ask the researchers to explain anything you do not understand.

Most importantly, you need to keep in mind that you are making a decision about *what the patient would want*, not what you or someone else thinks is best.

The research staff will also be pleased to clarify any points that you do not understand.

Here is what you must then do:

1. First, you must consult with any person who you reasonably believe the patient would want you to consult with in the circumstances. You may also talk to anyone else who may be able to provide assistance in your task
2. Second, try to find out if the patient has made a Victorian Values Directive (or an Instructional Directive in another state) and use this to understand the patient’s values.
3. Thirdly, consider any other relevant preferences that the patient has expressed or which may be inferred from the patient’s life. For example is the patient a blood or organ donor? Has the patient supported medical research? Did the patient know anyone affected by a disease for which there is no effective treatment?
4. You also need to consider (from reading the Participant Information Sheet/Consent Form and by asking the researchers)
 - (a) What are the likely effects and consequences of the proposed procedure?
 - (b) Is it likely to be effective?
 - (c) Is it consistent with the patient's values or preferences?
 - (d) Are there any alternatives – including not administering the procedure — that would be more consistent with the patient’s preferences or values?

If it is not possible for you to ascertain the preferences or values of the patient, then you must still try to make a decision about the procedure/s. But instead of looking at the patient’s values or preferences, you instead need to look at what would best suit this individual person.

In making that decision you need to take into account the risks and benefits of the procedure as outlined in the study's Patient Information and Consent Form.