

**South Australian
Consent to Medical Treatment and
Palliative Care Act 1995**

A GUIDE FOR THOSE COMPLETING AN ANTICIPATORY DIRECTION



An Anticipatory Direction is the document (attached) by which you may, while of sound mind, give directions about the medical treatment you want, or do not want towards the end of your life, if you are no longer able to make or communicate decisions yourself.

This guide may give you assistance in filling out an Anticipatory Direction.

Please also refer to the pamphlet – *An explanation of a Medical Power of Attorney and an Anticipatory Direction* – for further information.

COMPLETING AN ANTICIPATORY DIRECTION

What is an Anticipatory Direction?

An Anticipatory Direction enables you to record your wishes about what medical care and treatment you want, or don't want, should decisions need to be made about these things towards the end of your life and you are no longer able to communicate those wishes.

Anticipatory Directions cannot be used as a means of requesting euthanasia.

Who can make an Anticipatory Direction?

You can only make an Anticipatory Direction if you are:

- at least 18 years of age; and
- competent to make decisions about your own affairs by yourself.

An Anticipatory Direction only takes effect when you are no longer medically competent and cannot make your own decisions.

Why have an Anticipatory Direction?

Giving directions about health care is an individual and personal thing to do. Having an Anticipatory Direction will ensure that your wishes are known and taken into account at the end stage of your life should you no longer be able to tell people what medical care you may or may not wish to have.

Having an Anticipatory Direction will relieve those closest to you from the burden of making difficult decisions. It will give them confidence that they are doing the right thing for you. If you haven't written it down, it is possible that no-one will know for sure what you want to happen at the end stage of your life.

If you lose your capacity to make decisions, those responsible for your care will be bound to follow the directions given in your Anticipatory Direction. No other person has the power to revoke or change your Direction.

When does an Anticipatory Direction come into effect?

The instructions in your Anticipatory Direction only have effect when you are unable to make decisions for yourself when you are at the end stages of your life, that is if you are in the final phase of an illness for which there is no cure (eg advanced stage of cancer), or if you are in a persistent vegetative state, eg if you have permanent severe brain damage, but you are still breathing (say from a severe car accident or stroke).

What should I include in my Anticipatory Direction?

People will have different ideas about what limitations they consider acceptable or unacceptable at the end stage of their life. Answering the following questions may help you to prepare your thoughts.

How would you feel about life-sustaining measures in the face of terminal illness and/or a persistent vegetative state? What is your bottom line? For example, under what circumstances would dying be preferable to sustaining life?

Would you want treatments that might prolong your life if you were:

- no longer able to think for yourself?
- comatose and not likely to regain consciousness?
- of very advanced age?

Are there any circumstances under which you would want to refuse or discontinue treatment that might prolong your life? If so, you will need to describe those circumstances.

For example, a person with chronic lung disease may want to focus primarily on whether to be put onto a ventilator (breathing machine) if he or she develops respiratory failure. A person with kidney failure receiving dialysis may want to focus on situations in which he or she would want dialysis to be stopped. A doctor can help ensure that the Anticipatory Direction you prepare is suitable and relevant to your medical circumstances.

A person who currently has no specific medical condition may want to make a general statement such as:

If I am in a persistent vegetative state and I have become both irreversibly incontinent and immobile, I only want those treatments that make me comfortable, relieve pain and preserve my dignity according to the prevailing standards of palliative care, even though any of these treatments may have the effect of shortening my life. I do not want any operative procedures or the insertion of any form of tube into my body for the purpose of hydration or nutrition.

If you want to be very specific about what treatment you are given when you are at the end of your life, you may want to use a set of statements like this:

- (a) *I do not want any treatment that may delay my dying process.*
- (b) *I want any treatment that is delaying my dying process stopped.*
- (c) *I do not want:*
 - *to be resuscitated if my heart stops beating*
 - *to be placed on a machine (respirator) to help me breathe*
 - *to be fed by tube into a vein or into my stomach whether or not I am able to take food by mouth.*
- (d) *Unless essential for my dignity and comfort as part of my palliative care, I do not want:*
 - *to be given water by tube into a vein or into my stomach whether or not I am able to take water by mouth*
 - *any operations that require an anaesthetic*
 - *to be treated with antibiotics if I have an infection*
 - *to be admitted to hospital while someone is able and willing to care for me at home or where I'm currently living.*
- (e) *Subject to the above, I want only those treatments that make me comfortable, relieve pain and preserve my dignity according to prevailing standards of palliative care even though any of these treatments may have the effect of shortening my life.*

You should also include any religious or cultural beliefs that may impact upon your medical treatment needs.

You need to be aware that by giving very specific directions, you may be restricting the type of medical treatment that you will receive in the future if you lose your mental capacity and are no longer able to express your wishes.

If listing the conditions that you consider unacceptable, take care using the word 'and'. For example, if you say '...I consider the inability to wash *and* feed *and* walk...' *then* all three situations must be present before your condition is unacceptable. This may be what you want – but if not, consider using the word 'or'. Also, it is best to avoid referring to times. For example, saying 'If I've got six months to live...' because people often live a lot longer, or a lot less, than expected.

Do I need to consult with anyone when making an Anticipatory Direction?

It is strongly recommended that you consult your doctor prior to including any directions/conditions about your future medical treatment. It is also recommended that you discuss your wishes with the people closest to you. These people should know that an Anticipatory Direction has been made so that it is respected when you reach the end stage of your life. There are also a range of organisations that can assist you to make an Anticipatory Direction. See list of contacts.

There is no requirement to consult a lawyer. However, in some circumstances (eg when your family situation is very complicated or where you are uncertain about legal aspects of your situation) you may wish to consult a lawyer.

What do I do once I have completed the Anticipatory Direction?

Since an Anticipatory Direction speaks for you when you are no longer able to speak for yourself, other people must know that it exists. Once you have completed an Anticipatory Direction, make copies for your family, friends, doctor and others involved in your health care. Keep a copy of your signed Direction on you at all times and keep another in a safe place. You can also register your Anticipatory Direction with MedicAlert (for a fee) which keeps a record that can be checked by doctors and hospitals. These steps will ensure that when you are unable to make medical decisions for yourself, others are able to access and activate your wishes made in the Anticipatory Direction.

Your Anticipatory Direction should be reviewed regularly. If you revoke or amend it, it is best to destroy any old copies and complete a new form. Don't forget to have your new form signed and witnessed.

Anticipatory Direction

Part 1 – Anticipatory Direction

1. I,

.....

.....

[Insert full name, address and occupation]

direct that if, at some future time, I am –

- (a) in the terminal phase of a terminal illness, or in a persistent vegetative state; and
- (b) incapable of making decisions about my own medical treatment,

effect is to be given to the following expression of my wishes:

.....

.....

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.....

[The person by whom the direction is given must include here a statement of his or her wishes. The statement should clearly set out the kinds of medical treatment that the person wants, or the kinds of medical treatment that the person does not want, or both. If the consent, or refusal of consent, is to operate only in certain circumstances, or on certain conditions, the statement should define those circumstances or conditions.]

2. This direction is given under the *Consent to Medical Treatment and Palliative Care Act 1995*.

.....

[Signature of person giving the direction]

Dated the day of 20

Part 2 – Witness's certificate

I,

.....

.....

*[Insert full name and address of the witness and the qualification by virtue of which the witness is an *authorised witness under the Consent to Medical Treatment and Palliative Care Act 1995]*

certify that the person whose signature appears above:

- (a) signed this direction in my presence; and
- (b) appeared to understand the nature and effect of the direction.

.....

[Signature of witness]

Dated the day of 20

Note –* **Authorised witness** means a justice of the peace, a commissioner for taking affidavits in the Supreme Court, a member of the clergy, a registered pharmacist, or a manager of an authorised deposit-taking institution or policy officer appointed under the *Oaths Act 1936* to take statutory declarations.

What if I have a Medical Agent or an Enduring Guardian?

If you have appointed a Medical Agent/s and also made an Anticipatory Direction, the Medical Agent must comply with the wishes/directions contained in the Anticipatory Direction. If you have appointed both a Medical Agent and an Enduring Guardian, then the decisions of the Medical Agent prevail (if available and willing to act) when medical or dental treatment is required.

How to complete an Anticipatory Direction

- Write clearly and use BLOCK LETTERS throughout the form.
- Use blue or black pen so that nothing can be erased.
- If there is any space remaining after you have written your directions, cross out the rest of the space so that no alterations can be made. Both you and your witness should initial and date the beginning and end of the line used to cross out the extra space.
- Do not use abbreviations. For example, write "STREET" not "St." and SOUTH AUSTRALIA" not "SA".

You do not have to use the form provided. Provided you use exactly the same wording and layout, you may choose to put the form on your home computer, typewriter or hand write it so that you can give yourself more space. A copy of the form is also available online. If you use an electronic copy of the form, you must print it out and make sure that it is properly signed by both you and an authorised witness. If your directions take more than a page it might be a good idea for you and your witness to sign each page. Also include as a title – Anticipatory Direction – on each new page.

Do I need to get my Anticipatory Direction witnessed?

Yes. In fact, the witness has two jobs to do. The first is to say that you signed the document in his or her presence, and the second is to make sure that you appeared to understand what you were doing (ie were of sound mind) when completing the document.

Your witness must be an authorised witness. Please see the note at the bottom of the form.

Have I done everything?

- Have I written my full name and address?
- Have I signed the document?
- Is the document correctly witnessed?
- If I have made any changes or corrections, are they initialled and dated by both a witness and myself?
- Have I made copies and let important people around me know that I have completed an Anticipatory Direction?

Where can I get further information and advice?

Office of the Public Advocate

ABC Building
85 North East Road, Collinswood
Tel (08) 8269 7575
Toll Free 1800 066 969
Fax (08) 8269 7490
Email opasa@opa.sa.gov.au
www.opa.sa.gov.au

The Palliative Care Council of South Australia

202 Greenhill Road, Eastwood
Tel (08) 8291 4137
www.pallcare.asn.au

Dept of Health
www.health.sa.gov.au/consent

Where can I register my Anticipatory Direction?

Australian Medic Alert Foundation

216 Greenhill Road, Eastwood
Tel (08) 8274 0361
Toll Free 1800 882 222

This information is not legal advice and should not be taken to be a substitute for legal opinion.