



Refusal of Medical Treatment

You, or someone appointed to represent you, can refuse medical treatment for a current medical condition by signing a Refusal of Treatment Certificate (the Certificate).

However, neither you, nor someone appointed to represent you, can use the Certificate to refuse palliative care: that is, reasonable pain relief, or food and water whilst you are still able to eat and drink.

1. Signing as a competent person

You can sign a Certificate if you are over 18 years of age and have the capacity to understand the decision you are making.

How does it work?

- You sign and have witnessed a Refusal of Treatment Certificate: Competent Person form.
- You specify the type of treatment you wish to refuse.
- Your treating doctor can only provide treatment according to the terms of the Certificate.

Requirements to sign

To sign you must:

- have been given sufficient information about your condition
- understand this information
- understand what you are doing by signing the Certificate

- make the decision voluntarily (advice can be given, but you must not be coerced).

A doctor and one other person must witness the signing and be satisfied that these requirements have been met.

2. Signing the Certificate as your agent or guardian

Someone appointed to represent you can refuse medical treatment on your behalf. This can be your:

- Agent, appointed by you under an enduring power of attorney (medical treatment); or
- Guardian, appointed by the Guardianship List of the Victorian Civil and Administrative Tribunal (VCAT).

How does it work?

- The agent or guardian signs and has witnessed a Refusal of Treatment Certificate: agent or guardian of incompetent person form.
- They specify the type of treatment they wish to refuse.
- The treating doctor can only provide treatment according to the terms of the Certificate.

Requirements to sign

To sign, an agent or guardian must:

- have been given sufficient information about your condition
- understand this information
- understand what they are doing in signing the Certificate
- make the decision voluntarily (advice can be given, but they must not be coerced)
- be convinced that either –
- the medical treatment would cause you unreasonable distress, or
- there are reasonable grounds for believing you would, after serious consideration, have considered the treatment unwarranted.

Where to get Refusal of Treatment Certificates

Certificates are usually available from Medical Directors or Chief Executives of hospitals and nursing homes.

They can also be obtained from the Office of the Public Advocate (OPA), downloaded from www.publicadvocate.vic.gov.au, or obtained from the Victorian Hospitals Association on (03) 9696 2799.

Office of the Public Advocate

Level 5, 436 Lonsdale Street, Melbourne, Victoria 3000
PO Box 13175 Law Courts, Victoria 8010. DX 210293
Local Call: 1300 309 337 TTY: 9603 9529 Fax: 1300 787 510

www.publicadvocate.vic.gov.au

The Victorian Civil and Administrative Tribunal, Guardianship List
55 King Street, Melbourne, Victoria 3000
Tel: (03) 9628 9911 Fax: (03) 9628 9932
Toll Free: 1800 133 055
www.vcat.vic.gov.au



Registration of Refusal of Treatment Certificates

Most Certificates will be signed in hospitals or other institutions, but you can sign them at home.

The doctor who witnesses the Certificate, or the manager of the hospital or institution, must give a copy of the Certificate to VCAT within seven days.

Can I change my mind??

If you are competent, the Certificate can easily be cancelled at any time by signing a Notice of Cancellation form.

Safeguards

Anyone who has a genuine interest in your welfare can ask VCAT to consider the actions of the agent or guardian. VCAT can suspend or cancel an enduring power of attorney (medical treatment) or a guardianship order if an agent or guardian is not acting in your best interests.

If this happens, then any Certificate signed by the agent or guardian is also cancelled. VCAT will send a written notice confirming this to the hospital or your home. If you are not at home, VCAT will also notify your treating doctor.

Any beneficiary of your will or estate, who uses undue influence or acts deceptively to obtain a Certificate, will lose their entitlements under your will.

A Certificate cannot be used to aid and abet you to commit suicide. This would be an offence under the

Crimes Act 1958, and could result in imprisonment.

Contact OPA for advice and further information.

Medical Practitioners

It is illegal for medical practitioners to continue to treat you if they know that there is a valid Certificate in force.

A medical practitioner who, in good faith, refuse to provide treatment in accordance with a Certificate is protected from legal action.

Further information

For further information visit www.publicadvocate.vic.gov.au or contact the OPA Advice Service.