



PUBLIC TRUSTEE AND GUARDIAN

ABN 45 801 644 305

CONSENT FOR MENTAL HEALTH TREATMENT, CARE OR SUPPORT

NB: 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. decision making capacity, the *Guardianship and Management of Property Act 1991* (GMPA) (s. 7(3)(f)), provides for a guardian who has expressly been appointed with the appropriate power, to provide substitute consent for mental health treatment, care and/or support under the *Mental Health Act 2015*. S. 70A of the GMPA outlines the restrictions for guardians providing consent for mental health treatment, care and support.

NB: S. 70A applies the definition of 'decision-making capacity' in s. 7 of the *Mental Health Act 2015*, rather than the definition in the GMPA.

A person must be presumed to have decision-making capacity unless there is clear evidence otherwise, and under the *Mental Health Act 2015*, 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 decision about their treatment, care or support.

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.

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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?

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

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

b. 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 capacity, (as defined in the *Mental Health Act 2015*), to consent to treatment(s), care or support(s)?

No

Yes

When might that be likely?

**12. What is the duration of the treatment(s), care or support(s) that is required?
(Consent is for a stated period not longer than 6 months on each occasion) (see s.70A(3) GMPA).**

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 capacity to consent to treatment(s), care or support(s) under the *Mental Health Act 2015* 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 becomes unwilling to receive treatment(s), care or support(s) and/or requires assertive or coercive follow up the guardians consent becomes invalid; and
3. That any consent is valid for a maximum period of 6 months on each occasion and that the onus is on the treating medical practitioner 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:

Printed name of treating medical practitioner:

Date:

Please print, sign and send to guardians@ptg.gov.au