

Who is a Person Responsible?

If a person has a disability and is incapable of understanding the nature and affect of medical treatment, a 'Person Responsible' can give consent on that person's behalf.

A Person Responsible for a child (under 18 years) will be the child's parent or, if they are married, their spouse.

A Person Responsible for an adult (18 years or over) will be one of the following, in order of priority:

- a **guardian**; (this includes an enduring guardian);
- his or her spouse (this includes de facto spouses and same sex spouses);
- an unpaid carer who is now providing support to the person or provided this support before the person entered residential care;
- a close relative or friend of the person, who has a close personal relationship with the other person through frequent personal contact and who has a personal interest in the other person's welfare.

What are the responsibilities of a Person Responsible?

If you are a Person Responsible you must make decisions that are in the best interests of the patient. For example, you should ask the medical practitioner the same questions about the patient's treatment that you would ask if the treatment was being proposed for yourself. You must consider:

- what is the proposed treatment?
- why is the treatment proposed?
- what are the patient's wishes?
- what is the likely consequence of not undertaking the treatment?
- what, if any, are the alternatives?

- what are the risks?
- what are the benefits of the proposed treatment?
- what are the possible side effects of the treatment?

Is a Person Responsible always required to make a decision about proposed medical and dental treatment?

No. There are some instances where a Person Responsible's consent is not required:

- **when there is a medical or dental emergency**

This means the treatment is needed to save the patient's life, to prevent serious damage to the patient's health or to prevent the suffering of significant pain or distress.

- **when the treatment is minor**

For example, a visual examination of the patient's mouth, eyes, ears or throat, providing first aid or the administration of a nonprescription drug (such as painkillers or an antihistamine) within recommended dosages.

Are there medical and dental treatments that a Person Responsible cannot consent to?

Yes. There are some instances where a Person Responsible cannot consent to treatment, these are called Special Treatments and are defined under the *Guardianship and Administration Act 1995* as:

- those likely to lead to infertility
- termination of pregnancy
- removal of tissue for transplant
- psychosurgery
- any treatment involving an aversive stimulus

The Guardianship and Administration Board (the Board) must decide to consent or refuse consent for a *Special Treatment* after an application and a hearing.

please see next page

How does a Person Responsible give consent to medical or dental treatment?

If a Person Responsible decides to consent to the treatment, generally his/her consent needs to be in writing. However, if it is not practicable to give the consent in writing, for example if the patient needs treatment urgently, the Person Responsible can give his or her consent orally. The Person Responsible must confirm that consent in writing as soon as practicable and give it to the treating practitioner.

What if the patient objects to the proposed treatment?

If a Person Responsible has given substitute consent in accordance with his or her responsibilities, that consent can override the patient's refusal to the proposed treatment.

What if the Person Responsible does not want to or cannot make the decision?

In this situation the medical or dental practitioner should contact the Board.

More information:

Please refer to [Understanding the Person Responsible](#)

Other fact sheets available in this series:

- 1 WHAT IS THE GUARDIANSHIP & ADMINISTRATION BOARD?
- 2 GUARDIANSHIP
- 3 ADMINISTRATION
- 4 CONSENT TO MEDICAL OR DENTAL TREATMENT
- 5 CONSENT TO MEDICAL TREATMENT BY A PERSON RESPONSIBLE
- 6 REVIEW OF ENDURING POWERS OF ATTORNEY
- 7 REVIEW OF ENDURING GUARDIANS
- 8 STATUTORY WILLS
- 9 RESTRICTIVE INTERVENTIONS
- 10 WHAT IF I DON'T AGREE WITH THE BOARD'S DECISION?

ENDURING GUARDIANSHIP INFO SHEET

Guardianship and Administration Board

Level 1, 54 Victoria Street, Hobart Tasmania 7000

Phone: 1300 799 625 / 03 6165 7500 Fax: 03 6233 4509

Email: Guardianship@justice.tas.gov.au Website: www.guardianship.tas.gov.au