

Advance care directive

In this fact sheet find:

- ▶ information about possible reasons for completing an advance care directive
- ▶ information for completing the form.

Find the form on the Department of Health website:
health.vic.gov.au/patient-care/advance-care-planning-forms

Office of the Public Advocate (OPA)

Find information also on the OPA website: publicadvocate.vic.gov.au

OPA's Information Service operates weekdays 9am - 3pm: 1300 309 337

Why make an advance care directive?



Recording your values and preferences for your medical treatment

If you record your values and preferences for your medical treatment, this will help your medical treatment decision maker, or the Public Advocate to make the decision you would want.

Thinking about your values and preferences, talking about them, and recording them, is a process known as advance care planning. For more information about the process of advance care planning, see: betterhealth.vic.gov.au/havetheconversation

Making an advance care directive is one way of recording your values and preferences.

Making binding decisions about future medical treatment

In Victoria, an advance care directive allows you to make binding decisions about future medical treatment.

The two types of directives

In summary, you can complete an advance care directive to:

- record your values and preferences for your medical treatment to guide your medical treatment decision maker (a values directive)
- make legally binding statements directed to your health practitioners, in which you consent to, or refuse, specific future medical treatment (an instructional directive).

Does the form need to be witnessed?

In Victoria, an advance care directive made under the *Medical Treatment Planning and Decisions Act 2016* is a legal document. This is why there are witnessing requirements.

If you want to complete a valid instructional directive, you must have it properly witnessed.

If you fill in the advance care directive form, but do not have it witnessed, it will still be a record of your values and preferences. Nonetheless, there are some advantages to having it witnessed. (See page 5 for more about this).

Case examples

Completing a values directive, or otherwise recording your values and preferences for your medical treatment, is helpful for most people's circumstances.

However, you should only complete an instructional directive if you know the medical treatment that you want or do not want in the future, as health practitioners are bound to follow your instruction.

The examples on the next page illustrate possible reasons for making a values directive, instructional directive, or both.

Robert's story

Robert feels very strongly that he would not want certain medical treatments if they were offered to him. When his mother was very ill, he felt that she would not have wanted some of the treatments that were offered. However, his sister wanted his mother to have the treatments.

Robert has previously been treated for bowel cancer and knows there is significant risk it will reoccur. He does not want to go through chemotherapy and radiotherapy ever again. He decides to complete an instructional directive in which he refuses these treatments.

He also completes a values directive and writes that quality of life, not length of life, is what matters to him. He does not want a family member to make decisions for him, so appoints his good friend, Nanette, to be his medical treatment decision maker.

Jose's story

Jose has early stage Alzheimer's disease. He understands how the disease is likely to progress. While he is fearful of losing his independence and suffering, he loves and values life.

Jose's wife had a stroke two years ago and died soon after. Jose regrets that, at the time, he did not know his wife's wishes for treatment. For this reason, he decides to complete a values directive to guide his medical treatment decision maker.

Jose has an adult stepson, Martin. He thinks that Martin would be the best person to appoint to be his medical treatment decision maker, because he communicates well with his other children and lives close by. Jose talks to all of his adult children about his preferences for his medical treatment, and his reasons for appointing Martin, and shows his children his advance care directive.

Maria's story

Maria, 85, is in good health, lives alone, and does not have children.

She does not have anyone suitable to appoint as her medical treatment decision maker.

Maria knows that if she becomes unable to make her own decisions about her medical treatment, Victoria's Public Advocate may need to make a decision for her. She wants to record information about her values and preferences.

Maria completes a values directive and gives a copy to her doctor for her patient record. She also makes sure that an electronic copy is uploaded to her My Health Record.

If you choose to make an advance care directive, find the form on the Department of Health website: health.vic.gov.au/patient-care/advance-care-planning-forms

Information for completing the advance care directive form for adults



If you have a physical disability that means you cannot sign the form, use the version that allows someone else to sign at your direction. (See the Department of Health website for this.)



Use these instructions to complete the parts of the advance care directive form relevant to you. Cross out any sections that are not relevant.

In your advance care directive, you can include:

- a values directive
- an instructional directive.

A **values directive** is a statement of your values and preferences for your medical treatment. Your medical treatment decision maker will use your values directive to guide them when they make decisions for you.

Your medical treatment decision maker is the person with legal authority to make medical treatment decisions for you, if you do not have decision-making capacity to make the decision(s).

An **instructional directive** is a legally binding statement in which you consent to, or refuse, future medical treatment.

Your instructional directive takes effect as if you had consented to, or refused the treatment.

You can choose to complete **either or both** directives, using this form.

If you previously made an advance care directive

If you previously made an advance care directive under the Medical Treatment Planning and Decisions Act, it is

automatically revoked (cancelled) when you make a new one.

Replace any old advance care directive (or similar document) with your most recent advance care directive to ensure your medical treatment decision maker and health practitioner(s) have accurate records. If you previously made an 'advance care plan', 'statement of choices', or similar document, this will be considered by your medical treatment decision maker as a statement of your values and preferences.

Part 1 — Personal details

Your personal details

To make a valid advance care directive, you must include your full name, date of birth and address. A phone number is optional.

Your current major health problems

List your current health problems. This information provides context for your medical treatment decision maker and your health practitioner(s) about your health when you wrote this directive. If your health problems change, your medical treatment decision maker and health practitioner will be able to find up-to-date information about this on your patient record.

Advance statements

If you have a mental illness (or have had one in the past) you may have completed an Advance Statement. In your advance care directive, you can also document your preferences for your treatment for mental illness. (A fact sheet on the OPA website explains the differences between Advance Statements and advance care directives).

Mark with an X if the statement on the form is relevant to you.

Part 2 – Values directive

Completing a values directive is one way to communicate to your medical treatment decision maker and health practitioner your values and preferences for your medical treatment.

Your medical treatment decision maker must make the decision that they reasonably believe is the one you would have made. Your values directive will help them to do this.

Your medical treatment decision maker can rely on what you write in your values directive because:

- you sign your values directive in front of witnesses who certify that you have decision-making capacity to make a values directive and are making it voluntarily
- your witnesses need to check that you understand the nature and effect of what you have written
- one of your witnesses is a doctor.

Identifying your medical treatment decision maker

Find information about identifying your medical treatment decision maker on the OPA website.

You can appoint your medical treatment decision maker using the 'Appointment of medical treatment decision maker' form.

You may have appointed a medical treatment decision maker before 12 March 2018 in:

- a medical enduring power of attorney
- an enduring power of attorney for personal matters
- an enduring power of guardianship.

(See the OPA website for more information).

Ways to complete your values directive



Keep in mind that you are communicating to your medical treatment decision maker (or the Public Advocate). Your values directive should help them to make the decisions you would want.

Before you start on this part of the form, spend some time thinking about your values, preferences, beliefs and any worries you have about your current and future health.

The prompts in the form are to help you get started. You can complete all or some of the sections in Part 2.

a) What matters most in your life

What matters most in life varies from person to person. Things that make your life worth living may include family, friends, religious or cultural beliefs, spirituality, interests, or maintaining independence.

What matters most to you can affect the decisions you would make about medical treatment. This is the opportunity to let your medical treatment decision maker know what quality of life means to you.

For example:

- Do you want to live as long as possible, whatever it takes? Or is quality of life more important to you?
- If remaining independent is important to you, try to give examples of what you mean by this. For some people remaining independent means living in their own home. Other people may be more concerned with being able to take care of their personal grooming, remaining mobile, participating in specific activities, maintaining connections with family and friends, or being able to make decisions for themselves.
- Do you have religious or spiritual beliefs that affect the type of medical treatment you would consent to?

b) What worries you most about your health in the future

For example, you may worry about being in pain, not being able to take care of yourself, being unable to participate in specific activities or live in your own home.

c) Unacceptable outcomes

It will help your medical treatment decision maker if they understand how you feel about experiencing a range of possible outcomes.

To help you get started, consider the outcomes in the table below and think about how you would feel if your life resembled these.

See the My Values website (myvalues.org.au) for more information, and the option of completing a survey that may help you to think more about the important issues that underpin difficult decisions about future treatment. Other resources are available at the advance care planning page of the Better Health

Channel website (betterhealth.vic.gov.au/havetheconversation).

In Part 2 of the form, at c), write what are unacceptable outcomes for you.

d) Other things you would like known

There may be other things that will help your medical treatment decision maker to understand your values and preferences. These could be your spiritual, religious, or cultural requirements, or your preferred place of care, for example, home, hospice or hospital.

You may have specific preferences that you want your medical treatment decision maker to know. Among other things, you can include information about your preferences that relate to:

- treatment with prescription pharmaceuticals
- treatment for mental illness
- dental treatment
- medical research procedures.

Life like this would be...

	Difficult but acceptable	Worth living but just barely	Not worth living	Cannot answer now
I can no longer recognise family/friends.				
I can no longer talk or be understood by others.				
I permanently rely on a breathing machine to keep me alive.				
I can no longer move myself around, in or out of bed, and rely on other people to shift or move me.				
I can no longer feed, wash or dress myself.				
I no longer have control of my bladder and bowels.				

For example, because of side-effects you have experienced in the past, you may have preferences in relation to particular prescription pharmaceuticals.

e) Other people I would like involved in discussions about my care

Consider if there are other people you would like your medical treatment decision maker and health practitioner(s) to involve, or not involve, in discussions about your care.

f) If I am nearing death

Consider if there are things you would want known if you are nearing death, for example, who you would want present.

If you are supportive of organ and tissue donation

If you are a registered organ and tissue donor or are willing to be considered for organ and tissue donation, there are extra things you should consider when completing your advance care directive. There are interventions in an end-of-life care situation that are important for successful organ donation. If you are supportive of organ and tissue donation and want these interventions to be able to happen to you, make sure you are clear about this in your advance care directive.

Find more information about interventions required for successful organ and tissue donation on the Australian Government's Donate Life website.

(See donatelife.gov.au).

Part 3 – Instructional directive

You should **only** complete an instructional directive if you know the medical treatment that you want or do not want in the future, as this is a legally binding statement.

Keep in mind, if you complete an instructional directive **you** are making the decision, not your medical treatment decision maker.

In your instructional directive you can consent to or refuse future medical

treatment. These decisions are directed toward your health practitioners, not your medical treatment decision maker.



Be aware that consenting to or refusing treatment in your instructional directive could be acted on in situations you have not considered.

For example, if you write, 'In all circumstances, I don't want to be put on a machine that breathes for me', this means that this treatment will not be provided to you, even if you only need it for a short period of time while you are recovering after successful surgery.

Consulting your doctor

If you choose to complete an instructional directive, it is recommended that you consult a doctor first, to make sure you have the information you need.

For example, if you have a current health condition, you should understand your prognosis, treatment options, and the risks and benefits of these options.

You should also make sure your statements are clear to the doctor. It can be helpful to include the reasons for your statements.

If you include statements about treatment for mental illness or dental treatment, consider consulting your relevant health practitioners about these statements.

How your instructional directive will be used

If, in the future, you do not have decision-making capacity to make a medical treatment decision, your health practitioner will:

- see if you made an instructional directive
- read your instructional directive to see if you made a decision about the medical treatment they are proposing
- follow your directive, if you made a decision to either consent to or refuse the treatment they are proposing.

Organ and tissue donation

If you are supportive of organ and tissue donation and intend to refuse particular medical treatments, you should be aware that there are interventions that could be needed for successful organ donation in an end-of-life care situation. If you wish to be considered for organ and tissue donation, it can be a good idea to state this, and that you understand there are interventions that may be required for facilitating it.

Other things to keep in mind

Make sure you only write binding instructions in the instructional directive section of the form. Any instruction not written in this section or not identified as an instructional directive, will be considered a values directive.

Keep in mind that your health practitioner will only provide a medical treatment that it is medically appropriate (helpful). They are not compelled to offer a treatment just because you have consented to it in an instructional directive.

If you make any statements about palliative care, they will be considered a values directive, even if you include them in your instructional directive.

Keep in mind that your health practitioner(s) cannot do anything that would require them to:

- do something unlawful
- breach their professional code of practice.

Part 4 – Expiry date

You have the option of including an expiry date in your advance care directive, but this is not a requirement.

It is recommended that you review your advance care directive once every two years, or whenever your medical or personal situation changes.

You may choose to include an expiry date as a safeguard in case you forget to review your advance care directive. However, keep in mind if you include an expiry date, your advance care directive could expire when you do not have decision-making capacity to complete a new one.

Part 5 – Witnessing

Witnessing requirements

To make a valid advance care directive you need to sign in front of two witnesses. One must be a registered medical practitioner (a medical doctor). Neither witness can be someone you have appointed as your medical treatment decision maker.

If you have decision-making capacity to make the advance care directive but cannot physically sign the form, there is a version of the form that you can use.

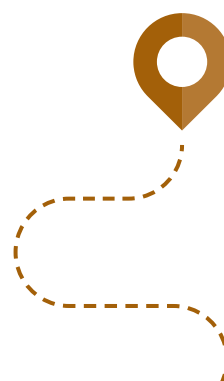
Information for witnesses

To help your witnesses understand their role, OPA has a fact sheet for witnesses. (See the OPA website for this).

It is important your witnesses are able to communicate with you in a language that you understand. If you need an interpreter, it is recommended that you use an independent and qualified interpreter.

If an interpreter is present

If an interpreter is present at the time the document is witnessed, they must sign and date Part 5 of the form immediately after the document is witnessed.



Part 6 — Interpreter statement

If an interpreter helped you prepare the document

If an interpreter assisted you in preparing your advance care directive, they will need to sign the interpreter statement in Part 6 of the form. They can fill in this section before the document is witnessed or when the document is witnessed.

After you have completed your advance care directive

When it will be used

Your advance care directive is valid as soon as it is signed and witnessed correctly, but it can only be used when you do not have decision-making capacity to make the decision.

Who to discuss it with

After you have completed your advance care directive, it is important that you share and discuss it with your medical treatment decision maker, your family and/or friends and relevant health practitioners.

Who to give copies to

Keep the original signed copy of your advance care directive in a safe place. Give your medical treatment decision maker a certified copy or make sure they know where to find the original or a certified copy.

Other ways to make sure your advance care directive is readily available to those who might need to refer to it include:

- uploading a copy of your advance care directive to My Health Record at **myhealthrecord.gov.au**
- giving a copy to your health practitioner and/or your hospital
- giving a copy to any other health practitioners who will need to access it.

If you change your mind

You can cancel or change your advance care directive by completing a new directive, or by completing the advance care directive revocation form. (See the Department of Health website for the revocation form: health.vic.gov.au/patient-care/advance-care-planning-forms).

Reviewing your advance care directive

Your preferences for medical treatment may change over time. For this reason, it is recommended that you review your advance care directive every two years, or whenever your medical or personal situation changes.

