

Prince Edward Island

Consent to Treatment and Health Care Directives Act, 1988



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

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

- Provide health care directions and wishes about treatments, procedures, or medications in specific situations set out in the Directive.
- Appoint one or more **Proxies** to make decisions about your care if you cannot.
- Specify an event or condition upon which the Directive becomes effective.



What if I have completed documents outside of Prince Edward Island before moving here?

Your document is valid if it meets the requirements of either:

- A Health Care Directive in Prince Edward Island;
- The location where you made them.



When can I prepare a Health Care Directive?

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



How do I prepare a Health Care Directive?

- You must write, date, and sign it.
- With your permission, another person may sign it on your behalf. They must sign it in front of you and a witness. Your Proxies and their spouses are not permitted to sign on your behalf or sign as a witness.



When will my Health Care Directive be used?

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



Who will make decisions about my care if I cannot?

If you have made a 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 Proxy in your Health Care Directive, they may make decisions about your care.

If you have not named a Proxy or completed a Health Care Directive, someone may be chosen from a **default list of nearest relatives and friends** to make decisions about your care.

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Who can I choose as a Proxy?

Your Proxy must:

- be at least 16 years old,
- be available, willing, and capable of making health care decisions on your behalf, and
- have knowledge of your situation and have been in recent contact with you.



What decisions can my Proxy make?

Your Proxies can consent and withdraw consent for any health care decision. Their decisions must be guided by:

- any instructions in your Health Care Directive that clearly relate to the decision or situation
- more recently stated wishes that relate to the decision or situation, even if they are different than those expressed in your Health Care Directive
- your values and wishes
- your best interests if your values and wishes are not known.

If you have more than one Proxy, 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.

If they are to act jointly:

- A decision of the majority of Proxies may stand as the decision, and if this is unsuccessful the first Proxy named in the Directive may make the decision.
- You may state another way to resolve disagreements.



What decisions can my Proxy not make?

- Anything prohibited by law,
- Medical assistance in dying,
- Delegation of their role to another person
- Treatments that are not medically necessary including research, sterilization, abortion, or electric shock therapy.



Who is on the default list of nearest relatives and friends?

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 Proxy. The first person who qualifies on the list may be chosen:

1. Guardian, if given the authority to consent to or refuse treatment
2. Spouse
3. Son or daughter, or parent
4. Brother or sister
5. Trusted friend who knows your wishes
6. Any other relative
7. The Public Guardian

Except for the Public Guardian, to qualify they must meet the same criteria for choosing a Proxy.

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

Health PEI – Advance Care Planning:

www.princeedwardisland.ca/en/information/health-pe/advance-care-planning

Health PEI - Advance Care Planning PEI Workbook: www.advancereplanningpei.ca

Community Legal Information Association of PEI – Health and the Law: www.cliapei.ca/content/page/publications_health/

Office of the Public Trustee:

www.princeedwardisland.ca/en/information/justice-and-public-safety/public-trustee-public-and-official-guardian

