

APPLICATION FOR A SPECIAL MEDICAL PROCEDURE

WHAT VCAT CAN DO

Use this form if you want VCAT to decide whether a special medical procedure should be carried out on an adult with disability who does not have the decision-making capacity to give consent.

A special medical procedure includes:

- any procedure intended or reasonably likely to make the patient permanently infertile
- termination of a pregnancy
- any removal of tissue for transplantation to another person
- any other medical treatment relating to the diagnosis of a physical or mental condition, disease prevention, restoration or replacement of bodily function due to disease or injury, physical or surgical therapy, treatment for mental illness, use of prescription medicine or palliative care.

A person has decision-making capacity to give their own consent when they are able to understand and remember information relevant to making a decision, and can use and communicate the information to make a decision, and express their views and needs.

The disability may be a neurological impairment, intellectual impairment, mental disorder, brain injury, physical disability or dementia.

YOU NEED TO PROVIDE A MEDICAL REPORT

As the applicant, you are responsible for providing VCAT with a copy of a recent and relevant medical report for the person with disability. This helps VCAT make a decision about your application.

The medical report must include an assessment of the person's disability, and how it affects their decision-making capacity when it comes to giving consent for the procedure. You can download a medical report template to be completed by a medical practitioner from our website, go to www.vcat.vic.gov.au/medicalreport.

ABOUT THE PATIENT

1. Who is the patient?

This is the person with disability who does not have the decision-making capacity to give their own consent to the special medical procedure.

Given names Family name

2. Contact details of the patient

Street address

Suburb State Postcode

Phone number

Email

3. Does patient wish to be identified as someone of Aboriginal or Torres Strait Islander descent?

A member of our Koori Engagement team can give this person cultural support throughout the case.

- Yes No

4. Is the patient of a culturally or linguistically diverse background?

- Yes No

If yes, state the cultural or linguistic background:

5. Date of birth of the patient (DD/MM/YYYY)

DETAILS OF THE DISABILITY

6. What is the nature of the person's disability?

- Neurological impairment Mental disorder Physical disability
 Intellectual impairment Brain injury Dementia

EVIDENCE OF THE DISABILITY

You are responsible for providing VCAT with a copy of a recent and relevant medical report that establishes the disability and/or decision making capacity of the person you are seeking an order about.

Examples of suitable medical practitioners include doctors, psychologists, neuro-psychologists and psychiatrists.

You must provide a full medical report about the disability from the last three months, **not a medical certificate**.

7. Indicate which of the following statements is true:

- I have included a copy of a recent medical report with this application.
 I have requested a report from a medical practitioner. I undertake to provide this report to VCAT before the hearing.

8. Name of the medical practitioner providing the report

Title Given names Family name

Name of practice, hospital or clinic

Street address

Suburb State Postcode

Phone number

WHO IS APPLYING?

9. Your name

Given names Family name

10. Address

Organisation (if applicable)

Street address

Suburb State Postcode

Phone number

Email

11. Are you the patient's medical treatment decision maker?

The medical treatment decision maker is either someone formally appointed in the role, their guardian, their medical agent, their spouse, partner, primary carer, adult child, parent or adult sibling.

Yes, skip to Question 13 No

12. What is your relationship to the patient?

For example, partner, son, mother, case manager, guardian, administrator

I am the person's

13. Do you wish to be identified as someone of Aboriginal or Torres Strait Islander descent?

A member of our Koori Engagement team can give you cultural support throughout your case.

Yes No

14. Are you of a culturally or linguistically diverse background?

Yes No

If yes, state your cultural or linguistic background:

PATIENT'S HISTORY OF SPECIAL MEDICAL PROCEDURES

15. Is there in force a refusal of the treatment in accordance with the Medical Treatment Act 1988 or an instructional directive made in accordance with the Medical Treatment Planning and Decisions Act 2016 specifically refusing the proposed treatment?

Yes – attach a copy of a document supporting this claim

No Don't know

REASONS FOR MAKING AN APPLICATION

16. Provide details about the proposed medical procedure and your reasons for applying:

17. When is the special medical procedure proposed to take place?

Date (DD/MM/YYYY):

Time:

18. Where is the special medical procedure proposed to take place?

PRIMARY CARER

A primary carer is usually the person who provides or arranges for domestic and personal services for a person.

19. Does the patient have a primary carer?

Yes

No, skip to Question 25

Don't know, skip to Question 25

20. Name of the primary carer

Given names

Family name

21. Contact details of the primary carer

Organisation (if applicable)

Street address

Suburb

State

Postcode

Phone number

Email

22. Does the primary carer wish to be identified as someone of Aboriginal or Torres Strait Islander descent?

A member of our Koori Engagement team can give them cultural support throughout the case.

Yes No Don't know

23. Is the primary carer of a culturally or linguistically diverse background?

Yes No Don't know

If yes, state their cultural or linguistic background:

24. What is the primary carer's relationship to the person you are applying about?

For example, child, parent, grandparent, partner, friend, neighbour, solicitor, etc.

I am the person's

SPOUSE OR PARTNER

25. Does the patient have a spouse or partner?

Yes No, skip to Question 30 Don't know, skip to Question 30

26. Name of spouse or partner

Given names

Family name

27. Contact details of spouse or partner

Street address

Suburb

State

Postcode

Phone number

Email

28. Does this person wish to be identified as someone of Aboriginal or Torres Strait Islander descent?

A member of our Koori Engagement team can give them cultural support throughout the case.

Yes No Don't know

29. Is this person of a culturally or linguistically diverse background?

Yes No Don't know

If yes, state their cultural or linguistic background:

PERSONS WITH A DIRECT INTEREST

We need to ensure people with a direct interest in the patient are aware of this application. Examples of someone with an interest include the patient's relatives, close friends, their guardian, administrator, supportive guardian, supportive administrator, their attorney appointed under an enduring power of attorney or their supportive attorney.

30. Apart from those you have already mentioned above, do you know of any people with a direct interest in the patient?

- Yes No, skip to Question 46 Don't know, skip to Question 46

Details of person with a direct interest – Person 1

31. Name of relative or interested person

Given names Family name

32. Contact details of relative or interested person

Street address

Suburb State Postcode

Phone number

Email

33. Does this person wish to be identified as someone of Aboriginal or Torres Strait Islander descent?

A member of our Koori Engagement team can give them cultural support throughout the case.

- Yes No Don't know

34. Is this person of a culturally or linguistically diverse background?

- Yes No Don't know

If yes, state their cultural or linguistic background:

35. What is their relationship to the patient?

For example, child, parent, grandparent, partner, friend, neighbour, solicitor, etc.

I am the patient's

Details of person with a direct interest – Person 2

Provide details of any other known relative or interested person below. Otherwise, skip to Question 46.

36. Name of relative or interested person

Given names Family name

37. Contact details of relative or interested person

Street address

Suburb State Postcode

Phone number

Email

38. Does this person wish to be identified as someone of Aboriginal or Torres Strait Islander descent?

A member of our Koori Engagement team can give them cultural support throughout the case.

- Yes No Don't know

39. Is this person of a culturally or linguistically diverse background?

- Yes No Don't know

If yes, state their cultural or linguistic background:

40. What is their relationship to the patient?

For example, child, parent, grandparent, partner, friend, neighbour, solicitor, etc.

I am the patient's

Details of person with a direct interest – Person 3

Provide details of any other known relative or interested person below. Otherwise, skip to Question 46.

41. Name of relative or interested person

Given names Family name

42. Contact details of relative or interested person

Street address

Suburb State Postcode

Phone number

Email

43. Does this person wish to be identified as someone of Aboriginal or Torres Strait Islander descent?

A member of our Koori Engagement team can give them cultural support throughout the case.

- Yes No Don't know

44. Is this person of a culturally or linguistically diverse background?

- Yes No Don't know

If yes, state their cultural or linguistic background:

45. What is their relationship to the patient?

For example, child, parent, grandparent, partner, friend, neighbour, solicitor, etc.

I am the patient's

If there are other known relatives or interested people, include an attachment with their details.

ATTENDANCE AT THE HEARING

We strongly encourage the patient to attend the hearing, as the decisions we make will affect them. We will try to make it as easy as possible for them to attend.

The applicant must attend the hearing. Any other person with an interest in the application may attend.

We offer a range of support services for people with disability, language difficulties and concerns about their personal safety. Let us know of your needs so we can make arrangements for the hearing.

46. Will the patient attend the VCAT hearing?

- Yes No Don't know

If no, state why the person will not attend the VCAT hearing:

47. Does anyone mentioned in the application need special assistance at the hearing?

- Help accessing the venue (e.g. wheelchair access)
 Interpreter required

Language:

- Assisted communication (e.g. assistive listening device or hearing loop)
 Personal safety concerns
 Attend the hearing by phone or video link
 Other

Provide more detail about who needs the forms of assistance you have indicated and why?

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
- I will provide a copy of my completed application to all of the following:
 - patient
 - their primary carer (if applicable)
 - any current administrator and/or guardian (if applicable)
 - all relatives and parties with a direct interest
 - any person I am proposing as an administrator and/or guardian
- I will notify VCAT in writing if I am unable to provide a copy of my application to any party.

Full name of person completing this form:

Date:

DOCUMENTS YOU NEED TO PROVIDE

You need to provide enough information and documents to support the claims you make in your application.

This includes:

- Copy of a current medical report
- Copy of a refusal of treatment certificate (if the patient previously refused the treatment when they had decision-making capacity)
- Copy of instructional directive (if applicable)
- Any other documentation that supports your application

PRIVACY POLICY

All information you give VCAT for your case is available to anyone who inspects the case file or attends the hearing, including media. They might get information like your name, contact details and personal information. By law, with limited exceptions, VCAT must share information that you provide for your case with other parties. This includes your documents and evidence. But it is illegal to publish or broadcast information that could identify a party in a guardianship, powers of attorney or medical treatment case, unless VCAT makes an exception.

You can ask VCAT at the start of the case to keep your information confidential. VCAT may not agree to this request. For more information, go to www.vcat.vic.gov.au/privacy

SUBMITTING THIS APPLICATION

Submit your application and a copy of the medical report to VCAT by email, post or in person.

By email

Email humanrights@vcat.vic.gov.au

In person

We are open Monday to Friday
between 9 am and 4.30 pm.

55 King Street
Melbourne VIC 3000

By post

Send to:

The Registrar
Guardianship List
Victorian Civil and Administrative Tribunal
GPO Box 5408 Melbourne VIC 3001

NEED HELP WITH YOUR APPLICATION?

If you have any questions about completing this form, contact us by email, phone or in person.

By email

Email humanrights@vcat.vic.gov.au

By phone

Call us between 9 am and 5 pm Monday to
Friday on 1300 01 8228 (1300 01 VCAT)

In person

We are open Monday to Friday
from 9 am to 4.30 pm.

55 King Street
Melbourne VIC 3000

DO I NEED TO GIVE PEOPLE A COPY OF MY APPLICATION?

You must tell the people who you have mentioned in this form about your application.

Send a copy of your application and any documents in support of it to parties.

Parties to your application include:

- the patient
- their medical treatment decision maker
- their administrator, guardian, supportive administrator or supportive guardian (if any).

You must also send a copy of your application to everyone else you have mentioned in this form, but you do not need to send the documents you submitted in support of your application.

Send a copy of your application to the following people:

- the spouse or domestic partner of the person you are applying about (if any)
- the primary carer of the person you are applying about (if any)
- any person you have mentioned has a direct interest in your application.

HOW TO GIVE PEOPLE A COPY OF YOUR APPLICATION

You can give people a copy of your application and supporting documents by email, post or in person.

You can only send by email if you have already exchanged information with them this way.

RIGHTS OF PARTIES

A party can attend the hearing, give evidence, ask questions and make submissions. They may also be able to make further applications after the hearing.

RIGHTS OF EVERYONE ELSE MENTIONED IN YOUR APPLICATION

Everyone else you have mentioned in your application can attend the hearing.

They can ask to see the entire VCAT file. VCAT grants access unless there is a good reason to refuse, such as the need to keep sensitive personal information private or the potential to cause another person harm.

VCAT may ask the other parties for their views before deciding whether to grant access. It is an offence under the *Victorian Civil and Administrative Tribunal Act 1998* to publish or broadcast any material that identifies a party to a proceeding under the *Guardianship and Administration Act 1986*.

People you have mentioned in your application can also apply to be joined as a party, by writing to VCAT or by asking at the hearing. VCAT may ask the other parties for their views on this. VCAT will then make an order granting or refusing the application to be joined as a party. If they become a party, they gain the same rights as described in the previous section.

COMMUNICATING WITH VCAT AND OTHER PARTIES

If you plan to use evidence at VCAT you need to send copies of these documents to the other parties. How to do this and when is explained in the notice or order VCAT sends you.

By law, when you send documents to VCAT related to your case you must also send them to the other parties so the process is open and fair (called 'serving documents').