



**PUBLIC TRUSTEE
AND GUARDIAN**

CONSENT FOR MENTAL HEALTH TREATMENT, CARE OR SUPPORT

Before completing this form please carefully read the following information.

PRIVACY INFORMATION

The *Public Trustee and Guardian Act 1985* authorises the Public Trustee and Guardian (PTG) to collect the personal information required by this form. PTG prevents any unreasonable intrusion into a person's privacy in accordance with the *Information Privacy Act 2014* and will only provide identifiable information to law enforcement and those that have legal authority to request information under prescribed circumstances.

ABOUT THIS FORM

The common law requires all medical treatment to rest upon informed consent. 'Informed consent' refers to consent to medical treatment and the requirement for health professionals to provide such information as is necessary for a person to give consent including information on all material risks prior to treatment.

Where a person lacks the capacity to give informed consent i. e. impaired decision making ability, orders made by the ACT Civil and Administrative Tribunal under the *Guardianship and Management of Property Act 1991* (GMPA), may authorise a guardian who has expressly been appointed with the appropriate power, to provide substitute consent for mental health treatment, care and/or support. A guardian must follow the decision-making principles in s. 4 of the GMPA when deciding whether to give consent.

A person must be presumed to have decision-making capacity unless there is clear evidence otherwise, and as stated in the *Mental Health Act 2015* (MH Act) "only after all available supported decision-making mechanisms have been used". Just because someone is subject to a guardianship order does not automatically mean that they cannot make particular decisions about their treatment, care or support.

Where mental health treatment, care or support is to be provided under the MH Act (e. g. pursuant to a mental health order, an advance agreement, or advance consent direction), in the vast majority of cases, a guardian's consent will not be required, because consent will be given by the terms of the order or the relevant sections of the MH Act under which the document was made. (An exception is where alternative treatment, care or support is to be provided to a person under an advance consent direction: s. 28(5) MH Act). However, even if a substitute decision maker's consent is not required, they should still be consulted with and provided information in appropriate circumstances and as required by legislation.

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POWERS OF ATTORNEY**

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This document outlines the information required by PTG to make an informed decision and provide informed consent. Additionally, it provides PTG with the relevant information for accountability in decision-making.

This form is to be completed by the medical practitioner seeking PTG’s consent to provide the mental health treatment, care or support to a person.

1. Details of the Person:

Family name

Given names

Date of birth

Name of Medical Practitioner providing treatment

2. Does the person:

Have decision-making ability in relation to matters concerning their mental health?

Yes

No

Have an Advanced Consent Direction under the Mental Health Act 2015?

Yes

No

If there is an Advance Consent Direction (ACD) that deals with the matter at hand, the treatment must be provided under the ACD – that is, a guardian’s consent is not required if there is an ACD addressing the treatment(s), care and support(s) required unless the treatment is deemed unsafe or inappropriate.

Yes, (attach copy) but it does not address the issue and therefore a guardian’s consent is required.

Yes (attach copy), but it is either unsafe or inappropriate to deliver the treatment, care or support as set out (please explain why) –

Have someone who can and is willing to act as a health attorney e. g. the person’s domestic partner, carer or a close relative or friend of the person? NB: a health attorney can only provide consent for 21 days. Prior to expiry the health professional must apply to the ACAT for approval to continue the treatment(s), care and support(s) required (s. 32JA(4)(A) GMPA).

Yes

No

3. Does the person refuse to receive the proposed treatment?

That is, do you have to be assertive or coercive to give the treatment?

(If yes, a guardian is unable to provide consent due to the absence of coercive or compulsive powers and a PTO may need to be sought instead.)

Yes

No



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4. What is the current condition of the person, including diagnosis?

5. What are the mental health treatment(s), care or support(s), including dose and/or regime, for which the guardian's consent is being sought?

6. Are there any alternative treatments, care or supports available? If so, why are they not appropriate?

7. What is the nature and likely effect of the treatment(s), care or support(s) for which consent is sought?

8. What is the nature and degree of any significant risks involved with the treatment(s), care or support(s) for which consent is sought?



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9. Risks/effects if the treatment(s), care or support(s) are not provided:

What is the likely effect of not providing the treatment(s), care or support(s) for which consent is sought?

If treatment(s), care or support(s) is not provided, would the person's interests (including mental and physical health, ability to live in the community/enjoy their preferred lifestyle) be significantly adversely affected? (for a full definition of a person's interests see s. 5A of the GMPA).

10. Are there any other matters that the health professional believes on reasonable grounds are relevant to the provision of consent for treatment(s), care or support(s)?

11. Is the person likely to regain decision-making ability in relation to matters concerning their mental health in the next 6 months?

No Yes

When might that be likely? -



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By signing this form, I acknowledge the following in relation to the proposed mental health treatment(s), care or support(s):

1. If at any stage during the period of consent the person regains decision-making ability and/or the guardianship order ceases, any substitute consent provided ceases to have authority/validity; and
2. That any consent provided by a guardian does not include assertive or coercive treatment and that if the person refuses to receive treatment(s), care or support(s) and/or requires assertive or coercive follow up, the guardian's consent becomes invalid; and
3. That any consent is valid for the stated period with review at no more than 6 monthly intervals and that the onus is on the treating health professional team to ensure appropriate consent is obtained for each period of treatment(s), care or support(s); and
4. That consent provided by PTG authorises the treatment(s), care or support(s) as outlined in this document and any minor changes (including changes to proposed medication dosage(s)) but that any significant changes, particularly changes which significantly alter the risks associated with treatment(s), care or support(s), requires a new consent and new information to provide informed consent.

Signature of treating medical practitioner

Name of treating medical practitioner

Signature of the Guardian

Date:

Name of Guardian

Review before: