

End of Life Planning (EOL)

Office of the Public Guardian – Fact Sheet

The Public Guardian believes all people have the right to die with dignity. People with disability have a right to access the same medical services and treatment that is available to the broader community and should not be deprived of treatment if they are unable to give consent.

People have a right to be involved in decisions about their own lives; however there are times when a guardian is legally appointed to make certain decisions when a person is unable to.

A guardian can consent to medical treatment or make health care decisions, including decisions about end of life care. To do this, a guardian needs to be appointed with specific functions, including health care and/or medical and dental consents.

If a person no longer has capacity to appoint their own Enduring Guardian, the Guardianship Division of the NSW Civil and Administrative Tribunal (NCAT) or the Supreme Court can appoint a private person as the guardian or the Public Guardian as the guardian of last resort.

End of Life (EOL) decision making can take time

EOL decision making is complex. It requires information from medical professionals and involvement from significant others. If the Public Guardian is the person's guardian, decisions will be made as soon as possible. The office is also contactable after-hours for urgent matters.

Guardians need detailed information to provide consent to medical treatment

Guardians consider a range of information including:

- ✓ whether the person has made an Advanced Care Directive

- ✓ the person's current or previous views
- ✓ the views of family, friends and carers
- ✓ clinical views from treating practitioners
- ✓ risks and benefits (including side effects) of any proposed treatment

The Public Guardian's [End of Life Care Checklist](#) provides more detailed information about what the Public Guardian needs to know before providing consent in these situations.

Doctors may propose treatment limitations or withdrawal

A proposal to withdraw treatment is made when a doctor has determined that continued treatment is no longer of benefit to the person.

The person, their guardian and other important people in the person's life should be included in discussions about withdrawing treatment. The person's values and wishes should be central to these discussions and given as much consideration as possible. With a health care function, the guardian can consent to treatment withdrawal.

A doctor does not have to offer treatment that is not considered clinically necessary, however if the guardian disagrees with a doctor's proposed treatment plan, they can advocate for treatment reinstatement or a second opinion.

Consent is not required for urgent medical treatment

This includes treatment to save a person's life, prevent serious damage to health or prevent suffering. If a person has already directed that they do not consent to urgent, (including lifesaving) treatment through a valid Advance Care Directive (ACD), or they have communicated their wishes in an appropriately endorsed and valid NSW Ambulance

Authorised Adult Palliative Care Plan, the treatment cannot be given.

The **Public Guardian** will only consider the use or withholding of resuscitation measures in the context of a **Resuscitation Plan**.

A Resuscitation Plan is a medically authorised order to use or withhold resuscitation measures and which documents other aspects of treatment relevant at end of life. The doctor should discuss the Plan with the patient, the Public Guardian and family members. A Resuscitation Plan must be informed by any valid Advance Care Directive or Plan previously prepared by the patient. We will not consent to the withholding of resuscitation without a Resuscitation Plan. If cardiorespiratory arrest is not anticipated and there is no Resuscitation Plan in place, we expect that the doctor use their clinical judgement and follow any valid ACDs. The Public Guardian's decisions are reviewable. Contact the Information and Support Branch for information on how to request a review or make a complaint.

An Advance Care Directive is an instruction about future medical treatment

When a person is unable to make or communicate treatment decisions, their Advanced Care Directive (ACD) can speak for them. An ACD is legally binding and can only be made by the person themselves when they have capacity. A guardian or another person cannot write, direct or consent to an ACD on behalf of another person.

An ACD is preferably made in writing but a verbal ACD is also valid. ACDs are not required to be witnessed or registered however, it is sensible for the treating doctor to sign it and keep a copy. It is important that it is current and specific to the circumstances and may not be considered valid if the person was unduly influenced when writing it. If there are concerns about the validity of an ACD, legal advice should be sought.

Euthanasia is illegal. A person's Advance Care Directive cannot direct euthanasia.

Advance Care Planning is the process of planning your future health care

Advance Care Planning (ACP) involves discussions with the person and others, such as family members, guardians and health professionals. The person's medical history and current condition, preferences, values and beliefs are discussed to inform ideas about the sorts of treatment that may or may not be appropriate for the person. If the guardian has the health care function, they can consent to an ACP if requested to.

For further information from NSW Department of Health on ACD or ACPs, go to www.advancecareplanning.org.au

For more information about Authorised Palliative Care Plans visit https://www.slhd.nsw.gov.au/btf/pdfs/Amb/Adult_Palliative_Care_Plan.pdf

How to contact us



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You can contact us through the National Relay Service on 1800 882 889



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If English is your second language, you can contact us through the Translating and Interpreting Service on 131 450.

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