

Enduring Power of Attorney (medical treatment) - FAQs

How many people can be appointed as agent?

One person can be appointed as agent, as long as they agree to take on the role. They should be someone that the donor can trust to respect and carry out their wishes. A second person can also be appointed as an alternate agent. The alternate agent can only make decisions when the agent is unable to because they have lost capacity, died or are absent for a period of time.

When does the power begin?

The appointment begins only if and when donor is unable to make decisions about their medical treatment. They may have lost capacity permanently, such as through dementia or an acquired brain injury, or it might be temporarily, for example if they are unconscious as a result of an accident or illness.

Who can witness the Enduring Power of Attorney (medical treatment)?

Two witnesses are required and one must be someone authorised to witness statutory declarations. (See www.publicadvocate.vic.gov.au or Take Control- a kit for making powers of attorney for a detailed list.)

What should be done with the Enduring Power of Attorney (medical treatment) form when it is completed?

Enduring powers of attorney are not registered in Victoria. The donor should keep the original in a safe place along with other important personal documents and tell family or close friends where these are kept. The donor should give a certified copy to their agent and to anyone else who may need to be involved, such as their doctor. The donor could also carry a card in their purse or wallet that has the details of their agent.

Can an Enduring Power of Attorney (medical treatment) be changed?

There are different reasons why the donor might want to change or cancel a power of attorney. These may include:

the donor's relationship with their agent may have changed

the donor now knows someone who would be more suitable for the role

the donor or the agent may have moved

the donor's health circumstances have changed so much that they feel the agent is no longer suited to make decisions on their behalf.

If the donor chooses to make a new enduring power of attorney (medical treatment), they simply complete a new form. When a donor gives an enduring power of attorney (medical treatment) any earlier power given by that person is automatically revoked.

The donor may also wish to do the following:

- tell the agent that their power is withdrawn
- destroy the document and any copies
- put it in writing or fill in a revocation form.

Can an agent delegate their power to anyone else?

No, only the agents appointed by the donor are able to exercise the power. If an agent is no longer able to carry out the role only an alternate agent already appointed by the donor is able to step in.

What sort of decisions can an agent make?

An agent may make decisions about medical treatment on behalf of the donor. The agent can make any medical treatment decisions that the donor would make if they were competent.

The Medical Treatment Act and the Guardianship and Administration Act define medical treatment a little differently, but generally medical treatment includes an operation, or medical or surgical procedures, examinations and any preventative, or rehabilitative care.

As 'person responsible' the agent can also make decisions in relation to dental treatment.