Mental Health Act 2014
Section 75 & 76

MHA 130
Substitute consent to medical treatment by authorised psychiatrist

Instructions to complete this form

- This form must be completed by an authorised psychiatrist or delegate.
- This form may be used where a patient (compulsory, security or forensic) does not have capacity to give informed consent to a medical treatment, does not have an instructional directive consenting to the relevant medical treatment and there is no other person with legal authority who is reasonably available, willing and able to make the decision (see notes 2 and 3 over page).

☐ a compulsory patient ☐ a security patient ☐ a forensic patient

a patient of:

designated mental health service

Medical condition:

Summary of medical treatment to be provided:

☐ The abovenamed person does not have capacity to give informed consent to the medical treatment, and does not have a relevant instructional directive giving informed consent to the medical treatment.

☐ There is no other person with legal authority to make decisions about the medical treatment who is reasonably available, willing and able to make the decision about the treatment (see notes 2 and 3 over page).

☐ I am satisfied that the medical treatment will benefit the person (see note 4 over page).

☐ The medical treatment cannot be delayed until the person has recovered capacity to make the decision for themselves (see note 5 over page).

☐ I consent to the medical treatment being administered to, or performed on, the abovenamed person.

Signature: ____________________________ Date: _______ _______ _______ _______

signature of authorised psychiatrist or delegate

Given Names: ____________________________ Family Name: ____________________________
Notes

1. If the proposed treatment is being provided in the context of an emergency, section 53 of the Medical Treatment Planning and Decisions Act 2016 applies.

2. If a patient who is 18 years of age or older does not have capacity to give informed consent to medical treatment, the medical treatment may be administered to the patient with the consent of the first person listed below who, in the circumstances, is reasonably available, willing and able to make a decision about the proposed medical treatment:
   a) a person appointed by the patient under the Medical Treatment Planning and Decisions Act 2016 as medical treatment decision maker;
   b) a person appointed by VCAT to make decisions concerning the proposed medical treatment;
   c) a person appointed under a guardianship order within the meaning of the Guardianship and Administration Act 1986 with power to make decisions concerning the proposed medical treatment (a ‘guardian’);
   d) the authorised psychiatrist.

3. If a patient who is under the age of 18 years does not have capacity to give informed consent to medical treatment, the medical treatment may be administered to the patient with the consent of:
   a) a person who, in relation to the patient, has the legal authority to consent to medical treatment and who, in the circumstances, is reasonably available, willing and able to make a decision concerning the proposed treatment; or
   b) the authorised psychiatrist, if a person specified under paragraph (a) is not reasonably available or not willing and able to make a decision concerning the proposed medical treatment.

4. In determining whether a medical treatment would benefit a patient, the authorised psychiatrist must, to the extent that is reasonable in the circumstances, have regard to all of the following:
   a) the patient’s views and preferences regarding the medical treatment and any beneficial alternative treatments that are reasonably available and the reasons for those views and preferences, including any recovery outcomes the patient would like to achieve;
   b) any relevant values directive given by the patient;
   c) the views of the patient’s nominated person;
   d) the views of a guardian of the patient;
   e) the views of a carer of the patient, if the authorised psychiatrist is satisfied that the medical treatment decision will directly affect the carer and the care relationship;
   f) the views of the patient’s support person;
   g) the views of a parent of the patient, if the patient is under the age of 16 years;
   h) the views of the Secretary, if the patient is the subject of a custody to Secretary order or a guardianship to Secretary order;
   i) if the medical treatment is likely to remedy the condition or lessen the symptoms of the condition;
   j) the likely consequences for the patient if the medical treatment is not administered;
   k) any second opinion of a registered medical practitioner that has been given to the authorised psychiatrist.

5. If the authorised psychiatrist is of the opinion that the patient is likely to recover capacity to give informed consent to the medical treatment within a reasonable period of time, the authorised psychiatrist must not give consent to the medical treatment unless the delay in administering or performing the medical treatment could result in serious harm to, or deterioration in, the mental or physical health of the patient.