



Information for witnesses

Advance care directive

This fact sheet explains your role if you are asked to act as witness for a person completing an advance care directive under Victoria's *Medical Treatment Planning and Decisions Act 2016*.

To complete an advance care directive, a person must have decision-making capacity to do so. You must be satisfied the person is acting freely and voluntarily.

Contact the Office of the Public Advocate on 1300 309 337 if you have any concerns or for more information or at:

www.publicadvocate.vic.gov.au



Your role as witness involves four steps.

Step 1: Check you are the right person to witness the document

For an advance care directive, two adult witnesses are required.

One must be a registered medical practitioner.



Neither witness can be an appointed medical treatment decision maker for the person.

Step 2: Read the advance care directive form

To comply with your responsibilities as witness, you will need to first read the person's advance care directive form. This is because you must be satisfied that the person understands each statement in their advance care directive.

Step 3: Ask questions

The Medical Treatment Planning and Decisions Act sets out what witnesses are certifying. (See below and the table overleaf). You should ask questions to make sure you are satisfied about this.

You will need to be able to communicate with the person in a language they understand. If an interpreter is needed, it is preferable that they are accredited by the National Accreditation Authority for Translators and Interpreters.

Decision-making capacity to make the document

When you act as witness, you certify that the person appeared to have decision-making capacity to make the document.

They have this if they are able to:

- understand the information relevant to their decision to complete an advance care directive and the effect of this decision
- retain that information to the extent necessary to make the decision
- use or weigh that information as part of the process of making the decision and
- communicate the decision, and their views and needs in relation to the decision in some way, including by speech, gestures or other means.

If a person is able to make a decision with practicable and appropriate support, then they have decision-making capacity to make that decision. For example, they may need extra time, or someone present who supports them to talk to you about their decision to make an advance care directive.

If the person has included a values directive in their advance care directive, you should be satisfied that they understand this is a statement of their values and preferences for their medical treatment, to guide their medical treatment decision maker and health practitioner.

If they have included an instructional directive, you should be satisfied they understand that health practitioners are bound to follow their instructions.

Things to check

You must be satisfied that the person understands each statement in their advance care directive.

If you are the witness who is a registered medical practitioner, you should draw on your medical expertise when checking that the person's instructional directive is clear and unambiguous for a health practitioner who needs to refer to it in the future.

Step 4: Witnessing

If you are satisfied of the things described above and set out in the table below, the person signs in front of you and the other witness. You both then sign and date the witness certification.

Interpreters

If you use an interpreter to communicate with the person, there is a place in the witnessing section of the form for the interpreter to sign. For this reason, you will need to use a face-to-face interpreter. Contact the OPA Advice Service for more information if this is not possible.

What witnesses certify	Advance care directive
Decision-making capacity	That the person appears to have decision-making capacity at the time of signing in relation to each statement in the directive
Understands nature and effect	That the person appears to understand the nature and effect of each statement in the advance care directive
Freely and voluntarily signs	That the person appears to freely and voluntarily sign the document, and in the presence of the witnesses
Eligibility to be a witness	That you are not an appointed medical treatment decision maker for the person