

Advance care planning and the law: Queensland

Advance care planning is about your future health care. It gives you the opportunity to plan for what you would want or not want, if you become unable to make or communicate your own preferences. This factsheet is about advance care planning, Queensland (QLD) law and the recommended documentation.

Why should I think about advance care planning?

To make medical decisions, you must have decision-making capacity. If illness or serious injury (temporary or permanent) prevents you from making decisions about your health care, advance care planning makes sure that your values, beliefs and preferences for treatment and care are understood and respected. Completed and accessible Advance Care Directive documentation allows you to be heard and is important to your treating team and others.

How to do advance care planning

Advance care planning is an ongoing process with a number of steps.

Be open

- Think and talk about your values, beliefs and preferences for current and future health care.
- Choose a substitute decision-maker: someone you trust to speak for you if you became very sick and couldn't speak for yourself. Ask them if they are prepared to be your substitute decision-maker.

Be ready

- Talk about your values, beliefs and preferences with your substitute decision-maker and other people involved in your care such as family, friends, carers and doctors.
- Write your preferences and/or appoint your substitute decision-maker using the recommended Advance Care Directive document(s).

Be heard

- Share your Advance Care Directive documentation with your substitute decision-maker, family, friends, carers and your doctors. This will help ensure everyone knows what you want.
- Upload your completed documents to your My Health Record.
- Review your plan regularly and update it as needed.

Who will speak for you?

If you become unable to make decisions about your own health care, a substitute decision-maker will make decisions on your behalf.

Your substitute decision-maker may be:

- Chosen and appointed by you
- Appointed for you by a guardianship tribunal
- Identified for you by a default list under legislation.

Your substitute decision-maker is the first of the following who is available, willing and able to make decisions:

1. An **attorney or attorney for an Advance Health Directive** appointed by you
2. A **guardian** appointed by the Queensland Civil and Administrative Tribunal to make decisions on your medical treatment.
3. The first of the following (**statutory health attorney**):
 - a. Your spouse or domestic partner
 - b. Your carer
 - c. A close relative or close friend.

Advance Care Directive – appointing your substitute decision-maker

In Queensland, the substitute decision-maker appointed by you is an **attorney or attorney for an Advance Health Directive**.

You may want to choose and appoint one or more adults to this role. To do this you need to complete the *Enduring power of attorney* form. The form has specific requirements for completion and witnessing. Your chosen attorney must accept this role by signing the form.

Your attorney can consent to or refuse treatment on your behalf. They must act in accordance with any lawful limitations or conditions contained in the form. They must make the decision they believe you would make if you could make your own decision. For this reason, it is helpful to talk to them about what is important to you and any preferences you have.

Advance Care Directive – preferences for care

In Queensland, your Advance Care Directive is known as an **Advance Health Directive**. In your Advance Health Directive, you can write:

- An instructional directive with legally binding instructions about future medical treatment you consent to or refuse. If your directive relates to refusing or withdrawing life-saving treatment, certain criteria will need to be met for it to apply.
- A values directive which documents your values and preferences for your attorney to consider when making decisions for you.
- Appoint your attorney for personal/health matters.

Medical treatment includes treatment for physical and/or mental conditions.

You should use the prescribed Queensland *Advance Health Directive* form or similar. The form has specific instructions for completion that need to be followed. It needs to be witnessed by a medical practitioner and another adult. Commonly, these documents also include details regarding your organ donation status.

Upload your completed enduring power of attorney form and your Advance Health Directive to your My Health Record.

Making changes

We recommend that you review your decisions and documents regularly. This is particularly important if there is a change in your health, personal or living situation. You can update your Advance Health Directive and/or your appointment of an enduring power of attorney at any time providing you still have decision-making capacity.

Your Advance Health Directive ends when you complete a new Advance Health Directive, you revoke it, it expires (if an expiry date is included) or you die. You should let others know of any changes, and provide updated copies.

Your attorney or attorney for an Advance Health Directive appointment(s) end if you revoke it, if the people appointed are unable to act, resign their appointment, or if you die.



Will my Advance Care Directive apply in other states and territories?

In general, a valid Advance Health Directive will apply in other places in Australia, although there may be some limitations and additional requirements. Similarly, an appointment of attorney will usually apply, but there is variation in the laws within Australia.

It is recommended that you obtain specific advice from the Office of the Public Advocate or equivalent in the relevant state or territory.

If you are permanently moving state or territory, it is recommended you update your documentation using the recommended form(s) in consultation with your doctor, substitute decision-maker and/or support person.

Where can I get more information?

Advance Care Planning Australia

- advancecareplanning.org.au
- National Advisory Service: 1300 208 582
- learning.advancecareplanning.org.au
- Forms for your state or territory