

Newfoundland and Labrador

Advance Health Care Directives Act, 1995



What legal documents can I use for Advance Care Planning and what can I include in them?

You can use a **Advance Health Care Directive** to:

- Share general principles and values about how you would like to be cared for.
- Give instructions for your future health care treatment.
- Give instructions for what to do with your body after you have died.
- Appoint one or more Substitute Decision Makers to make decisions about your care if you cannot.



What if I have completed documents outside of Newfoundland/Labrador before moving here?

The laws do not state if or when documents from outside the Newfoundland/Labrador will be recognized.



When can I prepare an Advance Health Care Directive?

- If you are 16 years of age or older
- If you have the capacity to make health care decisions



How do I prepare an Advance Health Care Directive?

- You must write, date, and sign it.
- With your permission, another person may sign it on your behalf. This person cannot be your Substitute Decision Makers or their spouses.
- Your signature needs two witnesses. The witnesses cannot be your Substitute Decision Makers or their spouses.



When will my Advance Health Care Directive be used?

It will take effect if you lose the capacity to make decisions about your care.



Who will make decisions about my care if I cannot?

If you have made an Advance Health Care Directive, your health care providers may follow this Directive if it is relevant and specific to the care you are receiving. It may be used as consent for care while you lack capacity.

If you have named a Substitute Decision Maker in your Advance Health Care Directive, they may make decisions about your care.

If you have not named a Substitute Decision Maker or completed an Advance Health Care Directive, someone may be chosen from the **default list of nearest relatives** to make decisions about your care.



Who can I choose as my Substitute Decision Maker?

Your Substitute Decision Maker must:

- be at least 19 years old.
- be available, willing and capable of making health care decisions.
- have been in contact with you in the last year (although this can be waived by a court application).

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What decisions can my Substitute Decision Maker make?

Your Substitute Decision Maker can consent, withdraw consent or refuse consent for any health care decision. Their decisions must be guided by:

- the instructions in your Advance Health Care Directive.
- your values and wishes
- your best interests if your values and wishes are not known.

If you have more than one Substitute Decision Maker, you can choose whether they make decisions:

- successively – they may be chosen in the order you have named them. This is the default if you do not choose; or
- jointly – over half of them must agree on a decision. When there are two, they must both agree.



What decisions can my Substitute Decision Maker not make?

- Anything prohibited by law
- Medical assistance in dying
- Delegate their role to another person
- Treatments that are not medically necessary, including research, sterilization, or organ/tissue donation (unless stated otherwise in your Directive)



Who is on the default list of nearest relatives?

Health Care Providers use the default list of nearest relatives to identify someone to make decisions about your care if you have not named a Substitute Decision Maker. The first person who qualifies on the list may be chosen:

1. Spouse
2. Children
3. Parents
4. Siblings
5. Grandparents
6. Grandchildren
7. Uncles or aunts
8. Nephews or nieces
9. Another relative
10. The person's health care provider

Your Specific Decision Maker cannot make decisions if you have made a Personal Directive about that decision.

Where do I go for more information about Advance Care Planning?

Government of Newfoundland and Labrador – How to Make an Advance Health Care Directive:
www.gov.nl.ca/cssd/files/publications-pdf-seniors-ahcd-booklet.pdf

Eastern Health – Advance Care Planning Policy:
www.easternhealth.ca/OurServices.aspx?d=2&id=2255&p=202

Public Legal Information Association of Newfoundland and Labrador: www.publiclegalinfo.com

Coalition of Persons with Disabilities – Advance Health Care Directives and Substitute Decision Makers Booklet:
seniorsnl.ca/publication/advance-health-care-directives-substitute-decision-makers-booklet-cod-nl/

Office of the Public Trustee: www.gov.nl.ca/jps/departement/branches/division/trustee/

