

SCHEDULE 3

Sections 3, 5B

Refusal of Treatment Certificate Agent or Guardian of Incompetent Person

I [name] [address]
certify that I am empowered to act in relation to decisions about medical treatment of
..... [name of patient] ("the patient").

I have been appointed to act by—

- * an enduring power of attorney (medical treatment) issued under the **Medical Treatment Act 1988**.
- * an appropriate guardianship order of the Victorian Civil and Administrative Tribunal under the **Guardianship and Administration Act 1986** that provides for decisions about medical treatment.

I certify that—

- (a) the patient has attained the age of 18 years;
- (b) I have been informed about and understand the nature of the patient's current condition to an extent that would be reasonably sufficient to enable the patient, if he/she were competent, to make a decision about whether or not to refuse medical treatment generally or of a particular kind for that condition. I believe that the patient would request that no medical treatment, or no medical treatment of the particular kind mentioned below, be administered to him/her.

On behalf of the patient, in relation to his/her current condition, I refuse—

- * medical treatment generally.
- * medical treatment, being
(specify particular kind of medical treatment).

Dated:

Signed: (Agent/Guardian for [Name of patient])

*Delete whichever is not applicable

Verification

We each certify as follows:

- (a) I am satisfied that [name of agent or guardian] has been informed about the nature of the patient's current condition to an extent that would be reasonably sufficient to enable the patient, if he/she were competent, to make a decision about whether or not to refuse medical treatment generally or of a particular kind for that condition and that the agent/guardian understands that information;
- (b) I was not a witness to the enduring power of attorney (medical treatment) under which (name of agent) was appointed.

Dated:

Signed: Signed:
 (Registered Medical Practitioner) (Another Person)

Patient's current condition

The patient's current condition is (describe condition)

The patient is incompetent.

Dated:

Signed:

(To be signed by the same registered medical practitioner)

NOTICE OF CANCELLATION (*For completion where patient agent or guardian cancels the certificate under section 7 of the **Medical Treatment Act 1988***)

I cancel this certificate

Dated:

Signed (Patient, agent or guardian)

or

The patient, agent or guardian clearly expressed or indicated a decision to cancel this certificate

on (Date)

Signed (Person witnessing patient's agent's or guardian's decision)

NOTES:

1. **"Medical treatment"** means the carrying out of—

- (a) an operation; or
- (b) the administration of a drug or other like substance; or
- (c) any other medical procedure—

but does not include palliative care.

"Palliative care" includes—

- (a) the provision of reasonable medical procedures for the relief of pain, suffering and discomfort; or
- (b) the reasonable provision of food and water.

The refusal of palliative care is not covered by the **Medical Treatment Act 1988**.

- 2. An alternate agent can only make a decision about a patient's medical treatment if the alternate agent first produces to each medical practitioner who is to verify this certificate a statutory declaration that meets the requirements of section 5AA(1) of the **Medical Treatment Act 1988**.
- 3. If this certificate is to be completed by an alternate agent, a medical practitioner must refuse to verify this certificate if the alternate agent does not produce to him or her a statutory declaration that meets the requirements of section 5AA(1) of the **Medical Treatment Act 1988** or if the medical practitioner reasonably believes that the original agent can be contacted and is not incompetent.
- 4. If a medical practitioner is asked to sign the verification part of this certificate and has doubts about any of the following matters, an application may be made to the Victorian Civil and Administrative Tribunal to review the case—
 - (a) whether the patient is incompetent;
 - (b) in the case of an alternate agent, whether the medical practitioner or other person should decline to be satisfied of the matters referred to in paragraph (a) of the verification, in accordance with section 5AA(2) of the **Medical Treatment Act 1988**;
 - (c) whether the agent or guardian is competent to act and is acting in good faith in refusing medical treatment on behalf of the patient.