

**IN THE SUPREME COURT OF VICTORIA
IN ITS PROBATE JURISDICTION**

S PRB [*Application No.*]

In the matter of the deceased estate of [*name*]

Application by:

[*Plaintiff's name*]

Plaintiff(s)

AFFIDAVIT OF TESTAMENTARY CAPACITY

Date of document:

Filed on behalf of the Plaintiff

Prepared by: [*name and
address of lodging party*]

Ref: [*solicitors only*]

CODE: [*solicitors only*]

Tel: [*number*]

E-mail: [*e-mail address*]

I, [*insert name and address of medical practitioner*], [*occupation*] affirm/make oath and say that:

1. I am a duly qualified medical practitioner working as a [*type of medical practitioner*] at [*organisation*].
2. I am informed by the [*solicitor for the plaintiff/plaintiff*] that [*deceased's name*] ('the deceased') who died on [*date*] made a will which was executed by them on [*date*].
3. The deceased was a patient of mine from [*Date*] until [*Date*].
4. I am informed by the [*solicitor for the plaintiff/plaintiff*] that the Registrar of Probates has requested medical evidence with respect of the testamentary capacity of the deceased at the time of making their will.
5. [*Delete if not applicable*] I am informed by the [*solicitor for the plaintiff/plaintiff*] that medical evidence was requested as the death certificate indicates the deceased was suffering from [*name of illness/condition*] at the time of executing their will. According to records, the deceased was first diagnosed with [*name of illness/condition*] on [*date*].
6. I am further informed by the [*solicitor for the plaintiff/plaintiff*] that the test for whether the deceased had testamentary capacity at the time of making their will is that the deceased:
 - (a) would have understood the nature and effect of making a will;
 - (b) would have been aware of the general nature and value of their property;
 - (c) would have been aware of those persons who would have a natural claim to their estate;
 - (d) would have been able to evaluate and discriminate between such claims; and

(e) was not suffering from a mental illness or disorder that would have impacted on their capacity to make a will.

7. I have reviewed the medical records of the deceased and in my opinion, giving consideration to the matters above, I believe the deceased would have had full testamentary capacity at the date of executing their will. *[include any further matters relevant to this conclusion]*

The contents of this affidavit are true and correct and I make it knowing that a person making a false affidavit may be prosecuted for the offence of perjury.

Sworn/affirmed by
the deponent

at *[place]*
on *[date]*

Before me:

Witness Full Name

Address

Qualification

A person authorised under section 19(1) of the *Oaths and Affirmations Act 2018* to take an affidavit.
