

ADVANCE CARE PLAN FOR THE NON-COMPETENT PERSON

INFORMATION SHEET

Your family member/friend has been assessed as being unable to make independent decisions about their own medical care. That is they are not competent. This, however, may not exclude them from being involved in medical decision making about them selves. They may assist you in completing and advance care plan on their behalf, based on their wishes.

Advance care planning is a process for making and writing down future health care wishes. It is normally undertaken by competent people, with support from their family and doctor. If a person is no longer competent, then their family, particularly the Person Responsible, are able to undertake advance care planning on the person's behalf. This ensures that the person only receives treatment that the family believe that the person would want and is in the person's best interests.

The process of advance care planning considers the person's current state of health, their beliefs, values and goals in life and their future treatment options. It is important when completing an advance care plan on behalf of your family member/friend that you include them, where possible, in these discussions to the best of their ability. A health professional that is trained in advance care planning is available to guide you through the process.

Pre-Existing Advance Care Planning Documents:

1. A previously appointed Medical Enduring Power of Attorney (MEPOA).

If the person has previously appointed a MEPOA (referred to as an agent) the agent will now become the primary decision maker for medical treatment on behalf of the non-competent person. A copy of the Medical Enduring Power of Attorney document should become a part of this advance care plan.

2. A previously completed Refusal of Treatment Certificate (RTC).

The person may have completed a refusal of treatment certificate (RTC) while still competent. If the RTC is valid for the current illness then the person's refusal of specified treatments or all treatments is legally binding and cannot be overridden by the doctors or others.

3. A previously completed Statement of Choices (SOC)

The person may have previously completed a statement of choices or a similar written document expressing their wishes about future medical treatment that they would or would not want. Although not legally binding, the doctors and the family must take the documented wishes into account when making decisions about medical treatment. You may wish to review previously completed SOC to reflect current circumstance.

What advance care planning can be done for a non-competent person?

A. If the person had previously appointed a MEPOA then that agent (usually a family member or close friend) is able to complete a RTC on the person's behalf. Because it is a legally binding document, the RTC can ensure that the person is not subjected to unwanted medical treatment or investigation that is related to their current condition. A RTC cannot prevent the provision of palliative care (relief of pain and suffering).

B. In the absence of a MEPOA then the person's medical decision maker is known as the Person Responsible, as identified from a government list. This is usually a family member. The Person Responsible can consent to medical treatment offered by the doctor. They cannot complete a Refusal of Treatment Certificate and are not able to refuse a treatment that the doctors believe is in your family member's/friends best interests.

C. Writing down other wishes for future medical care: as the Person Responsible (the MEPOA if one exists) you may choose to record the wishes of the non-competent person on a Statement of Choices (SOC). In completing a SOC and documenting health care wishes it is important to:

- Take into account the person's previous (and current) health care wishes
- Take into account what is in the person's best interest
- Involve discussion with family and significant others
- Discuss these wishes with their doctor(s)

What if a person regains their legal capacity?

A person who regains their legal capacity is once again responsible for their medical decision making. The agent's power ceases.

Changing or cancelling advance care planning document(s)

You might want to change or cancel the advance care planning document(s) in the future if there is a change in the person's medical condition. You can change or cancel these documents by drawing a line across the document, writing void on it and signing and dating it. These documents can also be revoked by the completion of new document(s). The most recent dated documents override the older document. To revoke the Refusal of Treatment Certificate, it is advisable to also fill in the cancellation section of the existing certificate. It is also important to inform significant family members and the person's doctors of the changes and provide them with copies of the new documents.

How to do advance care planning for a non-competent person"

- 1) Think about what their beliefs, values and goals would be at this time
- 2) Involve family and significant others in advance care planning discussions
- 3) Talk with their doctor(s) about their current and future state of health and how this may impact on what they would regard as an acceptable outcome.
- 4) Document their wishes on a Statement of Choices.
- 5) These documents will need to be witnessed by their doctor.
- 6) Give copies of this document to all relevant people who care for your family member including their doctor(s), aged care facility, family members, and the hospital.

Need further information?

Detailed information and help is available for all aspects of advance care planning. Ask to speak to the Respecting Patient Choices Facilitator at the hospital.

Phone Respecting Patient Choices Program at Eastern Health on: 99551276

More information is also available from:

www.respectingpatientchoices.org.au

www.publicadvocate.vic.gov.au

or call the Office of the Public Advocate on 1800 677 402.

#Definition of family: Those closest to the person in knowledge, care and affection. This includes the immediate biological family: the family of acquisition (related by marriage/contract); and the family of choices and friends (not related biologically or by marriage/contract).