

Advance care planning and the law : Queensland

Advance care planning is about your future health and personal care. It gives you the opportunity to plan for what you would want, if you were unable to say it yourself. This fact sheet is about advance care planning and Queensland (QLD) law.

Why should I think about advance care planning?

If illness or serious injury (temporary or permanent) prevents you from making decisions about your health or personal care, advance care planning makes sure that your beliefs, values and preferences for treatment and care are understood and respected.

How to do advance care planning

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

Be open

- Think about your beliefs, values and preferences for current and future health and personal care.
- Choose a substitute decision-maker: someone to speak for you if you become very sick and are not able to speak for yourself.

Be ready

- Talk about your beliefs, values and preferences for current and future health and personal care: talk with your substitute decision-maker(s), family, friends, carers and doctors.
- Write your plan (an Advance Health Directive) and/or formally appoint your substitute decision-maker (an Attorney).

Be heard

- Share your document(s) with others: a written plan makes sure that your substitute decision-maker(s), family, friends, carers and doctors know what you want.
- Review your plan regularly: consider if it needs to be updated and where it is stored.

You may choose to do some or all of these steps.

For more information, please visit

advancecareplanning.org.au

Who will speak for you?

If you are unable to make decisions about your own health care, substitute decision-makers can make decisions on your behalf.

Your substitute decision-maker may be:

- nominated by you (an **attorney or attorney for an Advance Health Directive**)
- appointed by a tribunal (a **guardian**), or
- appointed by default under legislation (a **statutory health attorney**).

Attorney or attorney for an Advance Health Directive

You can appoint one or more adults as your attorney by completing an Enduring Power of Attorney form. You appoint an attorney for an Advance Health Directive by completing an Advance Health Directive.

You cannot appoint a paid carer, health provider or a residential service provider.

Your attorney can make decisions relating to healthcare decisions but not special health matters (e.g. sterilisation, termination of pregnancy, removal of non-regenerative tissue, electroconvulsive therapy).

Guardian

A guardian is a person appointed by the Queensland Civil and Administrative Tribunal.

A guardian can make the same decisions that a person would be able to make for themselves if they had the capacity to do so.

Statutory health attorney

A statutory health attorney is the person designated under Queensland law if there is no guardian or attorney appointed.

Your statutory health attorney would be chosen on your behalf in the following order:

1. your spouse or domestic partner
2. a person who is at least 18 years old and provides (unpaid) care to you
3. an adult who is a close friend or relation.

(This means your carer would be chosen as your statutory health attorney if you don't have a domestic partner, and a close relative or friend would be chosen if you don't have a domestic partner or a carer.)

Your formal advance care planning document: Advance Health Directive

Your **Advance Health Directive** is a formal document recognised by law. It only comes into effect if you are unable to make your own decisions.

Your Advance Health Directive allows you to consent to commencement of treatment and only allows you to refuse or withdraw medical treatment if certain criteria are satisfied.

You can use the [recommended form](#) or similar when completing your plan. To be legally binding, the form must be signed by an eligible witness and include a certificate signed by a doctor confirming your capacity.

We recommend that you regularly review your Advance Health Directive. Usually, health professionals are obliged to comply with the preferences stated in your Advance Health Directive, so ensure it is kept up to date.

If you want to change your Advance Health Directive, make a new one to revoke the existing directive. We encourage you to upload your Advance Health Directive to My Health Record and give a copy to your substitute decision-maker, GP and/or hospital.

Informal advance care planning documents

Queensland also allows for informal advance care planning documents such as statement of choices: a plan with general statements about preferences and values.

What about mental health matters?

The Advance Health Directive can include directions relating to mental health treatment, or there is an [advance health directive for mental health form](#).



Will my Advance Health Directive apply in other states?

An Advance Health Directive made in Queensland will apply in:

- South Australia (if it complies with South Australian law).
- Northern Territory (as long as the substitute decision-maker works within Northern Territory requirements).
- Western Australia (if an order is made by the State Administrative Tribunal to recognise the plan)
- Victoria (from 12 March 2018) (if it complies with Queensland and Victorian law it will be recognised as a values directive).

Please contact the Office of the Public Advocate for more information if you wish.

Where can I get more information?

Advance Care Planning Australia:

advancecareplanning.org.au

National Advisory Service: 1300 208 582