

# Understanding the role of a Statutory Health Attorney

If an adult lacks the capacity to make a health care decision for themselves and has not completed an Enduring Power of Attorney or Advance Health Directive, they will need someone to make this decision for them.

However, in many cases it isn't necessary to have a formal decision maker appointed by the Queensland Civil and Administrative Tribunal (QCAT) for health decisions, as medical professionals can contact the adult's Statutory Health Attorney when a health care decision is required.

This is a much less restrictive option for the adult as the decision-making power of a Statutory Health Attorney only lasts as long as the health care decision needs making.

## How is a Statutory Health Attorney appointed?

A Statutory Health Attorney does not need to be formally appointed – they automatically act in this role when the need arises, as outlined in s62 of the *Powers of Attorney Act 1998*.

## Who can act as a Statutory Health Attorney?

By law, a Statutory Health Attorney is the first available and culturally appropriate person (over the age of 18) from the following:

- a spouse or de facto partner (as long as the relationship is close and continuing)
- a person who is responsible for the adult's primary care but is not the adult's health provider, a service provider for a residential service where the adult is a resident, or a paid carer (although they can be receiving a carer's pension), or
- a friend or relation in a close personal relationship with the adult. Relation can also include a person who under Aboriginal tradition or Torres Strait Islander custom is regarded as a relation

If the medical professional has tried to contact a Statutory Health Attorney and is unsuccessful, or there is no one suitable, then the Public Guardian can act in this role as a last resort.

## When would a Statutory Health Attorney start making decisions?

If the adult has impaired decision-making capacity and needs a decision made about their health care, a Statutory Health Attorney will start acting in this role when a need for a decision is identified. As soon as a decision no longer needs making, or if the adult regains capacity, the Statutory Health Attorney no longer act in the role.

## What are the responsibilities of a Statutory Health Attorney?

All decisions made by the Statutory Health Attorney must maintain and promote the health and wellbeing of the adult with impaired capacity and be in their best interests, as outlined in the General and Health care Principles of the *Powers of Attorney Act 1998*. This means the Statutory Health Attorney should:

- choose the least intrusive treatment if available
- take the person's views and wishes into account as much as possible
- consider a doctor's opinion.

## When is a Statutory Health Attorney not needed?

If someone has completed an Enduring Power of Attorney appointing an attorney for health matters, then their attorney will make any health care decisions that need making. Additionally, if the adult has completed an Advance Health Directive, medical professionals should look to this document in the first instance for directions on treatment.

It's important to note that under the *Guardianship and Administration Act 2000*, medical professionals can administer urgent health care where the treatment is needed to prevent immediate harm or suffering to the person. In these situations, if the person has impaired capacity and there is no known objection to the health care a decision maker, including a Statutory Health Attorney, does not need to be consulted. Similarly, consent is not needed for minor or uncontroversial health care, such as first aid, taking blood pressure or giving medications normally obtained without a prescription.

**For more information**

To find out more information about the role of a Statutory Health Attorney, go to our website or call 1300 653 187.

If you need to contact our health care consent phone line call 1300 753 624 Monday-Friday 7am-7pm and Saturday, Sunday and public holidays 9am-5pm.

A decorative horizontal line in a light green color with several small circles of varying sizes along its path. On the left side, there is a larger circular graphic with a stylized flower or leaf pattern in white and blue.

### Contact us

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