

ABOUT VCAT

The Victorian Civil and Administrative Tribunal (VCAT) hears and decides civil and administrative legal cases in Victoria.

We make legal orders for matters about medical treatment, advance care directives, guardianship, administration and powers of attorney. For more information, go to www.vcat.vic.gov.au/guardianship.

We rely on evidence, reports from experts and other supporting documents to help us reach a decision about a case. This includes reports from medical practitioners.

WHAT VCAT CAN DO

We can give advice or make orders about medical treatment

VCAT can give advice or make orders about advance care directives, medical treatment decisions, appointed medical treatment decision makers, appointed support persons and medical research procedures.

If a person made an advance care directive, appointed a medical treatment decision maker or appointed a support person, VCAT can decide whether their decision is valid or otherwise cancel, change or suspend the advance care directive or the appointment. VCAT can do this only if we confirm whether the person's decision-making capacity is affected.

We can appoint a guardian or administrator

VCAT can make orders protecting adults who have a disability affecting their decision making capacity. The disability may be a neurological impairment, intellectual impairment, mental disorder, brain injury, physical disability or dementia.

If necessary, VCAT may appoint a guardian for people unable to make reasoned decisions about their lifestyle, including health care, employment and living arrangements. VCAT may appoint an administrator for people unable to make reasoned decisions about their financial and property affairs.

How we assess if a person has decision-making capacity

A person has decision-making capacity when they can do all of the following:

- understand and remember information relevant to making a decision
- retain that information to the extent necessary to make the decision
- use or weigh that information as part of their decision-making process
- use and communicate the information to make a decision, express their views and needs.

We can make an order about an enduring power of attorney

VCAT also has power to make orders about an enduring power of attorney. An enduring power of attorney is a document allowing a person to appoint someone as their attorney to make decisions on their behalf or support them in making decisions. The attorney can manage specific financial and legal

matters on behalf of the person. This arrangement stays in place even if the person who made the appointment loses their decision-making capacity.

If a person has given an enduring power of attorney, VCAT has the power to revoke, vary or suspend the appointment of an attorney if it considers it is in the person's best interests to do so. VCAT does not have the power to appoint an individual as an attorney.

How we assess if a person is a capable of giving an enduring power of attorney

A person is considered capable of giving an enduring power of attorney to someone if, at the time they give it, they understand:

- they can set the conditions, instructions or limitations on the power of attorney
- when this power can be used
- the attorney can use their power even when the person who gave it temporarily or permanently loses the ability to fully understand or make reasoned decisions
- they may revoke the enduring power of attorney at any time while they still understand the nature and effect of this power
- the attorney's power continues even if the person who gave it later loses their legal capacity
- at any time they are not capable of revoking the enduring power of attorney, they are unable to effectively oversee the use of this power.

WHY WE NEED A MEDICAL REPORT

To give advice or make an order about medical treatment

Before making an order about a person, VCAT must be satisfied about the person's capacity to make medical treatment decisions.

As the person's medical practitioner, the information you provide is vital. It helps VCAT determine whether a decision reflects the person's preferences and values or promotes their wellbeing.

As their medical practitioner, you must consider the appropriate time and setting for assessing accurately your patient's decision-making capacity.

To appoint a guardian, administrator or make an order about an enduring power of attorney

Before making an order about a person, VCAT must be satisfied:

- the person has a disability (neurological impairment, intellectual impairment, mental disorder, brain injury, physical disability or dementia)
- the person does not have decision-making capacity to make decisions about lifestyle or financial matters because of their disability
- there is a need for a guardian or administrator, usually decided if a less restrictive option would not meet the person's needs.

Your medical report will ensure VCAT is aware of your patient's decision-making capacity about their personal and financial matters and we promote the persons personal and social wellbeing.

PATIENT DETAILS

1. Enter the details of the patient you are completing a medical report about.

Patient name

Date of birth (DD/MM/YYYY)

Address

VCAT reference number (if known)

G

BACKGROUND INFORMATION

2. In what capacity do you know the patient?

General practitioner

Specialist

Other, please specify:

3. Are you the patient's regular medical practitioner?

Yes, skip to Question 5

No

4. Provide contact details of the person's regular medical practitioner (if known):

5. How long have you been the patient's medical practitioner?

6. When did you last see the patient?

7. Is the patient usually accompanied by someone else when you see them?

Yes

No, skip to Question 8

If yes, provide details:

MEDICAL TREATMENT DECISIONS MADE BY THE PATIENT

Complete this section only if this medical report is for a VCAT application to give advice or make orders about medical treatment. If you are unsure about the type of application your medical report is for, ask the person who gave you this form.

8. Do you know if the patient made an advance care directive?

Yes

No

Don't know

9. If the patient has made an advance care directive, were you involved in the process?

Yes

No

Don't know

10. Do you consider the patient now has decision-making capacity to make an advance care directive?

- Yes No Don't know

11. If you are aware of an advance care directive, do you know the date it was made?

- Yes No Don't know

If yes, provide the date (DD/MM/YYYY):

12. Did you know this person on the date the advance care directive was made?

- Yes No

13. Do you know if the patient appointed a medical treatment decision maker or support person?

- Yes No Don't know

14. If the patient has appointed a medical treatment decision maker or support person, were you involved in the process?

- Yes No Don't know

15. Do you consider the patient now has decision-making capacity to appoint a medical treatment decision maker or support person?

- Yes No Don't know

16. If you are aware of the appointment of a medical treatment decision maker or support person, do you know the date the appointment was made?

- Yes No Don't know

If yes, provide the date (DD/MM/YYYY):

17. Did you know this person on the date they appointed a medical treatment decision maker or support person?

- Yes No

18. Do you consider the patient to have decision-making capacity about their medical treatment?

- Yes No, skip to next section Don't know, skip to next section

19. Does the patient have decision-making capacity to make all or some medical treatment decisions?

- Full decision-making capacity Some decision-making capacity

20. If you stated the patient has only some decision-making capacity (in Question 19), explain the types of decisions about medical treatment they are unable to make on their own:

DETAILS ABOUT THE PATIENT'S DISABILITY

Complete this section only if this medical report is for a VCAT application to appoint a guardian, appoint an administrator or about an enduring power of attorney. If you are unsure about the type of application your medical report is for, ask the person who gave you this form.

21. Does the patient have a disability (neurological impairment, intellectual impairment, mental disorder, brain injury, physical disability or dementia)?

Yes No

22. Provide details of the diagnosis and history of the patient's disability:

23. How long has the disability been evident?

years months

24. What is the current status of the disability?

Static Progressive Fluctuating Improving

MEDICAL PRACTITIONER'S OPINION

Complete this section only if this medical report is for a VCAT application to appoint a guardian, appoint an administrator or about an enduring power of attorney.

The person is considered to have decision-making capacity about a particular matter if they can make a decision with practicable and appropriate support. Support might include the use of technology that alleviates the effects of a person's disability, or someone assisting the person to communicate their decision.

VCAT wants your opinion as to whether the person has decision-making capacity about the following matters.

Financial and property affairs

25. Does the patient have decision-making capacity about their financial and property affairs?

Eg. about legal matters, assets and liabilities, expenses and taxes.

Yes, skip to Question 27 No

26. Can the person make decisions about their financial and property affairs if they have support and they can access that support?

Yes No

Health care

27. Does the patient have decision-making capacity about their health?

Eg. about medical, dental and optical care.

Yes, skip to Question 29 No

28. Can the person make decisions about their health care if they have support and they can access that support?

- Yes No

General living circumstances

29. Does the patient have decision-making capacity about their general living circumstances?

Eg. about accommodation.

- Yes, skip to Question 31 No

30. Can the person make decisions about their general living circumstances if they have support and they can access that support?

- Yes No

REASONS FOR YOUR OPINION

31. Explain how you formed your opinion about the patient's decision-making capacity.

Include details and dates of any tests, examinations or assessments.

OTHER FACTORS THAT MAY AFFECT DECISION MAKING

32. In your opinion, are there any other factors that could potentially be impacting on this patient's decision-making capacity?

33. Do you have any other comments about the patient's prognosis?

ENDURING POWER OF ATTORNEY

Complete this section only if this medical report is for a VCAT application about an enduring power of attorney.

34. Do you know if the patient has given an enduring power of attorney?

- Yes No, skip to Question 36 Don't know, skip to Question 36

35. If the patient has given an enduring power of attorney, were you involved in the process?

- Yes No Don't know

36. Do you consider this patient now has the capacity to give an enduring power of attorney?

- Yes No Don't know

37. If you are aware of an existing enduring power of attorney, do you know the date on which this power was executed?

- Yes No, skip to Question 39 Don't know, skip to Question 39

If yes, provide the date (DD/MM/YYYY):

38. Did you know this person on the date this power was executed?

- Yes No

39. Give your opinion on the person's ability to understand the impact of making an enduring power of attorney at that time.

Refer to section '*How we assess if a person is capable of giving an enduring power of attorney*' on page 2.

FURTHER COMMENTS ABOUT YOUR ASSESSMENT

40. Do you have any other observations or comments that may be relevant?

ATTENDANCE AT THE HEARING

41. In your opinion, would the patient's condition prevent them from attending the VCAT hearing?

Yes No Don't know

If yes, state your reasons for this opinion:

42. Does the patient require an interpreter?

Yes No Don't know

If yes, for what language:

43. Does the patient have difficulty communicating?

Yes No Don't know

If yes, explain:

DETAILS OF MEDICAL PRACTITIONER

44. Enter your details below.

Title Prof Dr Mr Ms Mx

Name

Qualifications

Provider number:

Street address

Suburb

State

Postcode

Provide a contact number in case a VCAT representative needs to contact you during the patient's VCAT hearing for further information.

Contact number

45. Would you like to receive a Notice of Hearing about this matter?

Yes No

ACKNOWLEDGMENT

By completing this application, I understand and acknowledge that:

- to the best of my knowledge, all information provided in this application is true and correct
- it is an offence under section 136 of the *Victorian Civil and Administrative Tribunal Act 1998* to knowingly give false or misleading information to VCAT

Full name of person completing this report:

Date:

SUBMITTING THIS REPORT

Thank you for your time in completing this document, VCAT appreciates this community service.

Please submit this completed report to VCAT either by email or by post.

By email

Email humanrights@vcat.vic.gov.au

By post

Send this report to:

The Registrar
Guardianship List
Victorian Civil and Administrative Tribunal
GPO Box 13193 Law Courts VIC 8010