

FORM HCDM1

File No.

APPLICATION FOR AN ORDER

Health Care Decision Making Act 2023

A - PERSON YOU ARE APPLYING ABOUT ('THE ADULT')

First name/s:

Surname:

Is the adult known by any other names? If so please specify:

Gender:

Date of birth:

Identifies as (tick one):

Aboriginal but not Torres Strait Islander

Torres Strait Islander but not Aboriginal

Both Aboriginal & Torres Strait Islander

Neither Aboriginal nor Torres Strait Islander

Residential address:

Current address (if not the same as residential address):

E-mail:

Landline phone:

Mobile phone:

Hospital Registration Number - HRN (if known):

Does the adult require an interpreter?

Yes, Language:

No

Please specify if the adult has any other needs or requirements which NTCAT may need to know about for the purposes of arranging a hearing.

B - APPLICANT'S INFORMATION

First name/s:

Surname:

Your relationship to the adult:

Postal Address:

E-mail:

Landline phone:

Mobile Phone:

Important: The use of electronic media for the exchange of documents and other important information in NTCAT proceedings is strongly encouraged. If you are able to provide an email address it will be used for the service of documents and notices. If you have provided a mobile phone number NTCAT may send you SMS text messages with notifications about your matter.

C - DETAILS OF IMPAIRED DECISION-MAKING CAPACITY¹ OF THE ADULT

Why do you say the adult has impaired decision making capacity?

[*] Please provide NTCAT with a completed NTCAT Form HCDM2 with this application.

¹ The meaning of 'impaired decision-making capacity' is set out in s 8 of the Health Care Decision Making Act 2023.

D – DETAILS OF ORDER YOU ARE APPLYING FOR

Section 41 of the *Health Care Decision Making Act 2023* sets out the orders that can be made by NTCAT. Please tick the order you are seeking in this application:

- to limit or vary a health care decision or the authority of a health care decision maker to make a health care decision under the *Health Care Decision Making Act 2023*.
- to decide who is the appropriate health care decision maker for an adult with impaired decision making capacity;
- if a person specified in section 13(a) (ie. a person with health care authority appointed under an Advance Personal Plan) or (b) (ie. a guardian with health care authority appointed under the *Guardianship of Adults Act 2016*) is not willing or able to make a health care decision:
 - to determine who should be the health care decision maker; or
 - to make the health care decision itself.
- to approve or allow any practice or health care for which a health care decision maker has no authority under section 29 or 30 of the *Health Care Decision Making Act 2023* (ie. restrictive practices or restricted health care) .
- to disregard an advance consent decision².

Please provide more detail about the order you are applying for and the reasons why NTCAT should make this order³:

² ‘Advance Care Decision’ means a health care decision set out in an advance personal plan under the Advance Personal Planning Act 2013 (see section 4 of the *Health Care Decision Making Act 2023*).

³ Please include relevant background information and a clear statement why NTCAT should make this order. If you do not have space in the application, attach a statement to this application.

E - URGENT MATTERS

NTCAT orders may be made in cases of genuine urgency.

Is an urgent order required?

Yes No

Please set out the circumstances of urgency:

F - ADVANCE PERSONAL PLAN OR ENDURING POWER OF ATTORNEY

Does the adult have an advance personal plan within the meaning of the *Advance Personal Planning Act 2013* or an enduring power of attorney?⁴

Yes No Unsure

If yes, please provide details of the advance personal plan or enduring power of attorney or copies if you have them.

G - DETAILS OF GUARDIAN/S

Does the adult have a guardian appointed under the Guardianship of Adults Act 2016?

Yes No Unsure

If yes, please provide the name/s of the guardian/s:

⁴ You can search for an advance personal plan at the Office of the Public Trustee (NT) and for a registered enduring power of attorney at the Office of the Registrar-General (NT).

H –ARE THERE ANY OTHER PERSONS WHO NEED TO BE NOTIFIED OR MADE AWARE OF THIS APPLICATION?⁵

Please provide the names, relationship and contact details of any other persons who should be notified or made aware of this application. These are persons who have an interest and may want to have their say about the application (this includes persons who might disagree with your application).

First Name/s:

Surname:

Relationship to the adult:

Postal Address:

E-mail:

Landline Phone:

Mobile Phone:

First Name/s:

Surname:

Relationship to the adult:

Postal Address:

E-mail:

Landline Phone:

Mobile Phone:

First Name/s:

Surname:

Relationship to the adult:

Postal Address:

E-mail:

Landline Phone:

Mobile Phone:

⁵ For example: spouse, partner, children, other relatives, close friend, interested persons, the Public Guardian for the Northern Territory etc.

SIGNATURE

Signature of applicant or applicant's representative:⁶ _____

Name of applicant or applicant's representative: _____

Date: _____

⁶ A person signing as representative of a party warrants to NTCAT that he/she has the lawful authority to do so.

ADDITIONAL INFORMATION

Below is a guide to some frequently used words in this application.

“Impaired Decision Making Capacity”

Decisions may only be made under the *Health Care Decision Making Act 2023* in cases where an adult has impaired decision making capacity. Section 8(2) to (8) of the Act provides as follows:

- (2) An impairment in any of the following is relevant in determining whether an adult's capacity to make the health care decision is impaired:
 - (a) understanding and retaining information relevant to the health care decision;
 - (b) weighing information relevant to the health care decision in order to make the health care decision;
 - (c) communicating the health care decision in some way;
 - (d) understanding the effect of the health care decision.
- (3) For subsection (2)(a), an adult is taken to understand information relevant to a health care decision if the adult understands an explanation of the information given to the adult in a way that is appropriate to the adult's circumstances, whether by using modified language, visual aids or other means.
- (4) For subsection (2)(c), an adult is taken to communicate the health care decision if the adult communicates the decision in a way that is appropriate to the adult's circumstances, whether by using modified language, visual aids or other means.
- (5) An adult may have impaired decision making capacity in relation to some matters and not others.
- (6) The degree to which an adult has impaired decision making capacity may vary over time.
- (7) The cause of the impairment of the decision making capacity is immaterial.
- (8) An adult does not have impaired decision making capacity merely because the adult:
 - (a) has a disability, illness or other medical condition, whether physical or mental; or
 - (b) requires the use of practicable and appropriate support, including additional time for explanation, modified language, visual or technological aids or other means of communication; or
 - (c) engages in unconventional behaviour or another form of personal expression; or
 - (d) chooses a living environment or lifestyle with which other people do not agree; or
 - (e) makes decisions with which other people do not agree; or
 - (f) does not have a particular level of fluency in English; or
 - (g) does not have a particular level of literacy or education; or
 - (h) engages in particular cultural or religious practices; or
 - (i) does or does not express a particular religious, political or moral opinion; or
 - (j) is of a particular sexual orientation or gender identity or expresses particular sexual preferences; or

- (k) takes or took, or is or was dependent on, alcohol or drugs, unless the alcohol or drugs are causing actual impairment in relation to the health care decision; or
- (l) engages or engaged in illegal or immoral conduct.

Examples for subsection (8)(b)

- 1 *Using information or formats tailored to the particular needs of the adult.*
- 2 *Communicating or assisting a person to communicate the adult's decision.*
- 3 *Giving a person additional time and discussing the matter with the adult.*
- 4 *Using technology that alleviates the effects of an adult's disability.*