

FREQUENTLY ASKED QUESTIONS-(FAQs)

§ **Are Advance Care Directives (ACDs) just for older people?**

No. An ACD can be made by any adult with capacity over the age of 18 years.

§ **How do I appoint an Enduring Power of Attorney or Enduring Guardian?**

Free forms are available from the Guardianship Tribunal ph 1800 463 928 or download forms from www.planningwhatiwant.com.au
As legal documents, completed forms need to be witnessed by a lawyer or at an appointment at your local court.

§ **What is capacity?**

A person, who after adequate education is able to understand the question at hand, weigh up and understand the consequences of their own choices is said to have capacity. This person has the right to make their own financial, health and lifestyle decisions. All people are assumed to have capacity unless there is a valid reason for this to be questioned (eg advancing dementia, delirium, psychosis, depression etc). In these cases a capacity assessment can be carried out by the health or legal professionals involved.

§ **Are ACDs legally binding?**

In NSW (unlike other states), there is no specific legislation to cover this area. Therefore, ACDs fall under common law.
An ACD is regarded as valid if it is specific, current, the person making it had the capacity to make valid choices and it has been witnessed.

§ **What should be done with an ACD once it is completed?**

An ACD needs to be available at a future time when it may be needed. Ideally, a copy would be given to the likely substitute decision maker, key family members, the GP and any other doctors or health facilities involved in care.

§ **What if someone changes their mind?**

If circumstances or ideas change, then a new ACD can be made. The old document is ideally destroyed. If not however, like a will it is the most recent document that will apply.

§ **What happens when substitute decision makers disagree with the documented wishes of a patient?**

The wishes of a competent adult always prevail. Thus, a valid ACD which expresses wishes regarding active treatment or refusal of treatment takes priority over the wishes of the family.

It is ideal if someone making an ACD discusses their directive with their substitute decision makers so that everyone is already aware of their wishes.

§ **Is this another form of euthanasia?**

ACDs have nothing to do with actively assisting the end of life, unlike euthanasia.

Studies of nursing home patients have in fact shown that those with an ACD requesting avoidance of hospital actually lived longer than other patients who were transferred to hospital with an acute illness.

§ **Is this about saving money?**

No. ACDs are all about promoting dignity and quality of life through respecting a person's own wishes at a time when they can no longer express these for themselves.