

## What is capacity?

The ability to make your own decisions is called 'capacity'. When you have capacity you can make your own decisions about things that happen in your life.

## Can I change my mind?

Yes. You can change your Plan or Directive at any time. If you change or revoke your Advance Care Plan or Directive, you need to inform everyone who has a copy and provide them with the up to date version.

## Is my Advance Care Plan legal?

NSW currently has no legislation on advance care plans or directives or refusal of medical treatment. However an advance care directive is legally binding in NSW, and functions as an extension of the common law right to determine one's own medical treatment.

## Writing your Advance Care Plan

- 1 Get the information you need to make informed decisions.
- 2 Think about your values and beliefs and what quality of life means to you. Your previous experiences shape who you are, what you believe and what you value. They can also influence the choices that you may make in the future. So it's important to take time to think about your values and beliefs, your current and future health issues and goals for the future knowing what you know about dementia and how it will impact on you.
- 3 Talk to your family and those closest to you.
- 4 Decide who will be your Person Responsible.
- 5 Work through what you think what medical interventions will be acceptable or unacceptable to you should your health deteriorate to the point where you are no longer able to make decisions for yourself.
- 6 Complete your Advance Care Plan and your Advance Care Directive and give a copy to your family, your doctor, the local hospital - and keep a copy handy and easy to find at home.

## Contact Palliative Care NSW

Phone 02 9206 2094  
info@palliativecarensw.org.au  
PO Box 487, Strawberry Hills NSW 2012  
www.palliativecarensw.org.au



## Resources and Information

### Care Search

Information for carers, families and health care providers about palliative care. Advance Care Planning information and support available.

[www.caresearch.com.au](http://www.caresearch.com.au)

### Guardianship Tribunal

How to appoint an enduring guardian, or an enduring power of attorney (see their website under Publications).

Phone 1800 463 928

[www.gt.nsw.gov.au](http://www.gt.nsw.gov.au)

### NSW Health

[www.health.nsw.gov.au](http://www.health.nsw.gov.au)

### Office of Public Guardian

Information on appointing an enduring guardian.

Free *Enduring Guardianship: Your Way to Plan Ahead* booklet available.

Phone 02 8688 2650 or 1800 451 510

[www.lawlink.nsw.gov.au/opg](http://www.lawlink.nsw.gov.au/opg)

### Public Trustee NSW

Phone 1300 364 103

[www.pt.nsw.gov.au](http://www.pt.nsw.gov.au)



**Palliative Care**  
NEW SOUTH WALES

# Advance Care Planning

**DECISION  
MAKING FOR THE  
END OF LIFE**



**Palliative Care**  
NEW SOUTH WALES



What if you are diagnosed with a disease or illness that will mean you will reach the end of your life within the foreseeable future. It may be in a week, it may be in a year. What if it is a disease or illness that will eventually affect your thinking or your behaviour and you eventually lose the capacity to understand what is happening to you or to communicate what treatment you would want.

**Do you know** who is the best person to make medical decisions on your behalf?

**Do you know** what you would want for your medical treatment?

## Some important terms used in Advance Care Planning

### Advance Care Directives

In NSW an Advance Care Directive (or ACD) is a written statement completed by you that records your health and treatment goals of care. There is no set format but you can download an example from our website. Although there is no specific legislation for ACDs in NSW, an ACD has authority under common law and must be adhered to as long as it was made voluntarily by a competent adult.

An Advance Care Directive is sometimes called a 'Living Will'.

### Enduring Guardianship

An enduring guardian is a person, over the age of 18 who agrees to be appointed by you to make personal and lifestyle decisions and/or medical treatment and healthcare decisions on your behalf only when you are no longer able to do so for yourself.

### Enduring Power of Attorney and Wills

These are legal preparations you should consider that will ensure management of your financial affairs. They do not contribute to future healthcare decision-making.

An enduring power of attorney is a legal document that you can use to appoint a person to make decisions about your property or financial affairs. It is only activated if you lose mental capacity, and ceases upon your death.

A will is a legal document that directs the distribution of your property and possessions upon your death.

### When should I start Advance Care Planning?

The time for Advance Care Planning is now. If you have been diagnosed with a life-limiting illness or someone in your family has - there is no time to lose. You must complete a plan before the capacity to make decisions is lost.

An Advance Care Plan will only be used if ever a time comes when you are unable to make decisions or communicate yourself.

### What if I don't have a Plan?

It really will help your family if you have made your wishes known but if you don't have a plan, or if there is no suitable family member or friend to make decisions for you, someone may need to be appointed by the Guardianship Board.

The Guardianship Board is a tribunal set up by the government to consider decisions affecting the lives and property of people who are no longer able to make decisions for themselves. If you do nothing to formalise your arrangements, it is possible that the Guardianship Board will need to appoint people to make decisions on your behalf. This may or may not end up with a result that you would be happy with.

### How do I choose someone to make decisions for me?

In the event that you are no longer able to make healthcare decisions for yourself, NSW law provides that such decisions fall to the next 'person responsible'. This person should be someone you trust, who will listen carefully to your values and wishes for future care, and will follow those wishes. They should also be someone who will be comfortable making decisions in difficult situations.

If you have appointed an enduring guardian he or she will be your 'person responsible'. Otherwise, your person responsible will be, in order, your current or most recent partner (husband, wife, de facto or same sex partner), a person caring for you, a relative or close friend.

### Do I need a lawyer to complete an Advance Care Plan?

No, but it might help to have your GP or other health professional help you to work through your planning process so they can explain the likely course of your illness, the treatment and care options, including palliative care, so that you can consider your preferred care goals and outcomes. It's also a good idea for someone to witness your plan or directive.

## What is Advance Care Planning?

Advance Care Planning means planning your care in advance of your condition worsening to the point where you are unable to make decisions for yourself. It is how you take control of our future health care decisions and help you live more positively.

The ability to decide what healthcare and health treatments we want is something we take for granted every day. However, there may come a time when illness makes us unable to make clear what we want from our healthcare providers. If you are diagnosed with dementia for example - that time will certainly come and there are other illnesses and conditions that may also make your ability to communicate your wishes impossible.

An Advance Care Plan can be prepared by you or on your behalf by family or medical professionals who know what your wishes are.

### Euthanasia

Advance Care Planning is NOT about planning for euthanasia. Euthanasia is the active and deliberate intervention by a second party to end life, at the express wish of the first party. It is quite different from discontinuing or not starting treatment at a patient's explicit request, given verbally or through an Advance Care Directive. Euthanasia is against the law in NSW.

