

The *Medical Treatment Planning and Decisions Act 2016 (the Act)* came into effect on 12 March 2018.

Along with consolidating existing laws into one piece of Victorian legislation, the Act introduces significant changes to medical treatment decisions, including for example, enabling clients to:

- make an Advance Care Directive setting out binding instructions, or preferences and values, in relation to medical treatment; and
- nominate multiple decision-makers. While only one person can act at a time, the other decision-makers are alternates and are listed in the order in which you would like them to act.

What is an Advance Care Directive?

An Advance Care Directive allows you to:

- record your values and preferences for medical treatment; and/or
- make legally binding instructional directives in which you consent to, or refuse, specific future medical treatment.

If you have made **value directives**, your medical treatment decision-maker will be guided by your Advance Care Directive when making decisions on your behalf.

If you have made **instructional directives**, your health practitioner must follow your directions.

Health practitioner exceptions

In an emergency, a health practitioner:

- may administer emergency treatment to you without consent if it is necessary as a matter of urgency to save your life, prevent serious damage to your health or prevent you from suffering or continuing to suffer significant pain or distress; and
- must not proceed with treatment if he or she is aware that you have refused the particular treatment in an instructional directive in an Advance Care Directive, or there is a relevant refusal of medical treatment certificate made before 12 March 2018. However, a health practitioner is not required to search for an advance care directive that is not readily available.

A health practitioner may also refuse to comply with an instructional directive if there is reasonable belief that your circumstances have changed such that it would no longer be consistent with your preferences and values (e.g. if you made an Advance Care Directive when you were diagnosed with a disorder which had no prospect of recovery but later advances in medical treatment developed a cure).

Palliative care

Palliative care includes the reasonable provision of food and water and medical treatment for the relief of pain, suffering and discomfort.

A health practitioner is able to administer palliative care despite any decision of the medical treatment decision-maker or any statement in the patient's Advance Care Directive. However, the health practitioner must have regard to expressed preferences and values and must consult with their medical treatment decision-maker.

Palliative care cannot be refused either in your Advance Health Directive or by your medical treatment decision-maker. You can, however, include statements about palliative care as a values directive in your Advance Care Directive. For example, you may state that at the end of your life, it is more important for you to remain lucid than completely pain-free. The medical practitioner would be required to consider appropriate medications and dosages to ensure minimal pain and that you are able to engage with family and friends as much as possible.

What to do before making an Advance Care Directive

While an Advance Care Directive can be legally binding, it is foremost a medical matter and you should consult with your doctor first to make sure you have the information you need before you make any decisions.

To ensure you understand the nature and effect of each statement and the possible implications of including these statements in your Advance Health Directive, one of the two witnesses must be a medical practitioner. The medical practitioner can also help ensure that the Advance Health Directive is consistent and practically applicable.





Law

Advance Care Directive

There are many factors which will influence a person to make an Advance Care Directive, such as personal beliefs or experiences, family, friends, religious or cultural beliefs, spirituality or maintaining independence.

Completing the survey provided on the My Values website (www.myvalues.org.au) may assist you to think about the important factors that underpin difficult decisions about future treatment.

You can limit your Advance Care Directive to a certain period of time.

You can also cancel or change your Advance Care Directive by completing a new document, or by revoking the old document.

What to do after making an Advance Care Directive

Your Advance Care Directive should be kept in a safe place, known to your medical treatment decision-maker.

You should also:

- review your Advance Care Directive annually or whenever your medical or personal situation changes; and
- share your Advance Care Directive by:
 - providing a copy to your appointed medical treatment decision-maker(s), family and relevant health practitioners; and
 - uploading a copy to MyHealthRecord.gov.au to ensure it is readily available when needed.

The law is complex and the types of decisions a medical treatment decision-maker may be required to make are varied, often highly emotional and done so under pressure. For advice and assistance, we recommend you contact our Estate Group on (03) 8600 8885.

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