

Are healthcare providers and substitute decision-makers required to follow the wishes of the individual?

Yes. If the expressed wishes are relevant to the situation at hand and were expressed when the individual was capable (the individual understood and appreciated the nature and consequences of the decision) and over the age of 16, they should be followed. This has been established in case law.

Is everyone required to do advance care planning?

No. There is no legal requirement for individuals to complete advance care planning (either to express their choices or to appoint a substitute decision-maker).

Admission to a facility or access to health care cannot be denied based on the absence of advance care planning.

There is no minimum age of consent in Ontario. If the individual is capable as described above, he/she is able to consent (or refuse to consent) to a treatment or plan of care.

When does an advance care choice come into effect?

Choices expressed through advance care planning only come into effect when an individual is no longer capable of making a specific decision for himself or herself. (For information on determination of capacity, refer to the Quick Guide on Capacity Assessment.)

On-line resources include:

Ontario Seniors' Secretariat

<http://www.gov.on.ca/mczcr/seniors/>

Office of the Public Guardian and Trustee

<http://www.attorneygeneral.jus.gov.on.ca>

Advocacy Centre for the Elderly

<http://www.advocacycentreelderly.org>

Consent and Capacity Board

<http://www.ccboard.on.ca>

Publications Ontario

<http://www.gov.on.ca> (follow the link for "laws")

For more information or to request an ethics consult, speak with a healthcare provider or contact the Centre for Clinical Ethics (a joint venture of Providence Healthcare, St. Joseph's Health Centre, & St. Michael's Hospital) at 416-530-6750.

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Advance Care Planning

A quick guide* for healthcare consumers & and healthcare providers

*This guide provides general information about the current law in this subject area. However, legal information is not the same as legal advice, where legal advice is the application of law to an individual's specific circumstances. Although we have tried to make sure that the information in this guide is accurate and useful, we recommend that you consult a lawyer if you want professional legal advice in this subject area that is appropriate to your particular situation.

Advance Care Planning

Alice Conrad has a history of strokes in her family. She has strong opinions about how she would like to be cared for if she were to experience a serious stroke.

Sean O'Reilly has lived a fiercely independent life. Although he is 90 years old and has recently been diagnosed with Alzheimer's disease, he lives in his own home and wants to continue to do so, despite concerns raised by his children about his safety.

Lilly Palma is a woman of strong religious convictions and believes that "where there's life, there's hope." If she were to become comatose, she would want to continue receiving life-sustaining treatments.

In each of the above scenarios, the individual has expressed a number of wishes about the kind of health and personal care they wish to receive in a future situation of incapacity.

Healthcare providers may encounter individuals who have already engaged in advance care planning or may be called upon to assist individuals in this activity. This guide outlines some key information that healthcare consumers and providers need to know and provides a list of additional resources.

What is advance care planning?

Advance care planning is about individuals expressing personal choices about how they wish to be cared for in the future. It may also include appointing someone to make decisions on their behalf.

Why is advance care planning important?

There may come a time when an individual is unable to make decisions for him or herself. The inability to make decisions for oneself may happen suddenly as with a serious stroke or gradually as with Alzheimer's disease.

Advance care planning can help to ensure that individuals receive the kind of care they want. Having made decisions in advance may also help to reduce the stress for family members and healthcare providers in times of crisis.

What kinds of choices can be made?

Individuals can make choices about any personal care matter including healthcare, food, living arrangements, clothing, hygiene, and safety. Advance care planning does not include financial and property decisions. Financial and property decisions are managed through a different process.

How can these choices be communicated?

An individual can express their wishes verbally, in an audio or videotape, or in any written form. The wishes should be expressed to the individual's substitute decision-maker. Individuals may also choose to communicate their wishes to other family members, their doctor, close friends, or their lawyer.

If an individual wishes to name someone to be his/her Attorney for Personal Care, this must be done in writing (Please refer to Quick Guide to Powers of Attorney for Personal Care for additional information).

Can individuals change their minds about their choices?

Yes. The most recently expressed capable wish (whether verbal or written) is to be followed.

What is the difference between an advance directive, a living will, and a Power of Attorney for Personal Care?

In an advance care directive or living will, an individual documents their wishes. A Power of Attorney for Personal Care may also be used to do this, but in addition it includes the appointment of an individual(s) to be the person's substitute decision-maker.