



MackeyWales

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ADVANCE HEALTH DIRECTIVE

An Advance Health Directive is a formal way of giving instructions for your future health care. It comes into effect only if you are unable to make your own decisions.

WHY SHOULD I MAKE AN ADVANCE HEALTH DIRECTIVE?

When someone is seriously ill, unconscious or incapable of communicating their health-care wishes, critical decisions may need to be made. It is wise to make your wishes known in case you find yourself in this situation.

WHEN SHOULD I MAKE ONE?

The best time to make an Advance Health Directive is now, before any urgent matters arise. However it is particularly important to make an Advance Directive if:

- you are about to be admitted to hospital;
- your medical condition is likely to affect your ability to make decisions; or
- you have a chronic medical condition that could result in serious complications such as diabetes, asthma or a heart or renal condition.

CAN ANYONE MAKE AN ADVANCE HEALTH DIRECTIVE?

Yes, as long as you are over 18 and have the required capacity. This means that you must:

- understand the nature and consequences of your health-care decisions
- understand the nature and effect of an Advance Health Directive
- freely and voluntarily make these decisions, and
- communicate decisions in some way.

Built on reputation

Principals
Terry Fanning
Ross Greatrex

369 Flinders Street, Townsville QLD 4810
Phone 07 4772 6699
www.mackeywales.com.au

PO Box 6080, Townsville QLD 4810
Facsimile 07 4721 1649
Mackey Wales Law Pty Ltd ACN 618 672 030

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HOW DOES THE ADVANCE HEALTH DIRECTIVE WORK?

The Advance Health Directive allows you to put in black & white your directions to your future health care providers about the type of treatment you do or do not wish to receive. You can make general statements or more specific statements about the application of specific life-sustaining measures. Doctors and other health care providers refer to the document to ascertain your wishes if you cannot communicate your decisions to them.

WHAT KIND OF THINGS SHOULD I PUT IN THE ADVANCE HEALTH DIRECTIVE?

You can express your wishes in a general way. For example, you can state:

- particular treatment you do not want;
- special medical conditions that your doctor or other medical staff should know about (such as diabetes or allergy to certain medications); and
- religious, spiritual or cultural beliefs that could affect your treatment (such as a blood transfusions).

WHAT ABOUT PALLIATIVE CARE MEASURES?

You can also specify your wishes about palliative care which offers comfort, support and adequate pain relief to people who are dying—even if treatment is futile or a life sustaining measure is withheld or withdrawn.

IF I HAVE AN ADVANCE HEALTH DIRECTIVE, DO I NEED TO HAVE AN ATTORNEY FOR PERSONAL MATTERS?

It is best to have both an Advance Health Directive and an attorney for personal matters. If for some reason you have an illness or condition that is not covered by the Advance Health Directive, then your doctors will request your attorney to make decisions on your behalf and in your best interests.

If you don't have an attorney for personal/health matters (appointed under an Enduring Power of Attorney), the Advance Health Directive form contains a section for appointing one.

WHAT HAPPENS IF I DO NOT HAVE AN ADVANCE HEALTH DIRECTIVE AND I BECOME SO ILL THAT I CANNOT MAKE DECISIONS OR SPEAK FOR MYSELF?

If you do not have Advance Health Directive then it is difficult to ensure that your wishes are carried out. You have no legal way of making your wishes known about when to withdraw or withhold life sustaining treatment. If you have completed an Enduring Power of Attorney, your attorney for personal/health matters can make medical decisions on your behalf and you should ensure that they are aware of your wishes in that regard.

CAN I GIVE INSTRUCTIONS TO MY DOCTOR TO HELP ME DIE?

No. Euthanasia is illegal. Nobody, including your doctor, may give you anything that is intended to hasten your death or to assist you to hasten your death. Your doctor can only give treatment that aims to maintain or improve your health and wellbeing. If treatment cannot achieve this, a doctor can lawfully and ethically withdraw or withhold treatment provided this is not inconsistent with good medical practice. This is not euthanasia. In your Advance Health Directive, you can ask to be given only palliative care.

WHO CAN HELP ME WITH MY ADVANCE HEALTH DIRECTIVE?

Mackey Wales Law can help you draft the document then your doctor is the best person to talk to because he or she knows your medical background and can explain any terms you do not understand. The document must also be witnessed by your doctor. It is also important to discuss the Advance Health Directive with your family. If you have already made an Enduring Power of Attorney, talk to your attorney appointed to make decisions for you regarding personal matters.

WHO ELSE IS INVOLVED IN COMPLETING THE ADVANCE HEALTH DIRECTIVE FORM?

Besides you and your doctor, there must be a witness who is aged 21 or over and is a Justice of the Peace, Commissioner for Declarations, lawyer or Notary Public.

Your witness must not be:

- your attorney for personal matters
- your relative or a relative of your attorney
- a current health provider
- a current paid carer (this does not include a person on a carer's pension)
- a beneficiary under your will.

The role of the witness is very important because he or she is responsible for making sure that your signature is genuine and that you understand the decisions you have made in the directive.

WHAT DO I DO WITH THE COMPLETED FORM?

Keep the original in a safe place (usually with your solicitor). You may also give a copy to your doctor, your attorney for personal matters (if you have appointed one) and a family member or friend. It is a good idea to carry a card stating that you have made an Advance Health Directive, where it can be found, and contact details of your personal attorney or a family member or friend.

CAN I CHANGE OR REVOKE MY ADVANCE HEALTH DIRECTIVE?

You may change or revoke the Advance Health Directive at any time as long as you have the capacity to make a new one. You should review the document every year or two. It is wise to review your directive every two years or if your health changes significantly.