
Medical treatment decision makers

Summary

- Appointing a medical treatment decision maker gives someone the power to make medical choices for you if you are unable to.
 - To appoint a medical treatment decision maker, fill in the appointment form, sign it and have two people witness it (make sure you check all the witnessing requirements).
 - As long as you are legally competent, you can change your medical treatment decision maker at any time. You can also appoint more than one person to be your medical treatment decision maker if you wish.
 - Tell your medical treatment decision maker what you think about life support, surgery, medication and anything else that could be relevant.
 - Make sure your doctor knows who your medical treatment decision maker is.
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You can nominate someone you trust to make decisions about your healthcare on your behalf, in the event that you suffer an injury or medical condition that affects your ability to make those decisions yourself. To legally empower someone to do that, you appoint the person to be your 'medical treatment decision maker'.

Planning when a person does not have decision making capacity

A medical treatment decision maker's role is to make all necessary decisions about a person's medical treatment when they are unable to. In those circumstances it is the decision maker's responsibility to make the same decisions that the person would make if they were able to. This decision must be informed by the medical treatment decision maker's understanding of the person's preferences and values. If the person has not made an advance care directive, the medical treatment decision maker will need to identify these preferences and values. This may come from verbal communications with the person or from knowledge of their values, including observations of how they have lived their life.

A medical treatment decision maker may find it helpful to consider these preferences and values in advance of needing to make a decision. By recording these details in a written document, the decision maker will then have relevant information at hand to support and assist with future medical treatment decisions.

The Victorian Office of the Public Advocate provides a number of useful resources to assist with documenting a person's preferences and values, along with more detailed guidance on the role of the medical treatment decision maker. Resources can be found at the [advocate's website](#).

Appointing a medical treatment decision maker when a person does not have capacity

Where a person does not have decision making capacity to appoint a medical treatment decision maker the Medical Treatment Planning and Decisions Act identifies who will be given this role.

Medical treatment decision makers must be reasonably available to be contacted as needed, and be willing and able to undertake the role. Further information on appointing a medical treatment decision maker can be found at the [Office of the Public Advocate's website](#).

Appointing a medical treatment decision maker

Appointing a medical treatment decision maker gives a trusted person (or people) the power to make decisions on your behalf. Anyone over 18 years old and of sound mind can appoint a medical treatment decision maker.

In a medical context, the agreement is specifically about making medical decisions when you are unable to make those decisions yourself, for example, if you are unconscious after an injury.

Reasons to have a medical treatment decision maker

If you have a medical condition that affects your ability to retain new information and make decisions, appointing someone to be your medical treatment decision maker is a good course of action.

Some examples of conditions that may put you in this position include:

- acquired brain injury
- cognitive (thinking) impairment
- unconsciousness
- inability to communicate (for example, after suffering a severe stroke)
- dementia.

Other situations where you may choose to appoint a medical treatment decision maker include:

- if you do not want life support at a certain point in an illness or after an accident
- if you are worried you may be injured performing a certain activity, such as playing a high-contact sport.

What medical treatment decision maker means

When you ask someone to be your medical treatment decision maker, you give them the power to make all the decisions about your healthcare and medical treatment when you are unable to. However, they cannot make financial or property decisions for you. That requires a different type of legal appointment, which you can learn more about by visiting the Office of the Public Advocate.

Your medical treatment decision maker is legally bound to act in a way that promotes your personal and social wellbeing. This means that they must consider your medical preferences, values and beliefs in order to make the decision they believe you would have made were you able to.

How to appoint a medical treatment decision maker

You can appoint a medical treatment decision maker at any time so long as you are over 18 and of sound mind, but their role only begins if and when you lose the ability to make your own medical decisions. You do not have to lose capacity permanently. For example, if you are injured or ill temporarily, your medical treatment decision maker can make treatment decisions for you until you recover.

To appoint a medical treatment decision maker you must fill in the appointment form, sign it and have it witnessed by two people. One of the two witnesses needs to be a qualified person, such as a Justice of the Peace. Also make sure that the person who you want to appoint as your medical treatment decision maker is not a witness.

To accept the appointment, your medical treatment decision maker will also have to sign the form in front of your witnesses.

You can download an 'Appointment of medical treatment decision maker' form [here](#).

Make sure you keep the original form somewhere safe and tell two or three trusted people where it is. You should also give copies to your medical treatment decision maker, your doctor and your local hospital. Have your medical treatment decision maker's contact details with you at all times in case of emergency, and tell your close family members and friends who your medical treatment decision maker is.

Communicate your views with your medical treatment decision maker

It is important to talk to your medical treatment decision maker about your views on and wishes for any medical treatment you may need and make sure they are clear about your choices. This could include surgery, types of medication and life support systems. It can be useful to write down your thoughts, using an advance care directive for example, so your medical treatment decision maker and the rest of your family and friends are clear about your wishes.

There is more information on recording wishes for future care and related matters in the section on [advance care planning](#).

How to change your medical treatment decision maker

If for some reason you wish to revoke the appointment of your medical treatment decision maker, you must

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complete a revocation form and have it witnessed by two people. One of these witnesses must be qualified to witness affidavits.

You must also take reasonable steps to let your previous medical treatment decision maker know that you have revoked their appointment. However, if for some reason you are unable to let them know, the revocation will still be valid.

You can download a 'Revocation of medical treatment decision maker' form [here](#).

You can also appoint more than one person to be your medical treatment decision maker. There is no limit to the number of medical treatment decision makers you can appoint. However, only one person will be able to act on your behalf at any given time. If you were to lose capacity and a decision had to be made on your behalf, the first person you appointed will act as your medical treatment decision maker. If they are unavailable, then the second appointee will become your medical treatment decision maker, and so on.

Your role as medical treatment decision maker

If someone wishes to appoint you as their medical treatment decision maker, you are being put in a position of trust. Your first act should be to discuss with the person appointing you what their opinions are on particular medical issues, especially things like the use of life support machines and surgical procedures. You may want to write down their wishes to avoid confusion later on, especially if some time has passed since you were appointed.

Once your role as medical treatment decision maker begins (when the person is unable to make their own decisions), it is your responsibility to do your best to make the same decisions the person would make if they were able to. You need to make sure you are always available to consult with any doctors and others in the person's medical team.

Where to get help

- Your **GP (doctor)**
- Lawyer
- **Victoria Legal Aid**
- **Office of the Public Advocate**

This page has been produced in consultation with and approved by:

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