

DWDV form 2b

How to fill out a Medical Treatment Decision Maker form

DWDV strongly recommends all adult Victorians fill out an Advance Care Directive and appoint Medical Treatment Decision Maker/s in case they happen to lose decision-making capacity, through illness or sudden injury.

Having a trusted person empowered to make medical treatment decisions on your behalf can be important if you:

- suffer an injury that leads to acquired brain injury
- become unconscious for whatever reason
- become unable to communicate due to suffering a stroke
- indulge in high-risk activities, like high-contact sports.

Once you have appointed your Medical Treatment Decision Maker/s, make a note somewhere in your phone so that if necessary, their name and mobile number can be retrieved easily.

Choosing your Medical Treatment Decision Maker

When thinking of who to appoint as your Medical Treatment Decision Maker (MTDM), you should choose someone you are confident would respect your values and preferences.

Once appointed, this person will be legally authorised to make decisions about your medical treatment if you are unable to do so, so it's important you trust them and that they would be willing and able to make medical treatment decisions on your behalf.

You can appoint more than one person, but only one person acts at any one time. If your MTDM 1 is unavailable or uncontactable, your MTDM 2 will be contacted.

Medical Treatment Decision Maker Role

Your MTDM must make medical treatment decisions they reasonably believe you would have made if you had the capacity to make such decisions yourself.

A health practitioner needs your consent before providing medical treatment. If you don't have the capacity to give that consent, the health practitioner must:

- follow whatever decisions you have made in the Instructional Directive section of your Advance Care Directive (if you have one);
- if you don't have an Advance Care Directive, take reasonable steps to contact your Medical Treatment Decision Maker. Your MTDM is authorised to consent to or refuse specific treatments on your behalf.

A Medical Treatment Decision Maker does not have the power to make financial or property decisions on your behalf.

What is medical treatment?

Remember that if you have decision-making capacity, you have the right - at any time - to refuse medical treatment that you don't want. Medical treatment includes:

- physical or surgical therapy
- treatment with
 - prescription medicines
 - an approved medical cannabis product
- palliative care
- dental treatment
- treatment for mental illness.

How would your MTDM make a medical treatment decision?

When your Medical Treatment Decision Maker is making the decision to consent to or refuse medical treatment on your behalf, they must:

- consider your preferences and values as stated in the Values Directive section of your Advance Care Directive. Are the effects and consequences of the proposed treatment/s consistent with these values? Are there other treatment/s that might be more consistent?
- consult with any person they believe you would want to be involved
- generally, act in a way that promotes your personal and social wellbeing.

Further, if they think it necessary, your MTDM has the right to seek a second medical opinion. Note that if you have properly completed an Instructional Directive as part of your Advance Care Directive, then the decisions you have recorded there take effect as if you had consented to or refused any proposed medical treatment.

What to do with these form/s

Once you have chosen your Medical Treatment Decision Maker/s and had the appointment form properly signed and witnessed, we recommend you get a number of certified copies - say, ten. Do the same with your Advance Care Directive form. Any JP can certify copies.

Give a certified copy of both signed forms to your MTDM and your treating doctor/s. Give copies to family members. If you are entering a hospital, hospice, aged care or healthcare facility, or you are already a resident there, ensure a copy is placed on your medical file.

You may also wish to upload certified copies to your My Health Record:

www.myhealthrecord.gov.au.

Frequently Asked Questions

Q1: Can I appoint someone who may benefit financially from my death, such as my spouse?

Yes. The Victorian *Medical Treatment Planning and Decisions Act 2016* places no restrictions on who you can choose to act as your MTDM.

Q2: My family is too emotionally involved and none of them wants to act as my MTDM. What can I do?

It is important you appoint an MTDM you feel sure will carry out your wishes when you cannot make decisions yourself. A trusted friend may be more suitable than a family member and may be able to make clearer decisions, if necessary. But your family should then realise they may be giving up the right to make decisions about your medical treatment.

Q3: May I appoint two people as my MTDM/s?

The intention of the *Medical Treatment Planning and Decisions Act 2016* is that you appoint a single decision maker (MTDM 1) to make decisions about your medical treatment. Otherwise, there is the potential for disagreement. However, if you are worried that your decision maker may not be able to act for you at the appropriate time, you may also name a second decision maker (MTDM 2). MTDM 2 only acts if MTDM 1 is unavailable. They do not act together.

Q4: May I appoint a person who lives interstate to be my MTDM?

Yes. As long as you are a patient in Victoria the *Medical Treatment Planning and Decisions Act 2016* applies. If possible your interstate MTDM may make decisions without coming to Victoria. But if you are interstate or overseas as a patient when your MTDM has to make decisions, the *Medical Treatment Planning and Decisions Act 2016* will not apply and the legal effect of those decisions will be judged by the law of the state or country you are in at the time.

Q5: Does my doctor have to approve my form?

No. Appointing an MTDM under the *Medical Treatment Planning and Decisions Act 2016* is a legal decision that does not require your doctor's approval. However, it is sensible to give your doctor a copy of the completed form so that he or she can place it with your medical records for future reference.

Q6: Can I change my mind about who is my MTDM?

Yes, but we recommend you fill in a new form and have it again properly signed and witnessed. You must also take reasonable steps to let your previous MTDM know you have revoked your previous appointment of them.

Q7: If I haven't appointed an MTDM, who can make medical decisions for me?

If you are unable to make medical treatment decisions yourself and you haven't appointed an MTDM, a person in a close and continuing relationship with you, who is reasonably available and willing and able to make the medical treatment decisions, can do so (in this order):

- Your spouse or domestic partner
- Your primary carer
- Your oldest adult child; the oldest of your parents; the oldest of your siblings.

Q8: Who can make medical treatment decisions for a child?

The child's parent or guardian.

Q9: Can a health practitioner refuse to comply with your Instructional Directive?

Yes, if they believe on reasonable grounds that circumstances have changed since you completed your Instructional Directive such that its practical effect would no longer be consistent with your preferences and values.