My doctor understands my wishes; why should I complete a legal document?

Most decisions about the treatment of people with a life-threatening illness are made in the context of a good relationship between the treating doctor and the patient. Decisions to stop treatments that are painful, distressing or not worthwhile are made on an ongoing basis as circumstances change. In such a setting there may be no need to formalise the refusal.

However, you could be seen by a different doctor in an emergency situation. Then, if you are unable to communicate, it is difficult to ensure that your wishes are followed. Emergency staff and ambulance officers are trained to give priority to life-saving measures. They will, correctly, ignore the opinion of a friend or relative that you would refuse a particular treatment, unless you have completed the certificate.

If an ambulance is needed for a palliative care (pc) patient, ring the pc team or the patient’s doctor first. When the ambulance arrives, ask the officers to contact the pc team or doctor. Palliative care patients who need hospital treatment are best admitted by the treating doctor, rather than through the Accident and Emergency Department.

Knowing that you have completed a Refusal of Treatment Certificate is a great reassurance to family members who are not close by during your illness, but who visit from time to time. It is also recommended if you have lost touch with your family of origin, or live in a de facto or same sex relationship. Having your wishes spelled out can save conflict within the family, or between family members and health care providers.
Who can refuse medical treatment?

In Victoria, any legally competent adult may refuse treatment for any current condition. A properly appointed Medical Power of Attorney (medical agent)* may refuse treatment on the patient’s behalf, but only if the patient is legally incompetent.

What treatment can I refuse?

You can refuse almost any medical treatment. You can specifically refuse surgery, drug therapy, blood transfusion or radiotherapy. You can accept some surgical procedures and refuse others and you can accept some medications and refuse others. You can refuse life-sustaining treatments, including resuscitation, being put onto a breathing machine and being fed through a tube.

What can’t I refuse?

A refusal of treatment certificate specifically excludes refusing palliative care, namely reasonable medical procedures for relieving pain, suffering and discomfort. These measures, including medications, are just to control symptoms and provide comfort. Food and drink to be taken by mouth must be offered to you.

What do I have to do?

You or your medical agent must have enough information about your condition to be able to make a decision about whether or not to refuse treatment in general, or to refuse a particular treatment. This means that you understand the course of the disease or condition both with and without the proposed treatment, as well as the nature of the treatment itself.

How is refusal notified?

When you are satisfied that you understand both your condition and the treatment, complete a Refusal of Treatment Certificate, which must also be signed by the doctor and a witness not involved in your health care. Your specific instructions about palliative care can be included in the certificate.

- Blank certificates are held by hospitals, nursing homes and palliative care services.
- Rolls Printing, Phone (03) 8770 1111, Fax (03) 8770 1100 will send you a free copy on request. Ask for Form MR 09-6 (competent adult) and/or MR 09-7 (agent or guardian of incompetent person).

Keep a copy of your completed certificate. Your treating doctor will file the original in your medical record and send copies to any nursing home, hospital or hospice where you are staying, and to the Victorian Civil and Administrative Tribunal*.

How can I be sure my instructions will be followed?

You do not have to produce the certificate each time. Your refusal of treatment can be communicated by any means that is clear. If you are unable to communicate, doctors and ambulance officers will accept verbal advice, given in good faith, that you have completed a refusal of treatment certificate.

Can I change my mind?

A refusal of treatment can be withdrawn at any time, provided that you are legally competent. You can communicate the withdrawal by any means. The withdrawal does not have to be written.

Can I give advance directives?

An advance directive is a direction about your medical care in case you develop a disease or condition that you do not presently have. Victorian legislation does not provide for this type of directive. If you feel strongly about some forms of treatment, or are concerned about the treatment of an illness or condition that you might develop in the future, you should discuss the matter with family members, and with your medical agent*. Write down your wishes and give them copies. Then, if you are not able to communicate, those who must make decisions on your behalf will know what your wishes are.

What protection do I have?

Doctors are obliged to comply with a properly completed Refusal of Treatment Certificate, and are protected against legal action if they rely on it in good faith.

Any person who suspects that a medical agent* is not acting in the best interest of the patient, or that a refusal of treatment is not being complied with, should raise the matter with the Office of the Public Advocate, Phone 9603 9500 Toll Free 1800 136 829. An emergency service (24 hrs) is provided.

The Victorian Civil and Administrative Tribunal can cancel an Enduring Power of Attorney (Medical Treatment)*, suspend a refusal of treatment and/or appoint a Guardian for an incompetent person if it is satisfied that this will be in the best interest of the patient.

* See the Palliative Care Victoria leaflet “about Appointing an Enduring Power of Attorney (Medical Treatment)”. 