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# ADVANCE CARE DIRECTIVES

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## **INTRODUCTION**

On 1<sup>st</sup> July 2014 a new piece of legislation called the *Advance Care Directives Act 2013* (SA) come into operation. This Act establishes a new document called an Advance Care Directive Form.

### **WHAT IS AN ADVANCE CARE DIRECTIVE?**

Under the new legislation, you can make legally binding arrangements for your future health care, end of life wishes, living arrangements, accommodation and other lifestyle matters.

The Advance Care Directive also allows you to appoint one or more Substitute Decision-Makers who will have the legal power to make health and lifestyle type decisions on your behalf should you lose your mental capacity (determined by a health professional).

This document is a separate document to your will or Enduring Power of Attorney.

### **WHY DO I NEED AN ADVANCE CARE DIRECTIVE?**

Life is like a jigsaw. As we get older there are more pieces to consider and put into place. Health tends to deteriorate with age and certain medical problems can arise at any age. Anyone of any age can be in an accident. Preparing an Advance Care Directive is a way in which you can pass the authority to make health, care and medical related decisions for you to others if you cannot make those decisions for yourself. Without them your family may experience difficulties in arranging the care for you that they consider is necessary. It can also give you peace of mind that your wishes will be carried out in medical matters and lifestyle decisions.

### **WHO DO I APPOINT AS A SUBSTITUTE DECISION-MAKER?**

You must have utmost faith and trust in the person that they will act in your best interests and make the best possible decisions on your behalf in accordance with your wishes. Often you would appoint a spouse and/or family members to have the responsibility for making health and medical decisions.

- You can name more than one person (up to a maximum of three) and indicate whether it is either or all of the people named who can make decisions.
- You can arrange an alternate Substitute Decision-Maker if your first choice of person dies or cannot act through their own incapacity.

### **WHAT DOES A SUBSTITUTE DECISION-MAKER DO?**

If you lose capacity through illness or serious injury your Substitute Decision-Maker may need to make decisions relating to some of the following:

- approving care and management plans;
- which doctor or dentist to use and what treatments should be carried out;
- consent to entry into group home, hostel or nursing home;
- to authorise leisure activities, holidays, day programs and visitors; and
- your Substitute Decision Maker must give paramount consideration to the wishes and directions outlined in your Advance Care Directive.

It should be noted that an Advance Care Directive cannot be used to deal with your financial and/or legal affairs. This requires a different document known as an Enduring Power of Attorney.

### ***DO I HAVE TO APPOINT A SUBSTITUTE DECISION-MAKER?***

If you do not have anyone who you wish to appoint to make medical or lifestyle decisions on your behalf you can still prepare an Advance Care Directive.

The Advance Care Directive allows you to put in writing your medical and lifestyle choices, without the need to specifically appoint someone to make decisions.

For instance, some people have some strong views about not wanting to be “kept alive” on life support machines when there is no hope of recovery. These types of directions can be written in an Advance Care Directive to ensure that your wishes are known.

### ***WHAT HAPPENS WHEN YOU DO NOT HAVE AN ADVANCE CARE DIRECTIVE?***

The Guardianship Board is the only authority that can appoint someone to make medical and lifestyle decisions for you. It may appoint a family member into this role but commonly makes decisions itself (via the Public Advocate) about such matters. The decision is in their hands not yours and it may be traumatic for your family or spouse to have to deal with this bureaucratic procedure in a difficult time emotionally for them.

### ***WHAT ABOUT MY DOCUMENTS PREPARED PRIOR TO 1<sup>ST</sup> JULY 2014?***

The Advance Care Directive Form replaces the following documents:

- Enduring Powers of Guardianship;
- Anticipatory Directions; and
- Medical Powers of Attorney.

However, if you already have these documents in place, and they were signed prior to 1<sup>st</sup> July 2014, the above documents are still valid and effective.

### ***WHAT IS A “LIVING WILL”***

This is a popular term to describe the two documents, Enduring Power of Attorney and/or Advance Care Directives. They are both designed to deal with your affairs, health and care during your lifetime but when you may not be able to act or decide for yourself. They give peace of mind that your loved ones will be able to continue on your behalf without interference.

***We offer a home visit service for those unable to get to one of our offices.***

***Check our website for more information at [www.adelta.com.au](http://www.adelta.com.au)***