

Some handy information on Advance Care Directives

What is an Advance Care Directive?

An Advance Care Directive (ACD) is a legal document that allows a person to appoint one or more persons (called Substitute Decision-Makers) to make health care decisions on their behalf when they are not able to and to record preferences for future health care and end of life wishes.

ACDs have replaced Enduring Powers of Guardianship, Medical Powers of Attorney and Anticipatory Directions, although those documents still remain effective if they were executed before 1 July 2014.

When Will an ACD be used?

An ACD can only be used if the person is unable to make their own decisions about their health care, either temporarily or permanently. The directions given in an ACD must be followed when relevant, provided they are valid, clear and legal.

An ACD can be revoked or amended at any time while the person has the mental capacity to do so. Previous ACDs are revoked when a new one is executed.

Choice of Substitute Decision-Makers

One or more Substitute Decision-Makers can be appointed, either in order of preference, jointly or separately. A Substitute Decision-Maker should be a trusted and reliable person. Many couples appoint their spouse to act as their Substitute Decision-Maker in the first instance, and then appoint one or more of their adult children to act if their spouse is not able to.

A person can still record their wishes and directions about future health care in an ACD without appointing a Substitute Decision-Maker. Health care providers and professionals are still required to observe the wishes and directions given in an ACD.

What restrictions are there?

Substitute Decision-Makers cannot make or consent to decisions that result in a crime being committed such as euthanasia and cannot insist food, water or medication be refused. Ultimately a doctor is still responsible for medical treatment.

What if there is a dispute?

If there are disputes relating to an ACD they can be resolved by the South Australian Civil and Administrative Tribunal (SACAT). SACAT has broad powers to appoint and remove decision makers for both financial and medical decisions and to give directions about relevant matters.

Mellor Olsson has experienced practitioners who can provide advice on which document might be appropriate to suit your individual circumstances.

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