

# Statutory Health Attorney

## What is a statutory health attorney?

A statutory health attorney (SHA) is someone with automatic authority to make health care decisions for you if you become unable to make them because of illness or incapacity.

## Why is a statutory health attorney needed?

We all have the legal right to choose the medical treatment we want, or do not want, to receive.

But if we became seriously ill, unconscious or unable to communicate, we wouldn't be able to make and express our own decisions.

Although health professionals are legally able to carry out urgent life-saving treatments for us, if we suddenly become ill, they do need to gain consent before proceeding with other medical care treatments.

A statutory health attorney becomes a substitute decision maker in these matters.

## How is a statutory health attorney appointed?

You do not need to formally appoint a statutory health attorney – this person automatically acts in this role when the need arises because of their relationship with you.

In fact, a statutory health attorney is only necessary:

- if the Queensland Civil and Administrative Tribunal has not appointed you a guardian for health care matters or
- if you have not appointed an enduring power of attorney or
- if you have not provided direction about your medical treatment in an Advance Health Directive.

## Who would be my statutory health attorney?

There is no special expertise needed to be a statutory health attorney – by law, it's the first available and culturally appropriate adult from the following:

- a spouse or de facto partner (as long as the relationship is close and continuing)
- a person who is responsible for your primary care (but is not a paid carer, although they may receive a carer's pension)
- a close friend or relative (over the age of 18).

## When would my statutory health attorney start making decisions for me?

Before someone acts as your statutory health attorney, a health professional would assess your capacity to make health care decisions.



### Contact Us

Office of the Public Guardian

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### **This involves considering whether you would be able to:**

- understand the nature and effect of your decision (including the consequences of refusing treatment)
- freely and voluntarily make the decision
- communicate the decision in some way.

They will also determine the type and complexity of the decision that needs to be made. For instance, someone with an illness may be able to consent to the use of antibiotics, but not to surgery.

### **How long can a statutory health attorney act for me?**

The authority of your statutory health attorney lasts only for as long as it is needed.

If you have a temporary condition, once you recover and can make informed decisions about your treatment, you are again able to give consent for your health care.

If your condition is ongoing, your statutory health attorney will continue to make decisions for you as long as it's necessary.

### **What are the responsibilities of a statutory health attorney?**

Under the principles of Queensland law, all health care decisions made for you must maintain or promote your health or wellbeing and be in your best interests.

#### **This means that when making a decision, your statutory health attorney should:**

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

### **What if there are disagreements about my treatment?**

If there is ever any conflict over a health care decision that your statutory health attorney has made, the Public Guardian may be able to help. If this fails to resolve the dispute, the Public Guardian may become your statutory health attorney and make health care decisions for you.

Similarly, if your attorney cannot make a decision about your care, then the Public Guardian will act in this role.