

# APPLICATION FORM - AGED CARE RESTRICTIVE PRACTICES SUBSTITUTE DECISION MAKER

## WHAT VCAT CAN DO

Under the Aged Care Restrictive Practices Substitute Decision-maker Act 2024, VCAT can appoint a restrictive practices substitute decision-maker or make orders about decision-making capacity. VCAT can also make orders about the validity of a nomination or a revocation of a restrictive practices nominee, the appointment of a substitute decision maker, and the revocation of a VCAT appointment of a substitute decision-maker. We can act as the decision-maker of last resort and consent to the use of restrictive practices, where no one else can be identified as a substitute decision-maker.

## APPLICATION DETAILS

### 1. Select at least one type of application you are making:

- ☐ Application to be appointed as restrictive practices substitute decision-maker - S9 of the Act;  
If you are applying to be appointed as restrictive practices substitute decision-maker, you need to provide a Behaviour Support Plan and a Medical Report as indicated above. Your VCAT hearing may be delayed if a copy is not provided before the hearing. VCAT will need to determine that no restrictive practices substitute decision-maker nominee or a temporary substitute decision-maker is already appointed.
- ☐ I acknowledge that I am over 18 years of age
- ☐ I acknowledge that I have an ongoing personal or professional relationship with the care recipient
- ☐ I acknowledge that I am not an employee or agent of the approved aged care provider, or a person who is or may be involved in the preparation of a Behaviour Support Plan, or subject to a current family violence intervention order in which the care recipient is the affected family member or a person who has a conviction, other than a spent conviction, for committing an offence against the care recipient.
- ☐ Application for VCAT to consent to the use of restrictive practices - S10 of the Act;  
Only approved aged care providers may apply to VCAT for consent to the use of a restrictive practice in relation to a care recipient if the restrictive practice is clearly set out in the Behaviour Support Plan for the care recipient. VCAT may consent to the use of a restrictive practice only if the care recipient does not already have a Restrictive Practices Substitute Decision-maker either nominated by the care recipient, or subsequently appointed, and the use of the restrictive practice is appropriate.
- For this type of application, you need to provide a Behaviour Support Plan, a Medical Report indicating the decision-making capacity of the care recipient, as well as a Statement of preferences and values by the care recipient (if available).
- ☐ Application for orders in relation to decision-making capacity of care recipient – S11 of the Act  
An eligible applicant (restrictive practices nominee, any family member of the aged care recipient, or a substitute decision-maker appointed by VCAT) may apply to VCAT for an order regarding the care recipient's decision-making capacity at the time of nominating or revoking the nomination of a restrictive practices nominee, whether this was done in the past or at the present time. A person other than an eligible applicant may make this application to VCAT if VCAT grants permission.  
For this type of application, you need to provide a Behaviour Support Plan, a Medical Report indicating the decision-making capacity of the care recipient, and the Nomination of restrictive practices nominee.
- ☐ Other orders – S12 of the Act  
An eligible applicant (restrictive practices nominee, any family member of the aged care recipient, or a substitute decision-maker appointed by VCAT) can apply to VCAT about the following:
- ☐ The validity of a nomination of a restrictive practices nominee.
- ☐ The validity of a revocation of a restrictive practices nominee.
- ☐ The appointment of a restrictive practices substitute decision-maker (nominated by the aged care recipient or a temporary decision-maker)
- ☐ The revocation of a VCAT appointment of a restrictive practices substitute decision-maker previously appointed by VCAT.
- For this type of application, you will need to provide a Medical Report indicating the decision-making capacity of the care recipient, Behaviour Support Plan and the Nomination of restrictive practices nominee.

## RESTRICTIVE PRACTICE BEING PROPOSED IN THE BEHAVIOUR SUPPORT PLAN

### 2. What is the restrictive practice being proposed by the aged care facility?

- ☐ Physical restraint      ☐ Mechanical restraint      ☐ Environmental restraint (e.g. locked doors)  
☐ Chemical restraint (e.g. psychotropic medication for behavioural control)      ☐ Seclusion  
☐ Other – please describe:

## ASSESSMENT OF LESS RESTRICTIVE ALTERNATIVES

### 3. Have other less intrusive strategies or interventions been tried?

- ☐ Yes, provide details of the strategies or interventions tried:      ☐ No, skip to Question 5  
☐ Don't know, skip to Question 5

### 4. Explain why the less intrusive strategies / interventions mentioned above were found not to be effective?

## BEHAVIOUR SUPPORT PLAN

### 5. Is the proposed restrictive practice included in a current Behaviour Support Plan (BSP)?

- ☐ Yes, attach a copy of the BSP to this form      ☐ No, explain why it's not included in the BSP below:  
☐ Don't know, skip to Question 6.

## REASONS FOR MAKING AN APPLICATION

### 6. Briefly explain your reasons for making this application

### 7. Are you applying for a rehearing?

Application for a rehearing must be received within 28 days of the date the final order was issued or if written reasons were provided then within 28 days of the date those reasons were provided.

☐ Yes

☐ No

Date on the final order (DD/MM/YYYY):

/ /

## WHO DOES THIS APPLICATION RELATE TO?

### 8. Name of aged care recipient

Title

Given name

Last name

### 9. Aged care recipient's date of birth (DD/ MM/ YYYY)

Aged care recipient's DOB (DD/MM/YYYY):

/ /

### 10. Provide details of the Aged Care Facility where the care recipient currently resides

Name of organisation or aged care facility

Email

Phone number

Street address

Suburb

State

Postcode

### 11. Is there an existing VCAT application about this person?

☐ Yes, provide VCAT reference number of existing application

☐ No

☐ Don't know

VCAT reference number of existing application if known

**12. Does the aged care recipient have any medical condition or disability?**

- |  |   |
|--|---|
| <input type="checkbox"/> Dementia                | <input type="checkbox"/> Brain injury                       |
| <input type="checkbox"/> Intellectual impairment | <input type="checkbox"/> Mental disorder                    |
| <input type="checkbox"/> Neurological impairment | <input type="checkbox"/> Physical disability                |
| <input type="checkbox"/> Other,                  | <input type="checkbox"/> No medical condition or disability |

Please provide details below:

**13. Does the aged care recipient identify as Aboriginal or Torres Strait Islander?**

- ☐ Yes      ☐ No      ☐ Don't know

**14. Would the Aged Care Recipient require an interpreter?**

- ☐ Yes      ☐ No      ☐ Don't know

Language requiring an interpreter

**WHO IS APPLYING?**

**15. Are you the person described in the previous section?**

- ☐ Yes, this application is about me. Skip to question 17      ☐ No

**16. What is your relationship to the Care Recipient?**

For example: spouse, primary carer, child, sibling, member of extended family, close personal friend, previous carer, general practitioner or allied health professional who has treated the care recipient, Public Advocate, lawyer or accountant, trustee or director of a trust in which the recipient is a beneficiary.

Relationship to the person you are applying about:

**17. Provide your contact details below**

Title	<input type="text"/>	Given name	<input type="text"/>	Last name	<input type="text"/>
Email	<input type="text"/>				
Phone number	<input type="text"/>				
Street address	<input type="text"/>				
Suburb	<input type="text"/>	State	<input type="text"/>	Postcode	<input type="text"/>

## LEGAL REPRESENTATION

### 18. Are you represented by a lawyer or a professional advocate?

☐ Yes ☐ No, skip to question 21

☐ I am the lawyer or professional advocate for the person I am applying about, skip to Question 21.

### 19. Details of lawyer or professional advocate

Title  Given name  Last name

Organisation or legal firm's name

Email

Phone number

Street address

Suburb  State  Postcode

### 20. Do you want VCAT to send all correspondence to your professional representatives?

☐ Yes ☐ No

## RELATIVES AND PERSONS WITH A DIRECT INTEREST

We need to ensure people with a direct interest in the care recipient are aware of this application. Examples of someone with an interest include the patient's relatives, close friends, their guardian, administrator, supportive guardian, supportive administrator, their attorney appointed under an enduring power of attorney or their supportive attorney.

### 21. Apart from those you have already mentioned above, do you know of anyone else with a direct interest in the Care Recipient?

☐ Yes ☐ No, skip to question 25 ☐ Don't know, skip to question 25

## DETAILS OF PERSONS WITH A DIRECT INTEREST – PERSON 1

### 22. Provide details of person with a direct interest in the patient – Person 1.

Title  Given name  Last name

Relationship to the person you are applying about

Email

Phone number

Street address

Suburb  State  Postcode

## DETAILS OF PERSONS WITH A DIRECT INTEREST – PERSON 2

### 23. Provide details of person with a direct interest in the patient – Person 2.

Title	<input type="text"/>	Given name	<input type="text"/>	Last name	<input type="text"/>
Relationship to the person you are applying about		<input type="text"/>			
Email	<input type="text"/>				
Phone number	<input type="text"/>				
Street address	<input type="text"/>				
Suburb	<input type="text"/>	State	<input type="text"/>	Postcode	<input type="text"/>

## DETAILS OF PERSONS WITH A DIRECT INTEREST – PERSON 3

### 24. Provide details of person with a direct interest in the patient – Person 3.

Title	<input type="text"/>	Given name	<input type="text"/>	Last name	<input type="text"/>
Relationship to the person you are applying about		<input type="text"/>			
Email	<input type="text"/>				
Phone number	<input type="text"/>				
Street address	<input type="text"/>				
Suburb	<input type="text"/>	State	<input type="text"/>	Postcode	<input type="text"/>

## ATTENDANCE AT THE HEARING

The attendance of the aged care recipient you are applying about is highly desirable, unless you provide a medical certificate from a medical practitioner clearly outlining why they cannot attend.

We offer a range of support services for people with disabilities, language difficulties and concerns about their personal safety. Let us know of your needs so we can make arrangement for the hearing.

### 25. Is there anything preventing the person you are applying about from attending the VCAT hearing?

☐ Yes, provide details below: ☐ No

The person cannot attend the VCAT hearing due to:

## HEARING ARRANGEMENTS

We offer a range of support services for people with disability, language difficulties and to help with accessibility. Let us know of your needs so we can make arrangements for the hearing.

### 26. Does anyone mentioned in this application need special assistance at the hearing?

☐ Help accessing the venue (e.g. wheelchair access)

☐ Interpreter required

Language:

☐ Assisted communication (e.g. assistive listening device or hearing loop)

☐ Attend the hearing by phone or video link

☐ Security

☐ Other

Provide more detail about who needs the forms of assistance you have indicated and why.

## APPLICATION CHECKLIST

**Documents you must attach with this application before you submit (if applicable to the type of application being made as mentioned in Question 1 above):**

☐ Behaviour Support Plan (BSP)

☐ Medical Report

☐ Nomination of restrictive practices nominee

☐ Statement of Preferences and values

## NEXT STEPS

**Ensure you do the following:**

☐ Give a copy of this application to every person mentioned in this application

☐ Make a copy of this application for your own records

☐ Speak to the person whom this application is about (if possible)

## ACKNOWLEDGMENT

By completing this application, I understand and acknowledge that:

- ☐ to the best of my knowledge, all information provided in this application is true and correct
- ☐ I approve the information that has been provided
- ☐ I have or will send a copy of this completed application form to all of the following:
  - person you are applying about (if not you)
  - all relatives and interested persons
  - the primary carer
  - the service provider (residential aged care facility)
  - the person's current administrator and/or guardian (if applicable)
  - the appointed substitute decision-maker (if applicable)
  - the nominated substitute decision-maker (if applicable)
- ☐ I will notify VCAT in writing if I cannot provide a copy of this application to any party
- ☐ it is an offence under section 136 of the *Victorian Civil and Administrative Tribunal Act 1998* to knowingly give false or misleading information to VCAT

Date (DD/MM/YYYY):

## PRIVACY INFORMATION

Our privacy statement is available at [www.vcat.vic.gov.au/Privacy](http://www.vcat.vic.gov.au/Privacy)

## SUBMITTING THIS FORM

### By email

Email  
[humanrights@courts.vic.gov.au](mailto:humanrights@courts.vic.gov.au)

### In person

Go to:  
VCAT  
Level 4, 414 La Trobe St,  
Melbourne VIC 3000

### By post

Send to:  
Human Rights Registrar  
GPO Box 5408  
Melbourne VIC 3001

## NEED HELP WITH YOUR APPLICATION?

If you have any questions about completing this form, contact us:

- email [humanrights@courts.vic.gov.au](mailto:humanrights@courts.vic.gov.au)
- call 1300 018 228 between 9am - 4.30pm Monday to Friday
- visit us at Level 4, 414 La Trobe St, Melbourne VIC 3000.  
We are open Monday to Friday from 8.30 am to 4.30 pm.  
For other VCAT locations, go to [www.vcat.vic.gov.au/ContactUs](http://www.vcat.vic.gov.au/ContactUs).