



Health and Medical Directives

Have you ever thought about what type of medical treatment or health care you would or would not want to receive in certain circumstances? What about if you were in the terminal phase of an incurable illness? Would you wish to be kept alive via the use of life sustaining measures (such as artificial ventilation)? What about resuscitation? You may have firm ideas about how you want to live the rest of your life, including conditions or treatments that you might find unacceptable.

Every competent adult has the legal right to accept or refuse any recommended health care. Of course, when you are well and can speak for yourself, this is a relatively straight-forward process. However, if you are seriously ill or injured (due to accident or illness, for example), you may not be able to communicate your wishes regarding your treatment.

In Queensland, Victoria and New South Wales, you have the ability to prepare health and medical directives that set out your particular wishes in this regard. It can be difficult to turn your mind to these sorts of decisions in advance. However, taking the time to do this allows you to pre-

emptively outline what medical treatment or health care you are comfortable with in various medical circumstances, if you become no longer capable of making or communicating these types of decisions for yourself. This allows you to make your views known, in the event that you no longer have capacity.

By preparing your directions and documenting your wishes, you can relieve your loved ones of the burden of having to make difficult decisions on your behalf at what may be an emotionally charged time, especially at the 'end of life' stage, when tensions are already high. They will have peace of mind knowing that they are carrying out your wishes rather than having to make these difficult decisions themselves, without any guidance.

Each State has different requirements, which are set out in this factsheet.

Advance Health Directives (Queensland)

In Queensland, anyone over 18 years of age and who has legal capacity has the ability to

prepare a legal document known as an Advance Health Directive (AHD). The AHD allows you to decide what medical treatment or health care you do or do not wish to receive in certain medical circumstances (mostly at the 'end of life' stage). The document will take effect if you are no longer capable of making these types of decisions for yourself (due to accident or illness, for example). It is important to note that a request for euthanasia would not be followed, as this would be in breach of the law.

The AHD can also include information that your health care professionals should know about, including any underlying medical conditions that you may already have, allergies (particularly to things like medication), and religious, spiritual or cultural beliefs that could affect your care or treatment decisions (such as refusal of blood donations, for example).

The AHD must be completed while you still have capacity. It needs to be completed with your doctor, who must certify that they have discussed the document with you and that you have capacity to understand the nature and likely effects of the health care described in the document. Once your doctor has signed the document, it must then be signed by you in the presence of a Solicitor, Justice of the Peace or Commissioner for Declarations.

Once the AHD is in place, it is important to keep the document under regular review, as your views in relation to your health and medical treatment may change over time. You can make changes to your AHD provided you still have capacity to do so.

Advance Care Directives (New South Wales)

In New South Wales, you can prepare an Advance Care Directive which allows you to provide a statement setting out your directions, including your wishes and values that should be considered before medical treatment decisions are made on your behalf. An Advance Care Directive can be made by anyone over 18 years of age and who has legal capacity.

Provided the document is valid, it must be followed. Medical professionals and family members have no authority to override a valid Advance Care Directive, provided:

- + you had capacity when you wrote it;
- + it has clear and specific details about treatments that you would accept or refuse; and
- + it applies to the situation you are in at the time.

However, as in Queensland, requests regarding euthanasia will not be followed. You also can't insist on being given a particular treatment or procedure. Your health care team will consider your wishes but does not have to offer you treatment that may not benefit you.

There is no prescribed format or form for an Advance Care Directive. Should you wish to make an Advance Care Directive you can simply write down your wishes. However, while not legally required, signing a written Advance Care Directive in the presence of a qualified medical practitioner is strongly recommended to ensure that your wishes are properly recorded.

The New South Wales government has a template form that you may wish to use for this purpose.

Advance Care Directives (Victoria)

In Victoria, you can prepare an Advance Care Directive to outline your preferences for future medical treatment and health care, should you lose decision-making capacity.

You can prepare:

- + an instructional directive with legally binding instructions about future medical treatment you consent to or refuse. Provided the document is valid, any instructions in the directive will be binding on the person who you have appointed as your substitute medical treatment decision maker and on the health care professionals providing your treatment.
- + a values directive which documents your values and preferences for your medical treatment decision maker to consider when making decisions for you.

The Victorian government has a recommended form to follow which needs to be witnessed by your doctor.

Do I need to prepare an Advance Health Directive/Advance Care Directive?

No. Advance Health Directives/Advance Care Directives are entirely optional documents. You don't need to complete them if you do not wish to do so.

In Queensland, Victoria and New South Wales, if you have appointed someone to make health decisions on your behalf (under an Enduring Power of Attorney or Enduring Guardian, as

applicable) then the persons you have appointed already have the ability to make many decisions regarding your medical treatment, if you lose the capacity to make these decisions for yourself. See our Fact Sheets on '[Enduring Powers of Attorney](#)' and '[Enduring Guardians \(NSW\)](#)' for more information.

You can prepare an Advance Health Directive or Advance Care Directive if you have particular wishes or views that you want to make known to your substitute decision makers and doctors.

Please contact us on 1300 132 567 or email us at info@estatefirst.com.au to discuss how we can help you with putting in place medical and health directives.