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[boylanlawyers.com.au](http://boylanlawyers.com.au) | 08 8632 2777

[admin@boylanlawyers.com.au](mailto:admin@boylanlawyers.com.au)

adelaide . elizabeth . strathalbyn . victor harbor . port  
augusta . port pirie . whyalla . coober pedy . hobart .

# ADVANCE CARE DIRECTIVE - INFORMATION STATEMENT

Your witness will ask you to read this Information Statement, and will then ask you a number of questions to make sure that you understand what you are doing by making an Advance Care Directive, and it is your choice to write one.

## What is an Advance Care Directive?

An Advance Care Directive is a legal form that allows people over the age of 18 years to:

- write down their wishes, preferences and instructions for future health care, end of life, living arrangements and personal matters and/or
- appoint one or more Substitute Decision-Makers to make these decisions on their behalf when they are unable to do so themselves.

It cannot be used to make financial decisions.

If you have written a refusal of health care, it must be followed if relevant to the circumstances at the time. All other information written in your Advance Care Directive is advisory and should be used as a guide to decision-making by your Substitute Decision-Maker(s), your health practitioners or anyone else making decisions on your behalf, eg persons responsible (close family/friends).

It is your choice whether or not to have an Advance Care Directive. No one can force you to have one or to write things you do not want. These are offenses under the law.

You can change your Advance Care Directive at any time while you are still able by completing a new Advance Care Directive Form.

Your new Advance Care Directive Form will replace all other documents you may have completed previously, including an Enduring Power of Guardianship, Medical

Power of Attorney or Anticipatory Direction.

## When will it be used?

Your Advance Care Directive only takes effect (can only be used) if you are unable to make your own decisions, whether temporarily or permanently.

Your decision-making is impaired if you cannot:

- understand information about the decision
- understand and appreciate the risks and benefits of the choices
- remember the information for a short time, and
- tell someone what the decision is and why you have made the decision.

This means you are unable to make the decisions and someone else will need to make the decision for you.

## Who will make decisions for you if you cannot?

It is your choice whether you appoint one or more Substitute Decision-Makers. If you have appointed one or more Substitute Decision-Makers, they will be legally able to make decisions for you about your health care, living arrangements and other personal matters when you are unable to. You can specify the types of decisions you want them to make in Part 2b: Conditions of Appointment of your Advance Care Directive.

If you do not appoint any Substitute Decision-Makers others close to you may be asked to make decisions for you if you are unable to (Person Responsible). They must follow any relevant wishes in your Advance Care Directive.

Anyone making a decision for you will need to make a decision they think you would have made in the same circumstances. A Substitute Decision-Maker needs to "stand

# ADVANCE CARE DIRECTIVE - INFORMATION STATEMENT

in your shoes".

## Refusals of health care

You may have written in your Advance Care Directive that you do not want certain types of health care, also known as a refusal of health care. It is important to make sure you have written down when or under what circumstances any refusals of health care apply.

If you have refused specific health care in your Advance Care Directive, your Substitute Decision-Maker(s), Person Responsible and your health practitioner must follow that refusal if it is relevant to the current circumstances.

This means that your health practitioner will not be able to give you the health care or treatment you have refused.

If you refuse health care but do not write down when the refusal applies, it will apply at all times when you cannot make the decision.

A health practitioner can only override a refusal of health care if there is evidence to suggest you have changed your mind but did not update your Advance Care Directive, or the health practitioner believes you didn't mean the refusal of health care to apply in the current circumstance.

If this happens they will need consent from your Substitute Decision-Makers, if you have any, or a Person Responsible, to provide any health care.

You cannot refuse compulsory mental health treatment as listed in a community or involuntary treatment order if you have one.

## How will others know I have an Advance Care Directive?

It is recommended that you:

1. Complete the Wallet Card included in this Kit, or download it from [www.advancecaredirectives.sa.gov.au](http://www.advancecaredirectives.sa.gov.au)
2. Give a **certified copy** to any appointed Substitute Decision-Makers, your doctor, your health service where you regularly attend, and others close to you.
3. Keep a **certified copy** with you and where you can easily find it.
4. Fill out the **Emergency Medical Information Booklet** (EMIB) and display it with your Form on your fridge [www.emib.org.au](http://www.emib.org.au)
5. Add it to your **Electronic Health Record** if you have one [www.ehealth.gov.au](http://www.ehealth.gov.au)

## More information

If you'd like more information, please read the Advance Care Directive Guide provided with this Form on online at [www.advancecaredirectives.sa.gov.au](http://www.advancecaredirectives.sa.gov.au)

This Information Statement has been translated into 15 different languages and can be found on the Advance Care Directive website.

# SUBSTITUTE DECISION-MAKER GUIDELINES

**Read these guidelines before you agree to be appointed as a Substitute Decision-Maker, and keep it for future reference.**

By signing the Advance Care Directive Form you are stating that you agree to be the person's Substitute Decision-Maker and that you understand your role and responsibilities.

Before you sign, make sure you understand what types of decisions you will be able to make, how the person wants you to make those decisions for them, and that you are able to be a Substitute Decision-Maker.

Persons who **cannot be** appointed as a Substitute Decision-Maker include the person's doctor, nurse, or paid professional carer.

Family members or friends who are paid Carers' Allowance by Centrelink **can be** appointed as Substitute Decision-Makers.

After you are appointed you should keep a **certified copy** of the completed, signed Advance Care Directive where you can easily find it.

You should try to have regular discussions with the person who appointed you in case circumstances change for them.

## What is the role of a Substitute Decision-Maker?

As a Substitute Decision-Maker, you must try to make a decision you believe the person would have made for themselves in the same situation.

As a Substitute Decision-Maker, you can make all the decisions the person wanted you to make, but **you cannot:**

- Make a decision which would be illegal, such as requesting voluntary euthanasia.
- Refuse food and water to be given to

them by mouth.

- Refuse medicine for pain or distress (for example, palliative care).
- Make legal or financial decisions (unless you have also been appointed as an Enduring Power of Attorney for financial matters).

## When contacted and asked to make a decision, you must:

- Only make a decision during periods when the person who appointed you cannot make their own decision. This may be temporary or permanent.
- Support that person to make their own decision, if they are able to.
- Produce an original or **certified copy** of the person's Advance Care Directive Form or advise if it can be accessed in an electronic record.
- Only make decisions which you have been appointed to make under Part 2b Conditions of Appointment.
- Try to contact any other Substitute Decision-Maker who has been appointed to make the same types of decisions as you.
- Only make a decision on your own if no other Substitute Decision-Maker with the same decision-making responsibility as you cannot be contacted, or the decision is urgent.
- Inform any other Substitute Decision-Maker(s) of the decisions you make.
- Try to make a decision you believe the person would have made in the same circumstance. For guidance when making decisions, look at the Decision-Making Pathway over the page or for more detail,

# SUBSTITUTE DECISION-MAKER GUIDELINES (CONTINUED)

visit [www.advancecaredirectives.sa.gov.au](http://www.advancecaredirectives.sa.gov.au)

Where to get help, advice, and more information

- Advance Care Directives website **www.advancecaredirectives.sa.gov.au**:
  - How to access decision-making capacity fact sheet.
  - Supporting a person to make a decision fact sheet
  - How to make a decision - standing in the person's shoes fact sheet
- Legal Services Commission help line: **1300 366 424**
- Office for the Public Advocate:
  - Website: **www.opa.sa.gov.au**
  - Advice line: **08 8342 8200**
  - Dispute Resolution Service website:  
[www.opa.sa.gov.au/what\\_we\\_do/dispute\\_resolution\\_service](http://www.opa.sa.gov.au/what_we_do/dispute_resolution_service)

## 3 THINGS TO REMEMBER AS A SUBSTITUTE DECISION-MAKER:

1. **YOU CAN ONLY MAKE DECISIONS WHEN THE PERSON WHO APPOINTED YOU CANNOT MAKE THEIR OWN DECISION/S.**
2. **YOU MUST STAND IN THE PERSON'S SHOES AND TRY TO MAKE DECISIONS YOU BELIEVE THE PERSON WOULD HAVE MADE FOR THEMSELVES.**
3. **KEEP A CERTIFIED COPY OF THE COMPLETED AND SIGNED ADVANCE CARE DIRECTIVE WHERE YOU CAN EASILY FIND IT.**

# A GUIDE TO DECISION-MAKING FOR SUBSTITUTE DECISION-MAKERS: HOW TO STAND IN THE PERSON'S SHOES

## STEPS

**1**

The Substitute Decision-Maker may assess the person's capacity to make this decision (see *How to assess decision making capacity fact sheet*).

- If substitute decision is required, then appointed Substitute Decision-Maker proceeds to step 2.

**2**

Establish whether preferences relevant to the decision have been previously expressed in an Advance Care Directive or in previous discussions.

**3**

For health-related decisions, consider the advice of health professionals about treatment or health care options and likely outcomes in light of the person's wishes:

- interventions considered overly burdensome or intrusive;
- outcomes of care to avoid (*Part 3 and 4 of Form*).

**4**

Comply with specific refusals of medical treatments or health care and interventions if intended to apply to the current circumstances (*Part 4 of Form*).

**5**

Consider other preferences and directions in the Advance Care Directive relevant to the current decision (eg *Part 3 of Form*).

**6**

If no specific relevant preferences and directions, consult with others close to the person to determine any relevant previously expressed views and social or relationship factors he or she would consider in decision-making.

**7**

Consider the person's known values, life goals and cultural, linguistic and religious preferences and make the decision that the person would make if he or she had access to current information and advice.

**8**

Where several options meet these decision-making criteria, choose the least restrictive option that best ensures the person's overall care and well-being.

**9**

For residential decisions, consider the adequacy of existing informal arrangements for the person's care and the desirability of not disturbing those arrangements.

**10**

If there is no evidence of what the person would have decided, make the decision that best upholds the person's health, well-being and values.

## WHAT ARE THE COSTS?

- ✓ We don't charge extra for securely storing your documents.
- ✓ We charge fixed fees for tailored wills. Quoted prices include GST.
- ✓ Get the best value in service and price with Boylan Lawyers.
- ✓ We give a discount to students and pensioners.

### • Essential Service

Single

Couple

What many would consider straightforward with direct gifts to family members. Simple affairs with a few beneficiaries.

<b>Will</b>	<b>\$440</b>	<b>\$550</b>
<b>Enduring Power of Attorney</b>	<b>\$130</b>	<b>\$220</b>
<b>Advance Care Directive</b>	<b>\$130</b>	<b>\$220</b>
<b>Estate Planning Package</b> (Will + POA + ACD)	<b>\$550</b>	<b>\$660</b>

### • Tailored Service

For those who want simple but have complex lives. Unusual or complex wishes.

<b>Intricate Will</b>	<b>\$660</b>	<b>\$990</b>
<b>Intricate Estate Planning Package</b>	<b>\$1,100</b>	<b>\$1,520</b>
(Will + POA + ACD)		

### • Intricate Service

This service is for complex planning needs often necessary for business or farm owners, investors and professionals. It includes testamentary trusts, special disability trusts, complex clauses and is often used when there is an enterprise involving many assets and/or unequal distribution to beneficiaries with complex advice.

<b>Intricate Will</b>	<b>\$990*</b>	<b>\$1,320*</b>
<b>Intricate Estate Planning Package</b>	<b>\$1,100*</b>	<b>\$1,520*</b>

(Will + POA + ACD) \* Additional costs will be advised based on your needs.

### • Family Package

Parents

Per Child

<b>Estate Planning Family Package</b>	<b>\$660</b>	<b>\$440</b>
(Will + POA + ACD)		

This package combines a couple "Parents" with single "Children" as a complete service at a special family rate.

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“ Excellent service.

Cheerful, happy to help, everything was set out for us to review.”

Boylan Lawyers advise individuals, families and small business and farm owners across South Australia. We have offices in Strathalbyn, Victor Harbor, Port Pirie, Port Augusta, Whyalla, Coober Pedy, Adelaide, Mile End, Elizabeth and Hobart. We listen to your needs, deliver clear advice and are committed to delivering exceptional service. We offer specialist advice in the following areas of law:

- Hearing Loss
- Family Law
- Property Law
- Wills & Estates
- Workers Compensation
- Unfair Dismissal
- Criminal Law
- Injury Law
- Conveyancing