



# ADVANCE CARE PLANNING

## For Everyone Over the Age of 18

An **Advance Care Plan** helps you to think about your values, preferences and choices for your health and well-being if you became unwell or injured and may not be able to communicate or make decisions.

Three important things to consider for your Advance Care Planning are:

- Management of your health and well-being,
- Your financial affairs, and
- Your personal choices based on Islamic values.

An **Advance Care Directive** is the documentation of your own personalized Advance Care Plan. It may take on a different name depending on the state you live in. It will guide healthcare professionals, your support person or appointed substitute decision maker to provide care for you in accordance with your wishes. Different states require different forms or documents for these things, some separately, and some combine two or more. You may be able to write your own Advance Care Directive using the state provided form as a guide, depending on the state you are in.

If you become unwell and have **reduced capacity** to make your own decisions, your *support person* can refer to your Advance Care Directive and consult with you, helping you to be part of the decision-making process and advocate on your behalf with



health professionals in accordance with your directive. If you have **no decision-making capacity** your *substitute decision maker* must make decisions on your behalf in accordance with your directive.

**Your Advance Care Directive is legally binding and cannot be overridden by Health professionals, substitute decision makers, support person or family.**

## Tips when making your Advance Care Plan and Directive

- Discuss the topic with family, friends, and carers.
- Think about your choices, are they realistic, how will they affect others.
- Talk to your doctor about your health and likely future health.
- Choose a substitute decision maker who you trust and understands your values and preferences for your future care and who is willing and able to make decisions in difficult circumstances.
- You may also want to choose an *alternative substitute decision maker* in case your first choice is unable to fulfil the role.
- Your substitute decision maker and alternative substitute decision maker would be your appointed Enduring Guardian and substitute Enduring Guardian if you have appointed them already. (If applicable in your state)
- You can appoint anyone you wish as an Enduring Guardian, but they must be over 18 years old and not have any connection with people who are paid to provide you with accommodation, health care or services to support your daily living activities.



- If you do not have an Enduring Guardian, you can still make an Advance Care Directive and nominate your substitute decision maker and alternative substitute decision maker from the list of the government recognised “persons responsible” hierarchy. The government recognises the following people by law as “persons responsible.” First in order after an appointed Guardian, is a spouse or partner, next, an unpaid carer, next, a relative or friend (unpaid).
- Make an Advance Care Directive by writing it down. Some states require this document to be signed and dated to be legally valid and enforceable, so follow the rules according to the state you are in.
- Give copies (certified is best) of your Advance Care Directive to your substitute decision maker/s, family, friends, doctor/s, and your lawyer. You can also upload your document to My Health Record. Keep your original in a place where it can be found easily.
- Review your Advance Care Directive every year. You can revise or cancel it whenever you wish if you still have capacity. If you revise or cancel your directive, you should let people know and replace all copies of the previous Advance Care Directive with the new one.

## Things to consider for your Advance Care Directive:

- **Who you choose to be your Enduring Guardian(s) or substitute decision maker, (person/s responsible).**
  - “person/s responsible” is the generic term
  - Appointing an Enduring Guardian or substitute decision maker you trust can help to prevent family disputes at a time when emotions are high, and



decisions need to be made quickly to ensure your welfare and concerns are handled in accordance with your wishes.

- **Personal values about things like:**

- Where would you like to live?
- Under what conditions would you accept going into care?
- What activities are important to you? Sometimes it's the little things that make a big difference, so don't think anything important to you is trivial.
- Personal space and privacy.
- Islamic values. Examples: respect for personal "awrah," same gender carers for personal hygiene care, only being offered halal food and drink.

- **Personal values about dying; things like:**

- Where would you like to be cared for and who do you want with you when your life is coming to an end?
- What do you want to happen to meet Islamic values, for example: encouragement to say the "Shahaadah" and hear Qur'an recitation.

- **Medical Care Decisions:**

According to the Standing Committee for Academic Research and Issuing Fatwas:

**Resuscitation (CPR) or keeping a person on life support is not necessary when three trustworthy specialist doctors say:**

- The patient's case is one in which resuscitation (CPR) is not appropriate



- The person's sickness is chronic and untreatable, and he/she is definitely going to die
- The person is incapacitated or is in a vegetative state and has a chronic disease or late-stage cancer, or has chronic heart and lung disease, in which the heart and lungs have stopped frequently
- **Taking into consideration the Islamic rulings above, if you are not expected to recover from serious ill health, would you:**
  - Accept Cardio Pulmonary Resuscitation (CPR)
  - Accept life prolonging medical interventions such as artificial life support, renal dialysis and drugs that may prolong life.

**Or would you:**

- Prefer to be allowed a natural death with pain relief management and medications that would make you more comfortable.

## **Advance Care Planning in Australia**

- The different states and territories of Australia have varying laws and policies about advance care directives.
- Advance Care Planning Australia provides information and free forms that are legally applicable to each state. <https://www.advancecareplanning.org.au/>
- The Law Depot website: <https://www.lawdepot.com/estate-planning/> also provides free Advance Care Directive information and documents / forms for all Australian states.



- If you are permanently moving to a different state or territory, you should update your documents according to the state you move to.

**The documents for Advance Care Planning for each state are:**

**New South Wales**

- Enduring Guardian
- Advance Care Directive
- Enduring Power of Attorney

**Northern Territory**

- Advance Personal Plan

**Australian Capital Territory**

- Enduring Power of Attorney
- Advance Care Plan Statement of Choices (Competent Person)
- Health Direction

**Queensland**

- Enduring Power of Attorney
- Advance Health Directive
- Statement of Choices

**South Australia**

- Advance Care Directive
- Enduring Power of Attorney



## Tasmania

- Enduring Guardian
- Advance Care Directive
- Enduring Power of Attorney

## Victoria

- Appoint a Medical Treatment Decision Maker
- Advance Care Directive
- Enduring Power of Attorney

## Western Australia

- Enduring Power of Guardianship
- Advance Health Directive
- My Advance Care Plan
- Enduring Power of Attorney

## What happens if someone doesn't have an Advance Care Directive?

When some-one has lost the capacity to make or communicate their decisions and they *do not* have an Advance Care Directive, the "*Advance Care Plan For A Person With Insufficient Decision Making Capacity*" form can be used by a family member or a healthcare professional to document medical treatment preferences on a their behalf. This can be helpful to guide care decisions and should considered, although it is not legally binding.

**Please note:** The "*Advance Care Plan for A Person With Insufficient Decision Making Capacity*" form is available for use in all Australian states and territories; however the



Australian Capital Territory, Queensland, and Victoria have their own recommended forms.

- Australian Capital Territory: “Advance Care Plan Statement of Choices (No Legal Capacity)”.
- Queensland: “Statement of Choices Form B”.
- Victoria: “What I understand to be the person’s preferences and values”.

For information, advice and forms related to Advance Care Planning call the **National Advance Care Planning Support Service** on 1300 208 582. 9am – 5pm, Monday – Friday (AEST), or visit the **Advance Care Planning Australia website:**  
<https://www.advancecareplanning.org.au/>

## References

- Speaking for myself – a joint Legal Aid NSW and The Benevolent Society publication.
- Advance Care Planning Australia - <https://www.advancecareplanning.org.au/>
- Islam Question & Answer <https://islamqa.info/en/answers/115104/cases-in-which-it-is-permissible-not-to-use-resuscitation-equipment>

## For more information see these websites:

- Palliative Care Australia – [palliativecare.org.au](http://palliativecare.org.au)
- Law Depot website: <https://www.lawdepot.com/estate-planning/>
- MyValues – [myvalues.org.au](http://myvalues.org.au)