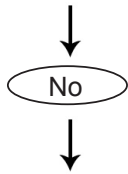


Can your adult patient CONSENT?

Is there an EMERGENCY?

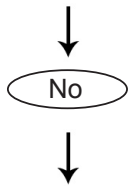


PROCEED WITH TREATMENT

EMERGENCY TREATMENT

Emergency treatment is urgent treatment required to save the life of a person; prevent serious damage to the person's health; or to prevent the person suffering or continuing to suffer significant pain or distress. A practitioner does not require consent to proceed with emergency treatment (for a person who lacks capacity). However, if there is a Refusal of Treatment Certificate, treatment must not proceed.

Does the person have CAPACITY to make a decision?

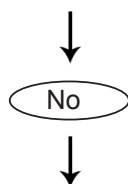


PATIENT CAN REFUSE OR CONSENT TO TREATMENT

CAPACITY

The patient is able to understand their medical condition, treatment options, and any risks and benefits associated with the treatment alternatives to enable them to make an informed decision. Sometimes a qualified person may be required to make a capacity assessment (e.g. neuropsychological, psychiatric, gerontological). Capacity may be impaired by, for example mental illness, dementia, an acquired brain injury or an intellectual disability.

Is there a REFUSAL OF MEDICAL TREATMENT certificate?

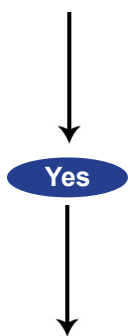


DO NOT PROCEED WITH TREATMENT

REFUSAL OF MEDICAL TREATMENT

Treatment must not proceed if a person has completed a valid Refusal of Medical Treatment certificate in accordance with the *Medical Treatment Act 1988*.

Is there a PERSON RESPONSIBLE to consent?

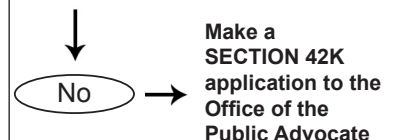


PERSON RESPONSIBLE

Where a patient is unable to consent to treatment, the practitioner can obtain consent from the person responsible in the following order:

1. An agent - appointed with enduring powers of attorney (medical treatment)
2. A person appointed by VCAT to make decisions about proposed treatment
3. A guardian - appointed by VCAT with health care powers
4. An enduring guardian - appointed with health care powers
5. A person appointed by the patient in writing to make medical and dental treatment decisions including the proposed treatment
6. The spouse or domestic partner
7. The primary carer, including Centrelink paid carers but excluding all other paid carers
8. The patient's nearest relative over the age of 18: a. son or daughter, b. father or mother, c. brother or sister, d. grandfather or grandmother, e. grandson or granddaughter, f. uncle or aunt, g. nephew or niece. (Where two relatives are in the same position, the elder will be the person responsible.)

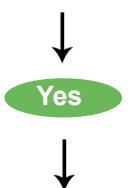
See fact sheet *Medical/dental treatment for patients who cannot consent*.



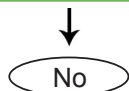
NO PERSON RESPONSIBLE (42K FORM)

Practitioner is unable to identify or contact a *person responsible* and believes the treatment is in the best interests of the patient. Practitioner must complete a section 42K notice (see our website) and fax to the Office of the Public Advocate advice service prior to undertaking the treatment.

Do they CONSENT to the treatment?



PROCEED WITH TREATMENT



Submit a SECTION 42M form to the *Person Responsible* and the Office of the Public Advocate

PERSON RESPONSIBLE REFUSES CONSENT (42M FORM)

Practitioner believes treatment is in the best interests of the patient but the person responsible does not consent. Practitioner must complete a section 42M form - Statement of intent of registered practitioner to provide medical or dental treatment (see our website) - and submit copy to the person responsible and the Office. The person responsible has 7 days to make an application to VCAT regarding the treatment. The practitioner may seek advice from the Office where they have concerns about delaying treatment.



Office of the Public Advocate

For more information on medical consent, refusal of medical treatment, powers of attorney and guardianship see our website www.publicadvocate.vic.gov.au or contact our advice service 1300 309 337.