

Advance care planning and the law : Tasmania

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 Tasmanian (TAS) 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 Care Directive) and/or formally appoint your substitute decision-maker (an enduring guardian).

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 if the need ever arises.
- Review your plan regularly: consider if it needs to be updated and where it is stored.

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 **enduring guardian**)
- appointed by a tribunal (a **guardian**), or
- appointed by default under legislation (a **'person responsible'**).

Enduring guardian

You can appoint one or more adults as your enduring guardian by completing the [Appointing Enduring Guardians\(s\) form](#). This form must be registered with the [Guardianship and Administration Board](#) (via Service Tasmania).

You cannot appoint someone who is responsible for or is involved in your medical care.

Your enduring guardian can make decisions relating to refusal/withdrawal of treatment and give consent for procedures but cannot consent to 'special treatment' (e.g. reproductive sterilisation, removal of non-regenerative tissue for transplantation).

Guardian

A guardian is a person appointed by the Tasmanian Guardianship and Administration Board. A guardianship order may be full or limited.

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

For more information, please visit

advancecareplanning.org.au

Advance Care Planning Australia

BE OPEN | BE READY | BE HEARD

Person responsible

A person responsible is the person designated under Tasmanian law if there is no enduring guardian or guardian.

Your person responsible would be chosen on your behalf in the following order:

For a person under 18 years:

1. Your spouse (if you have a spouse)
2. Your parent (if you do not have a spouse).

For a person 18 years or older:

1. Your spouse
2. Your carer
3. A close friend or relative

This means if you are 18 years, a close friend or relative would be chosen as your person responsible if you don't have a spouse or a carer.

Your formal advance care planning document: Advance Care Directive

In Tasmania there is no law relating to advance care planning documents, but an **Advance Care Directive** is recognised by common law as being valid. It only comes into effect if you are unable to make your own decisions.

Your Advance Care Directive allows you to refuse or withdraw medical treatment and consent to commencement of treatments. You can use the [recommended form](#) or similar when completing your plan.

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

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

Tasmanian Department of Health and Human Services also recommends the use of the medical Goals of Care Plan regarding limitations of treatment.

What about mental health matters?

In Tasmania, there is no legislation regarding the recording of mental health preferences. A person may want to include preferences relating to mental health treatment in their Advance Care Directive.



Will my Advance Care Directive apply in other states?

An Advance Care Directive made in Tasmania 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).
- Queensland (if it meets the Queensland Advance Health Directive 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 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

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This publication is general in nature and people should seek appropriate professional advice about their specific circumstances, including advance care planning legislation in their State or Territory.