

Now you are a Substitute Decision-Maker

What is a substitute-decision maker?

When an Appointer makes their Advance Care Directive, they can choose to list one or more people as their substitute decision-maker. Later, if the Appointer is unwell or injured and is unable to make a particular decision on their own, their substitute decision-maker can make the decision for them.

For more information about who can be appointed as a substitute decision-maker, please see the *Now you are a Substitute Decision-Maker* guide.

What is an Advance Care Directive?

An Advance Care Directive is a legal document where someone can give directions about their future health care, end of life, preferred living arrangements and other personal matters.

A fact sheet about Advance Care Directives is available.

Substitute-decision maker role

As a substitute decision-maker, you can make decisions about health care (including end-of-life decisions), living arrangements and other personal affairs for your Appointer. Legally, decisions made by a substitute decision-maker have the same weight as if the Appointer were making the decisions for themselves.

The *Advance Care Directives Act 2013* (sections 10 and 35) states that as a substitute decision-maker, you must, as much as you possibly can:

- ✓ uphold the values, wishes and instructions the Appointer has written in their Advanced Care Directive
- ✓ avoid any outcomes, treatments or interventions the Appointer wanted to avoid
- ✓ ask the Appointer about their wishes and needs and consider these in your decision-making
- ✓ make the decisions you believe the Appointer would have made under the circumstances

The *Now you are a Substitute Decision-Maker* guide is available online at www.opa.sa.gov.au/sdm-toolkit-guide

- ✓ not restrict the basic rights and freedoms of the Appointer
- ✓ consider the Appointer's past and present wishes, along with any values they have displayed or expressed in their life
- ✓ give priority to the Appointer's wishes if there is a disagreement about a decision
- ✓ make decisions that fit well with the proper care of the Appointer and protection of the Appointer's rights and interests, if there are no specific instructions or expressed views.

Substitute decision-makers must have a certified copy of the Advance Care Directive that appoints them. You must show this copy to anyone who needs to see it when you make a decision for the Appointer.

Upholding wishes

Before taking on the role of a substitute decision-maker, you need to understand that you will not be making decisions for your Appointer based on your own personal needs, wishes or preferences. Substitute decision-makers are also not appointed to make decisions in a person's best interests.

You should make sure you understand your Appointer's wishes, values, beliefs and other lifestyle and health care matters that are important to them. Then, when you are asked to, you will be able to make the decision the Appointer would have made, if they were still able to make it themselves.

Binding refusals

If your Appointer has expressed, written or implied in their Advance Care Directive that they do not want a particular treatment or health care, this is called a binding provision. If someone refuses a particular health care, this is binding, which means the substitute decision-maker and health practitioners must follow the refusal. All other expressed wishes are non-binding but must guide your decision-making.

Decision-specific and supported decision-making

The *Advance Care Directives Act 2013* says that Appointers must be allowed to make their own decisions about their health, accommodation and personal affairs for as long as possible.

Your Appointer may be able to make some decisions on their own, such as what they like to eat or who they would like to spend time with.

They may only need support to make some decisions, such as what arrangements might be made for assistance and services in their home.

There may also be decisions that you will need to make for your Appointer, such as complex health care decisions. This is called 'decision-specific' decision-making capacity.

An Advance Care Directive is not 'activated' but is used when it is needed, according to the decision-specific capacity of the Appointer. Your Appointer should also be as involved as possible in decisions about their life.

A fact sheet about Decision-Making Capacity is available.

Conflict

If someone who is involved in the Appointer's life has concerns about decisions or decision-makers, they can ask the Office of the Public Advocate for guidance and help.

A fact sheet about the Dispute Resolution Service is available.

Seeking help

As a substitute decision-maker, if you need information or guidance concerning the Advance Care Directives Act or your responsibilities as a substitute decision-maker, the Office of the Public Advocate can help.

See the *Now you are a Substitute Decision-Maker* guide for more information.