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BARRISTERS AND SOLICITORS

DO YOU NEED AN ADVANCE HEALTH DIRECTIVE?

BACKGROUND

With effect from 15 February 2010 the State Government amended the Guardianship and Administration Act 1990 to provide for Advance Health Directives.

An Advance Health Care Directive (“**AHD**”) is a legal document in which adults can set out in writing their decisions about future treatment.

An AHD comes into effect only if you are unable to make reasonable judgements about the treatment decision at the time that the treatment is required. If you do not have an AHD and you become so ill that you cannot make decisions or speak for yourself, you have no legal way of making your wishes known about when to withdraw or withhold life-sustaining measures.

By making an AHD you can specify what treatment you would like to have or would like to refuse if you become seriously ill, unconscious, or are no longer able to make your own decisions, and are unable to communicate your health care wishes. Treatment refers to any medical, surgical or dental treatment or other health care (including palliative care and life-sustaining measures such as assisted ventilation and cardiopulmonary resuscitation).

Health professionals will refer to the AHD if you can no longer make decisions for yourself. Note that they may disregard a direction if it is uncertain or inconsistent with good medical practice.

You can express your wishes in a general way. For example, you can state:

- Particular treatment you do not want;
- Special medical conditions that your doctor or other medical staff should know about (such as diabetes or allergy to certain medications);
- Religious, spiritual or cultural beliefs that could affect your treatment (such as if you have particular views about receiving a blood transfusion). For example if you are a Jehovah’s Witness.



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DO YOU NEED AN ADVANCE HEALTH DIRECTIVE Cont.

If you become so ill that your directive is in force but doesn't cover all the health conditions you suffer, then an enduring Guardian appointed pursuant to an Enduring Power of Guardianship can make lifestyle and medical treatment decisions on your behalf and in your best interests. See "**DO YOU NEED AN ENDURING POWER OF GUARDIANSHIP?**".

Please note that neither an AHD nor an Enduring Power of Guardianship will cover your financial affairs so you may also need an Enduring Power of Attorney. See "**DO YOU NEED AN ENDURING POWER OF ATTORNEY?**".

MAKING AN AHD

To make an AHD you must:

- Be 18 years of age or older;
- Have full legal capacity

INFORMATION TO INCLUDE IN AN AHD

- Life-sustaining measures;
- Palliative care.

LIFE-SUSTAINING MEASURES

You can give specific instructions about the withholding or withdrawing of life-sustaining measures if you are:

- Terminally ill for which there is no known cure or there is no possibility that you will recover; and doctors believe you have only 12 months or less to live;
- In a persistent vegetative state from severe and irreversible brain damage;
- Permanently unconscious from severe brain damage;
- Ill or injured so severely that there is no reasonable prospect that you will recover and be able to live without continuing life-sustaining measures.



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PALLIATIVE CARE

You can also specify your wishes about palliative care which offers comfort, support and adequate pain relief to people who are dying. An AHD improves the likelihood that the end of life preferences will be upheld. It also assists health professionals to make decisions to:

- Cease futile treatments hence preventing unwarranted distress to dying people; or
- Provide emergency treatment to a person without capacity.

EUTHANASIA

Please note that euthanasia is illegal and, therefore, nobody, including your doctor, may give you anything to cause your death. Your doctor can only:

- Give treatment that aims to maintain or improve your health and wellbeing; or
- Withdraw or withhold treatment provided that is not inconsistent with good medical practice.

Your AHD cannot direct euthanasia. An AHD may, however, hasten death by directing the circumstances where treatment should be withdrawn.

ADAMSON & ADAMSON LAWYERS can assist you in preparing your EPG and we recommend it as an integral part of your estate planning.