



# Statutory Health Attorney

## Information for decision-makers

If an adult lacks the ability to make a health care decision for themselves and has not completed an Enduring Power of Attorney (EPOA) or Advance Health Directive (A), they 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 while the health care decision needs to be made.

## 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 (if 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 lives

- 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. A person can also be considered a relation under Aboriginal tradition or Torres Strait Islander custom.

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?

When an adult has impaired decision-making ability and needs a decision made about their health care, a Statutory Health Attorney starts acting in this role. As soon as a decision is no longer needed, or if the adult regains capacity, the Statutory Health Attorney no longer acts 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 EPOA appointing an attorney for health matters, then their attorney makes any health care decisions needed. Additionally, if the adult has completed an AHD, 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 decision-making ability 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, visit [www.publicguardian.qld.gov.au](http://www.publicguardian.qld.gov.au) or call **1300 653 187**.

## Health care consent

For registered health professionals that require health care consent.

Phone: **1300 753 624**

Hours of operation are 9am - 5pm every day, including weekends and public holidays.



### Contact us

T **1300 653 187**

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### Acknowledgement of Country

The Office of the Public Guardian acknowledges and pays our respects to the Traditional Custodians over the lands, seas and waterways throughout the state of Queensland in which we work and live and pay our respects to their Elders, past, present and emerging.

### Translation

If you need translation services, contact the Translating and Interpreting Service on **131 450**.