

Information for Applicants

Application for consent to medical or dental treatment

When is it necessary to seek substitute medical & dental consent?

Most patients are capable of understanding the information that doctors and dentists give them and are usually able to make a decision about a proposed treatment.

If a medical or dental practitioner believes that a patient is incapable of understanding the general nature and effect of the treatment when it is explained to them and therefore is not capable of giving a valid consent, then they must normally seek substitute consent.

There is **no need** to get substitute consent for:

- *urgent* treatment that is considered necessary to save the patient's life, to prevent serious damage to the patient's health or to alleviate significant pain or distress
- *minor* treatment when the patient is not objecting, consent from a *person responsible* is unobtainable and the treatment is necessary to promote the patient's health and wellbeing.

Who identifies the need for substitute consent?

The medical practitioner must:

- determine if substitute consent is needed
- identify who must give the consent, and
- obtain the consent.

Who has the legal authority to give substitute consent?

Under the *Guardianship Act 1987*, depending on the category of treatment, the substitute decision-maker is either:

- the *person responsible* (see below)

- a guardian appointed with a medical and dental consent function, or
- the Guardianship Tribunal.

In most cases where substitute consent is required, there will be a *person responsible*. In any case the Tribunal has the authority to consent to medical and dental treatments for people 16 years and over who are incapable of consenting to their own treatment.

(Refer to *Who can give substitute consent for medical or dental treatment* overleaf)

Who is the person responsible?

A *person responsible* is **not** necessarily the patient's next of kin.

There is a hierarchy of people who can be the *person responsible*. They are:

- 1 A guardian (including an enduring guardian) who has the function of consenting to medical and dental treatments.
- 2 *If no-one as specified in item 1*, a spouse or de facto spouse or partner where there is a close, continuing relationship.
- 3 *If no-one as specified in item 1 and 2*, a carer who provides or arranges for domestic support on a regular basis and is unpaid. (If the person is in residential care, then the carer before the person went into residential care.)
- 4 *If no-one as specified in item 1, 2 and 3*, a close personal friend or close relative where there is both a close personal relationship, frequent personal contact and a personal interest in the patient's welfare, on an unpaid basis.

The person next in the hierarchy may become the *person responsible* if:

- a *person responsible* declines in writing to exercise the function, or
- a medical practitioner or other qualified person certifies in writing that the *person responsible* is not capable of carrying out their functions.

When is an application to the Tribunal necessary?

An application to the Tribunal is necessary if the treatment:

- is *special* medical treatment
- is *major* medical or dental treatment, and there is no *person responsible* or the *person responsible* is not available, or
- is *major* or *minor* medical treatment when the patient is objecting and there is no appointed guardian authorised to override such objection.

How do you apply to the Tribunal for consent?

You need to complete and lodge the attached *Application for consent to medical or dental treatment* form with the Tribunal.

What happens next?

The Tribunal conducts a hearing, often by phone. This will be an opportunity for the Tribunal to hear the views of the people involved, including the person making the application and relevant medical or dentistry professionals.

At the conclusion of the hearing, the Tribunal will decide whether consent should be granted or refused. A written order will be issued to the applicant.

Who can give substitute consent for medical or dental treatment?

Type of treatment	Consent requirements
Urgent treatment Treatment considered urgent and necessary to: <ul style="list-style-type: none">• save patient's life• prevent serious damage to health• prevent or alleviate significant pain or distress.	No consent needed.
Major treatment <ul style="list-style-type: none">• Any medical or dental treatment involving general anaesthetic or other sedation (except as listed in Minor below).• Medications affecting the central nervous system (except as listed in Minor below).• Drugs of addiction (except when used as stated under 'Special treatment' below).• Long-acting injectable hormonal substances for contraception or menstrual regulation.• Any treatment for the purpose of eliminating menstruation.• Testing for HIV.• Any treatment involving substantial risk.• Any dental treatment resulting in removal of all teeth or significantly impairing ability to chew food.	Person responsible can consent. If there is no person responsible or the person responsible is not available then only the Guardianship Tribunal can consent. The request and consent must be in writing or, if not practicable, later confirmed in writing.
Minor treatment <ul style="list-style-type: none">• All medical and dental treatments (except those listed in Major or Special)• Treatment involving general anaesthetic or other sedation:<ul style="list-style-type: none">– for management of fractured or dislocated limbs– for endoscopes inserted through an orifice, not penetrating the skin or mucous membrane.• Medications that affect the central nervous system which are used:<ul style="list-style-type: none">– for analgesic, antipyretic, antiparkinsonian, antihistaminic, antiemetic, antinauseant or anticonvulsant purposes– Only once– On a PRN basis (as required) not more than 3 times per month– as sedation in minor procedures.	Person responsible can consent. The doctor or dentist may treat without consent if the patient is not objecting and there is no person responsible or the person responsible is not available. It must be noted on the patient's record that the treatment is necessary to promote the patient's health and wellbeing, and that the patient is not objecting.
Special treatment <ul style="list-style-type: none">• Androgen-reducing medications for behavioural control.• Drugs of addiction used for more than 10 days in 30, except when used to treat cancer or in the palliative care of terminally ill patients.• Termination of pregnancy.• Treatments intended or likely to result in infertility.• Vasectomy and tubal occlusion.• Aversives – mechanical, chemical or physical.• Any new treatment that has not yet gained the support of a substantial number of doctors or dentists specialising in area.• Use of medication affecting the central nervous system where dosage, duration or combination is outside accepted norms.	Only the Guardianship Tribunal can consent.
Major or minor treatment when the patient is objecting If the patient indicates, or has previously indicated, that he or she does not want the treatment carried out.	Only the Guardianship Tribunal can consent.

**Application for
consent to medical or dental treatment**

Refer to the attached *Information for Applicants* to help you decide if consent is required and who can consent.

If you need more information, phone the Tribunal's enquiry service on 1800 463 928 (toll free) or 9556 7600.

Please print clearly in black pen.

1 The applicant

Who is making this application for consent?

the treating doctor, provide details below

the person's usual doctor, provide details below

another person, provide details below

title Dr Mr Mrs Ms Other, specify

given name

family name

relationship to the person

qualifications or specialty

street

suburb/town, state, postcode

daytime phone after hours phone

mobile phone

fax pager

email

2 The person

Who is this application about?

title Mr Mrs Miss Ms Other, specify

given name

family name

other names by which this person is known

date of birth

gender male female

Does the person regard themselves as belonging to any specific ethnic, cultural or religious group? No Yes, please provide details

Does the person speak a language other than English at home? No Yes, what other language?

Does the person know about this application? No Yes

What is the person's usual permanent address?

Where does the person usually live? at home, provide details below
 at the home of a family member or friend, provide details below
 at a care facility, provide details below
 no fixed address

name of family member, friend or care facility

family member's relationship to the person

street

suburb/town, state, postcode

phone

mobile phone

fax

email

What is the person's current location?

Which of the following best describes this location? own home, provide details below
 home of family member or friend, provide details below
 hospital/care facility, provide details below

name of family member, friend or care facility

family member's relationship to the person

street

suburb/town, state, postcode

name of contact (if applicable)

daytime phone after hours phone

mobile phone

fax

email

3 The need for substitute consent

Refer to the attached *Information for Applicants: Who can give substitute consent for medical or dental treatment* to find out when you need substitute consent and who can give the consent.

Please provide additional comments where appropriate.

Has the proposed treatment been discussed with the person? No Yes

Is the person capable of understanding the nature and effect of the treatment? No, give reasons Yes

Is the person capable of indicating their consent? No, give reasons Yes,

Has the person expressed any views about the proposed treatment in the past? No Yes, provide details

Why is consent being sought from the Guardianship Tribunal?

The treatment is *special* medical treatment

The treatment is *major* and there is no *guardian* or *person responsible* for the person

The treatment is *major* and the *person responsible* cannot be located or has refused to give consent

The person objects to the treatment

There is a dispute about the treatment

Other, provide details

4 The proposed treatment

Please provide additional comments where appropriate.

What is the condition requiring treatment?

What is the proposed treatment?

Does the proposed treatment involve the withdrawal or limitation of life sustaining treatment? No Yes, provide details

Is the treatment intended to manage the person's behaviour? No Yes, provide details

Are the person's religious beliefs in conflict with the proposed treatment? No Yes, provide details

Has the treatment already started? No, provide proposed start date and time

Yes, provide date

Is the treatment ongoing? No Yes, provide details. Indicate period of time for which consent is required.

Where will the treatment be carried out?

Will the treatment involve a general anaesthetic or other sedation? No Yes, provide details.

Does the treatment involve any significant risks or side effects? No Yes, provide details.

If extraction of teeth is proposed, will it significantly impair the person's ability to chew for an indefinite or prolonged period of time? No Yes, provide details.

How will the proposed treatment benefit the person?

Are there alternative treatments for the person's condition? No Yes, indicate why the proposed treatment is preferred

What are the likely consequences if the proposed treatment is not carried out?

Is the person receiving any other treatment or medication? No Yes, provide details. Include dosage, if applicable

Are you aware of anyone who disputes that the treatment is required? No Yes, provide details

the person themselves

health professional, provide name

other person(s), provide name



5 Other people involved

Who is the doctor or dentist providing the treatment?

title		
given name		
family name		
qualifications or specialty		
street		
suburb/town, state, postcode		
daytime phone	after hours phone	
mobile phone		
fax	pager	
email		
Does this person regularly treat the person?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Who is the person's usual doctor? (if not the same as above)

<input type="checkbox"/> Don't know	<input type="checkbox"/> To my knowledge, there is none
title	
given name	
family name	
qualifications or specialty	
street	
suburb/town, state, postcode	
daytime phone	after hours phone
mobile phone	
fax	pager
email	

Who is the *person responsible*?

Refer to *Information for Applicants: Who is the person responsible?*

<input type="checkbox"/> Don't know	<input type="checkbox"/> To my knowledge, there is none	<input type="checkbox"/> Public Guardian			
title	<input type="checkbox"/> Mr	<input type="checkbox"/> Miss	<input type="checkbox"/> Mrs	<input type="checkbox"/> Ms	<input type="checkbox"/> Other, specify
given name					
family name					
street					
suburb/town, state, postcode					
daytime phone	after hours phone				
mobile phone					
fax					
email					

6 Supporting material

The Tribunal relies on the information in this form and relevant professional documents to make its decision.

What supporting documents are attached?

Please list below any documents (e.g. medical opinions, test results, referral letters, assessments, x-rays, specialist reports) that you have attached.

title of document _____
 document date _____
 author & organisation _____
 relationship to the person _____

title of document _____
 document date _____
 author & organisation _____
 relationship to the person _____

title of document _____
 document date _____
 author & organisation _____
 relationship to the person _____

7 The hearing

Is the person able to express views to the Tribunal? _____

How can we contact the person during the hearing? _____

How can the Tribunal contact the following people during the hearing?

	best number to contact	best time to contact
the treating doctor		
the person's usual doctor		
the applicant		
the <i>person responsible</i>		
other, provide details below		

name _____
 relationship _____

8 The applicant's declaration

Having read through this completed application:

- I consider that, to the best of my knowledge, all of the information is true and accurate.
- I have not intentionally left out important information.
- I understand that it is an offence to make a false or misleading statement in an application. (Penalty up to \$500.)

Signature of applicant

Date

**To lodge your application, return all 7 pages of the form to the Tribunal.
Please do not include the Information for Applicants.**

***Guardianship
Tribunal***

Street address
Level 3, 2a Rowntree St
Balmain NSW 2041

Postal address
Locked Bag 9
Balmain NSW 2041

Telephone
(02) 9556 7600
1800 463 928 (toll free)
(02) 9556 7634
(telephone typewriter)

Fax
(02) 9555 9049
Email
gt@gt.nsw.gov.au
Website
www.gt.nsw.gov.au
