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 BY A MEDICAL PRACTITIONER

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]*

Guidance for completing this affidavit

This affidavit should be completed by a medical practitioner who treated, assessed or examined the deceased around the time the will was made.

The affidavit should be based on your own treatment, assessment or examination of the deceased and your review of the deceased's medical records.. If you do not have an independent recollection of the deceased, you may rely on your contemporaneous medical records.

Complete the information requested wherever you see words in square brackets [ ]. Before the document is signed, remove this guidance section and any instructions or examples in the document.

If you rely upon medical records when forming your opinion, attach copies of the relevant records to the affidavit as exhibits where appropriate. If you do not attach any records, you do not need to complete the certificate identifying exhibit attached.

I, *[insert name and address], [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. The late *[full name of deceased]* ("the deceased") was a patient of mine from approximately *[date]* until *[date]*.

3. I understand that this affidavit relates to the deceased's testamentary capacity at the time a will dated *[date]* ("the will") was made.

4. Now produced and shown to me collectively marked "A" are copies of the following medical records of the deceased that I consulted in preparing this affidavit: *[provide details or state "I have not attached any medical records"]*

5. At or around the time the will was made, the deceased was affected by the following medical conditions: *[provide details or state "none known"].*

6. I treated, assessed or examined the deceased on the following occasions relevant to the period around when the will was made: *[provide dates and details].*

7. During my treatment, assessment or examination of the deceased, I made the following observations relevant to the deceased's cognition, memory, understanding, communication and decision making: *[provide details].*

8. In considering whether the deceased had testamentary capacity when the will was made, I have considered whether the deceased:

   (a) understood the nature and effect of making a will;

   (b) understood the general nature and extent of their property;

   (c) understood the persons who might reasonably be expected to benefit from their estate;

   (d) was capable of evaluating and weighing competing claims upon their estate; and

   (e) was affected by any condition or disorder of mind that influenced the dispositions made in the will.

9. Based on my treatment, assessment and observations of the deceased, and my review of the deceased's medical records, my opinion is that:

   (a) the deceased *[did/did not]* have testamentary capacity at the time the will was executed;

   (b) the reasons for my opinion are as follows: *[provide details].*

10. The facts set out above are based on matters personally observed by me, matters recorded in the deceased's medical records, or matters otherwise within my professional knowledge.

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.

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)

CERTIFICATE IDENTIFYING EXHIBIT

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]*

This is the exhibit marked " A " now produced and shown to [*name*] at the time of swearing/affirming their affidavit on:

……..… ……..…
[Signature of authorised witness] [Signature of deponent]

[Name, address and statement of capacity of person taking affidavit]

Exhibit "A"

[Medical Records]