



MHWA130

ROLLS AUSTRALIA 1300 600 192

JULY
2023

Mental Health and Wellbeing Act 2022
Sections 92 & 93
MHWA 130
Substitute consent to medical
treatment by Authorised Psychiatrist

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Mental Health Statewide UR Number

Local Patient Identifier

FAMILY NAME

GIVEN NAMES

DATE OF BIRTH

SEX

GENDER

Place patient identification label above

Instructions to complete this form

- This form must be completed by an Authorised Psychiatrist or Delegate where a patient (compulsory, security or forensic) does not have capacity to give informed consent to a medical treatment, does not have an instructional directive consenting to the relevant medical treatment and there is no other person with legal authority who is reasonably available, willing, and able to make the decision (see notes 2 and 3 over page).

GIVEN NAMES

FAMILY NAME (BLOCK LETTERS) of patient

☐ a compulsory patient☐ a security patient☐ a forensic patienta patient of: _____
Designated Mental Health Service

Medical condition: _____

Summary of medical treatment to be provided: _____

- ☐ The abovenamed person does not have capacity to give informed consent to the medical treatment and does not have a relevant instructional directive giving informed consent to the medical treatment.
- ☐ There is no other person with legal authority to make decisions about the medical treatment who is reasonably available, willing and able to make the decision about the treatment (see notes 2 and 3 on page 2).
- ☐ I am satisfied that the medical treatment will benefit the person (see note 4 on page 2).
- ☐ The medical treatment cannot be delayed until the person has recovered capacity to make the decision for themselves (see note 5 on page 2).
- ☐ I have given proper consideration to the decision-making principles for treatment and interventions in the making of a decision in respect of the treatment of the abovenamed person.
- ☐ I consent to the medical treatment being administered to, or performed on, the abovenamed person.

Signature: _____

signature of Authorised Psychiatrist or Delegate

Date: _____

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Given Names: _____

Family Name: _____

Original – medical record

Substitute consent to medical treatment by Authorised Psychiatrist MHWA 130

Notes

1. If the proposed treatment is being provided in the context of an emergency, section 53 of the **Medical Treatment Planning and Decisions Act 2016** applies.
2. If a patient who is **18 years of age or older** does not have capacity to give informed consent to medical treatment, the medical treatment may be given to the patient with the consent of the first person listed below who is reasonably available, willing and able to make a decision about the proposed medical treatment:
 - a) the person's Medical Treatment Decision Maker within the meaning of section 55 of the *Medical Treatment Planning and Decisions Act 2016*;
 - b) a person appointed by VCAT to make decisions concerning the proposed medical treatment;
 - c) a person appointed under a guardianship order within the meaning of the **Guardianship and Administration Act 2019** with power to make decisions concerning the proposed medical treatment (a 'guardian'); or
 - d) the Authorised Psychiatrist.
3. If a patient who is **under the age of 18 years** does not have capacity to give informed consent to medical treatment, the medical treatment may be administered to the patient with the consent of:
 - a) a person who has the legal authority to consent to the medical treatment for the patient and who is reasonably available, willing and able to make a decision about the proposed medical treatment; or
 - b) the Authorised Psychiatrist, if a person specified under paragraph (a) is not reasonably available or is not willing and able to make a decision about the proposed medical treatment.
4. In determining whether a medical treatment would benefit a patient, the Authorised Psychiatrist must, to the extent that is reasonable in the circumstances, have regard to all of the following:
 - a) the patient's views and preferences regarding the medical treatment and the reasons for those views and preferences, including any recovery outcomes the patient would like to achieve;
 - b) any beneficial alternative medical treatment that is reasonably available
 - c) any relevant values directive given by the patient;
 - d) the views of the patient's nominated support person;
 - e) the views of a guardian of the patient;
 - f) the views of a carer of the patient, if the Authorised Psychiatrist is satisfied that the medical treatment; decision will directly affect the carer and the care relationship;
 - g) the views of a parent of the patient, if the patient is under the age of 16 years;
 - h) the views of the Secretary to the Department of Families, Fairness and Housing if the Secretary has parental responsibility for the patient under a Relevant Child Protection Order;
 - i) if the medical treatment is likely to remedy the condition or lessen the symptoms of the condition;
 - j) the likely consequences for the patient if the medical treatment is not administered; and
 - k) any second opinion of a Registered Medical Practitioner that has been given to the Authorised Psychiatrist.
5. If the Authorised Psychiatrist is of the opinion that the patient is likely to have capacity to give informed consent to medical treatment within a reasonable period of time, the Authorised Psychiatrist must not give consent to the medical treatment unless the delay in giving the medical treatment could result in serious harm to, or deterioration in, the mental or physical health of the patient.

Decision-making principles for treatment and interventions

When providing consent to medical treatment for a patient who does not have capacity to give informed consent, you must give proper consideration to these principles:

Title	Principle
Care and transition to less restrictive support	Compulsory assessment and treatment is to be provided with the aim of promoting the person's recovery and transitioning them to less restrictive treatment, care and support. To this end, a person who is subject to compulsory assessment or treatment is to receive comprehensive, compassionate, safe and high-quality mental health and wellbeing services.
Consequences of compulsory assessment and treatment and restrictive interventions principle	The use of compulsory assessment and treatment or restrictive interventions significantly limits a person's human rights and may cause possible harm including— (a) serious distress experienced by the person; and (b) the disruption of the relationships, living arrangements, education or employment of the person.
No therapeutic benefit to restrictive interventions principle	The use of restrictive interventions on a person offers no inherent therapeutic benefit to the person.
Balancing of harm principle	Compulsory assessment and treatment or restrictive interventions are not to be used unless the serious harm or deterioration to be prevented is likely to be more significant than the harm to the person that may result from their use.
Autonomy principle	The will and preferences of a person are to be given effect to the greatest extent possible in all decisions about assessment, treatment, recovery and support, including when those decisions relate to compulsory assessment and treatment.

Definitions

- **Compulsory patient** means: a person on an Assessment Order, Court Assessment Order, Temporary Treatment Order or Treatment Order.