

Notes for Completing an Advance Directive

GETTING STARTED

It is important for everyone to have an Advance Directive. We can lose our mental capability slowly (e.g. Alzheimer's Disease) or very suddenly (e.g. brain injury through a car accident). Preparing a Directive gives you a voice in the care you will receive if you can't make your own decisions at the time. It also assists those who will have to make care decisions for you. It may be the best gift you can give to your loved ones who have to make hard decisions for you in the future.

Discussing end-of-life decisions can be very difficult for most of us. It makes us face the fact that we will die someday. In some cultures it is especially difficult to talk about death and dying. Just looking at this form may provoke strong emotions and thoughts for you, or it might feel overwhelming.

It is important to talk about these issues with the people you trust – your family, friends and health care providers, including your doctor. You may also want to talk to your spiritual advisor. Filling out an Advance Directive can be a way of sorting out your values, fears, hopes and wishes. It may take some time and help from others but it can be a very positive journey. In picking up this form, you have made the first step.

GENERAL INSTRUCTIONS

Please read these **Notes for Completing an Advance Directive** and the booklet called "**Planning for your Future Healthcare Choices**" before you fill out this form. These are available on the Yukon Health and Social Services website along with this form at www.hss.gov.yk.ca

Use this form to appoint a **proxy**. Your proxy will make "**care**" decisions for you only if you become mentally incapable of making the decisions for yourself. You may also outline your wishes related to future health care and personal care in this directive. Your proxy cannot make financial decisions for you. To appoint a person to make financial decisions, you will need to visit a lawyer to prepare an Enduring Power of Attorney.

You do not have to use this form to have a valid Directive. As long as you fill out the parts not marked optional, your Directive will be valid in the Yukon. You can include **Attachment A (Wishes)** and **Attachment B (Special Authority to Proxies)** in your Directive if you want, but this is optional. If you are not physically able to complete the form, you may direct another person to fill it out for you. Your proxy **must follow the wishes** you expressed while you were still mentally capable as long as those wishes apply to the circumstances and are possible to

carry out. Your wishes can be expressed in this Directive or in any other way (e.g. verbal). You can change your wishes at any time as long as you are still capable of understanding. The most current wishes you expressed while you were still mentally capable must be followed.

You **must be capable of understanding** the nature and effect of this Directive at the time you filled it out in order for it to be legally valid. That means that you understand the content of what you have put in your Directive and appreciate the consequences of your choices. Two witnesses must sign the Directive at the same time that you sign it. The proxy must also sign the Directive but they do not have to sign at the same time as you and the witnesses.

If you want to make Attachment B (Special Authority to Proxies) a part of your Directive, you will need to visit a lawyer for legal advice. If you do not include Attachment B with your Directive, you do not need to visit a lawyer in order to have a valid Directive.

Explanation Corresponds to Sections on the Form

1. You must be at least 16 years old and capable of understanding the nature and effect of your Directive at the time you make your Directive. That means that you understand what you have put in your Directive and the consequences of your choices.

- 2.** The Directive only takes effect when you are not capable of making your own care decision.
- A care provider will assess whether you demonstrate an understanding of the proposed care, the risks and benefits, the alternatives, etc. A person's way of communicating with others is not, in itself, grounds for deciding that they are incapable of making a care decision.
- 3.** You cannot have more than one Directive, so if you have an old Directive, it will automatically be cancelled once you sign the new Directive. It is a good idea to review your Directive every year or whenever you have a significant change in your health. Make sure you record who you have given copies of your Directive to so that when you make a new Directive you can give the new version to the same people.

Proxies

- 4.** A Directive in the Yukon **MUST** appoint a proxy. You **MAY** also include your wishes for care in your Directive if you want. However, your wishes do not have to be in your Directive. You can set out your wishes in any way you want, for example, in writing or talking to a trusted friend, relative or health care provider. A proxy is someone you appoint to make care decisions for you if

you become mentally incapable of making your own decisions at a later date. A proxy must be at least 19 years old (unless they are your parent or spouse) when they are called upon to act as your proxy. They do not have to live in the Yukon – as long as they can be reached by phone. Your proxy should be someone who:

- knows you very well,
 - is trustworthy
 - is willing to respect your views and values
 - is able to make difficult decisions in stressful circumstances and who can speak for you
- A spouse or family member may not be the best choice because they may be too emotionally involved. But sometimes they are the best choice. You know best. Talk over your wishes with your proxy and make sure they will respect your wishes.
 - If your proxy does not know your wishes, they will make decisions based on your values and beliefs. If they don't know your values and beliefs, they will make decisions that are in your best interests.
 - A proxy is not paid for carrying out their responsibilities.

Alternate Proxy

5. You can also name an alternate proxy in the event your proxy(ies) are unable to act.

Authority of Proxy

6. Under the Care Consent Act, your proxy can make decisions regarding your health care, admission to a care facility or consent to personal assistance services (Home Care) if you are not capable of making the decision. These terms are defined in these Notes. Your proxy will have general authority to make decisions in these areas unless you limit their authority in your Directive. You can limit the authority of all your proxies or just one of them if you want.
7. If you have appointed more than one proxy (not including the Alternate), then you may want to say how they will make decisions together. Can either of your proxies make the decision? Or do you want your first proxy to make the decisions all the time unless they are unavailable?
8. You may want to specify how your proxy should make decisions (e.g. call a family meeting, or consult with certain friends and relatives).

Conditions for your Directive to take effect or end

9. You can set out additional conditions that must be met before your Directive starts or ends. However, it is not necessary to make any conditions.
10. You must be capable of understanding the nature and effect of the Directive in order to cancel

(revoke) it. You can make additional requirements here if you want. A person with a mental illness who wants their proxy to restrain them and give them medication despite their objections may want to put a “cooling off” period in their Directive. This would allow the proxy to go ahead with your wishes outlined in the Directive even if you rip up your Directive in the heat of the moment.

Attachments

11. If you want to include Attachment A (Wishes), Attachment B (Additional Authority to Proxies) or any other attachment, show what you have included by marking your initials beside the name of the attachment.

Signatures

12. You must sign the Directive and date it in the presence of two witnesses. If you are unable to sign the Directive but you are mentally capable, you can direct another person to sign for you in front of the witnesses.

- The two witnesses must sign the Directive. Both must be at least 19 years old and neither can be a proxy or the spouse of a proxy.

13. The proxy(ies) must sign the Directive indicating that they agree to be the proxy. The proxy(ies) can sign the Directive at any time. However, the Directive is not effective until the proxy(ies) sign.

ATTACHMENT A – WISHES

This schedule is optional. However, it will help care providers and your proxy when it comes time to make care decisions on your behalf.

1. Personal Statement

Our values about our life and our independence are personal. What do you consider to be an acceptable quality of life? It may help to think about what quality of life would be unacceptable to you. Talk to trusted friends, relatives or your spiritual advisor about this.

2. Health Care Wishes

This section provides some basic choices about your health care wishes. There are two different scenarios to consider. The first (2.1) assumes that you have a condition that you will recover from. The second (2.2) assumes that you have a condition that is life threatening or irreversible and unacceptable to you. Think about these choices carefully and get the information you need. Discuss your current health condition and future treatment options with your health care provider.

3. Personal Care Wishes

This section outlines your wishes about personal care. Personal care includes admission to a care facility and consent to Home Care. Your wishes will be respected as long as they apply to the situation and they are possible to comply with. For

example, it may not be possible to comply with your wish to never live in a nursing home if your physical care needs become too much for your family and Home Care.

4. Personal Values Statement

Instructions in Directives are sometimes too vague (e.g. no “heroic” measures) or unclear. It is impossible to anticipate every situation. It may be most useful if you express your basic personal values about your life and future health care and leave the specific decisions up to your proxy.

You may want to specify situations where you will want to talk to your spiritual advisor. You may want to request that your religious views be honoured even if they conflict with your family’s views. Or you may want to specify that you don’t want a visit from a church Minister because you have had no contact with the church in 30 years.

This section should reflect YOUR personal values and what is important to YOU.

ATTACHMENT B – SPECIAL AUTHORITY TO PROXIES

- This part is optional. If you fill out this part, you must also have the ***Certificate of Legal Consultation*** filled out by a lawyer.
- There are certain health care treatments that your proxy cannot consent to unless you set these out specifically in your Directive and you consult with a lawyer. Consulting with a lawyer is important because the authority you are providing to your proxy in these situations may affect your legal rights.

Authority to restrain

- The authority to restrain and treat you despite your objections may be particularly useful for people with mental illnesses who have an awareness of the cyclical nature of their illness. Through this Directive, you can enable family members or friends to intervene. For example the proxy could make sure that you take your medications. This could make an involuntary admission under the Mental Health Act unnecessary because you may receive treatment sooner and your proxy can consent to treatment for you.
- The authority to restrain and treat you despite your objections can also be useful in situations where a medical condition can lead to a build-up of toxins in the body.

These toxins can affect the brain and produce confusion. For example, confusion can be a result of a stroke, dehydration, seizures, medications, diabetes or kidney disease.

Capability and Consent Board

- Everyone who is assessed to be incapable of making a care decision has the right to have that decision reviewed by the Capability and Consent Board under the Care Consent Act (made up of lay people, health providers and lawyers). In a situation where a person has authorized their proxy to restrain and treat them despite their objections, the proxy's authority could be undermined if the maker of the Directive objects to the finding of incapability and wants the Board to review it. It may be important for the maker to waive this right in limited situations.

Consent to certain treatments

- The authority to consent to abortion, ECT, etc. is generally not given to proxies. These treatments are either controversial or of questionable benefit to the person. For this reason, if you want to give your proxy any of these authorities, you must mark it in this section and consult with a lawyer. This might be useful if you were diagnosed with early Alzheimer's Disease and your sister was going to need a kidney transplant eventually. If you wanted to donate one of your kidneys to your sister sometime in the future, you could specify this wish in your Directive.

DEFINITIONS:

Antibiotics are drugs that may be provided to treat an infection. For example, an elderly person with a terminal illness may develop pneumonia. Left untreated, it can lead to death. A person may choose to die of pneumonia rather than the terminal illness (e.g. bone cancer).

Blood transfusions are where blood is infused into your body through an intravenous line (a needle in your vein). Discuss this possibility with your doctor.

Care means Health care, admission to live in a care facility and personal assistance services.

Care facility means Continuing Care facilities operated by Health and Social Services (e.g. Copper Ridge, Macaulay Lodge, McDonald Home for Seniors) and residential placements for adults with disabilities who are clients of Health and Social Services.

Chemotherapy is used specifically to refer to drugs given to treat cancer. Discuss this with your doctor.

Defibrillation is where the heart is given an electrical shock. Sometimes this is used as part of CPR to start the heart. Other times it is used to make an irregular heart beat become regular.

Health care is anything that is done for a therapeutic, preventive, palliative, diagnostic, cosmetic, or other health-related purpose, and includes a course of health care.

Intubation is where a tube is inserted down your airway so that you can breathe. Some people may want to be resuscitated, but don't want to be intubated. Discuss this option with your doctor.

Intravenous therapy (IV) means that a needle is inserted into a vein, usually in your hand, arm or foot. This needle is connected to a tube that can carry fluids and medications directly into your blood stream.

Kidney dialysis cleans the blood by machine or by fluid passed through the abdomen. Discuss this possibility with your doctor.

Other medications may be prescribed to treat the person's main condition or secondary conditions. Discuss the possible medications that might be prescribed with your doctor.

Personal assistance service is a service provided in a care facility or by the Health and Social Services Home Care Program to assist people with routine activities of living such as hygiene, washing, dressing, grooming, eating, drinking, elimination, walking or positioning.

Proxy is a person appointed in a Directive to give or refuse consent to care for you.

Radiation is a concentrated X-ray beam directed at a certain spot (e.g. a cancerous growth). Discuss this possibility with your doctor.

Resuscitation is short for Cardiopulmonary Resuscitation (CPR) and includes chest compressions, drugs, electric shocks and artificial breathing to restore a heartbeat. Television shows give the impression that CPR is highly successful, when in actual fact, survival rates vary from 0 to 20% depending on the person's condition. Discuss whether CPR is appropriate for you with your doctor.

Surgery could include minor surgery (e.g. wisdom teeth removal or gastric-tube insertion) or major surgery (e.g. gall bladder removal). Discuss the possibilities with your doctor.

Tube feedings give nutrition and/or fluid through a tube into your body.

Advance Directive

(made pursuant to the Yukon *Care Consent Act*)

1. This is the Directive of

Name _____ Date of birth _____
Please Print

Address _____
Residence City/Town Territory/Province

Telephone _____ Health number _____

(referred to as the "Maker")

2. I understand that this Directive and the authority of a proxy become effective if I am not capable of making a decision regarding my health care, admission to a care facility or consent to personal assistance services as defined in the *Care Consent Act*.

3. I revoke (cancel) any previous Directive made by me.

4. I appoint the following person(s) to be my proxy(ies):

Proxy 1 _____
Please Print Name

Address _____
Residence City/Town Territory/Province

Phone _____ Email _____
Home Business

Proxy 2 (Optional) _____
Please Print Name

Address _____
Residence City/Town Territory/Province

Phone _____ Email _____
Home Business

5. Alternate Proxy (Optional)

I appoint the following Alternate Proxy if Proxy 1 or Proxy 2 is unable to act for any reason:

Alternate Proxy: _____
Please Print Name

Address _____
Residence City/Town Territory/Province

Phone _____ Email _____
Home Business

6. I authorize my proxy(ies) to make all care decisions for me when I am no longer mentally capable of making my own care decisions except as indicated below.

I do NOT want my proxy(ies) to make the following care decisions for me:

(Describe decisions you do not want your proxy to make or write "not applicable" if you do not want to put any limitations on the authority of your proxy(ies)).

***(Examples: • Proxy 2 does not have authority to make health care decisions on my behalf
• Proxy 1 does not have authority to admit me to a care facility)***

7. (Optional) Since I have appointed two proxies, I want Proxy 1 and Proxy 2 to make decisions:

(Initial one choice)

___ **A.** Alternately (any one of them can make the decision) **OR**

___ **B.** Successively (2nd proxy decides if 1st proxy is not available)

8. **(Optional)** Additional instructions for how I want my proxy(ies) to make decisions:

(Examples: • proxy(ies) must consult with certain people before making a decision)

9. **(Optional)** This Directive takes effect when a care provider has determined that I am incapable of making my own decision about my care. I understand that I may make additional conditions for this Directive to take effect, which are set out below:

(Examples: • when two doctors plus a certain family member agree that I am no longer capable of making the decision • once my proxy notifies certain people • when I exhibit certain symptoms)

10. **(Optional)** If I am still capable, I can revoke (cancel) this Directive at any time. I understand that I may set additional criteria for revoking this Directive which are set out below:

(Examples: • Directive may only be revoked after I provide a week's notice to my proxy to allow for a cooling-off period/period of reflection • Directive to expire on a certain date • Directive may not be revoked when, in the opinion of certain people or health care providers, I am exhibiting the symptoms of my mental illness)

11. **(Optional)** I have attached and included in this Directive:
(Initial beside the Attachments you have attached.)

____ **A.** Attachment A outlining my wishes.

____ **B.** Attachment B outlining additional authority I wish to give to my proxy(ies).

____ **C.** Attachment _____

12. SIGNATURE OF MAKER

I sign this document while capable of understanding the nature and effect of this Directive.

My signature _____ Date _____
Month/Day/Year

(OR if you are mentally capable but for some reason unable to sign, you may direct another person to complete and sign this Directive on your behalf in your presence. The person signing CANNOT be the proxy or the spouse of the proxy.)

Signature on my behalf _____ Date _____
Month/Day/Year

Relationship to Maker _____

SIGNATURES OF WITNESSES

(Two adults 19 years or older must witness your signature and sign together in your presence.)

I certify that I witnessed the signing of this Directive by the Maker in my presence. I am not a proxy or the spouse of a proxy.

Witness _____ Date _____
Signature Month/Day/Year

Witness _____ Date _____
Signature Month/Day/Year

13. SIGNATURES OF PROXIES

(Proxy appointment is not valid unless signed by all the proxies.)

I agree to be the proxy for the maker of this Directive. I understand and agree to take on the responsibilities and duties of a proxy under the Care Consent Act.

Proxy 1 _____ Date _____
Signature Month/Day/Year

Proxy 2 _____ Date _____
Signature Month/Day/Year

Alternate Proxy _____ Date _____
Signature Month/Day/Year

2. Health Care Wishes (Complete 2.1 and 2.2)

2.1 If I have a condition that is reversible or where I can achieve an acceptable quality of life (as described above), I want the following:

(Initial one choice)

_____ **A. All necessary health care** including life saving treatments

_____ **B. All necessary health care except** _____

2.2. If I have a condition that will cause me to die soon or a condition (including substantial brain damage or brain disease) where there is little reasonable hope that I will regain a quality of life acceptable to me (as described above), I want the following:

SECTION A – RESUSCITATION

If I HAVE no pulse and I AM not breathing:

(Initial one choice)

_____ **A. RESUSCITATE**

_____ **B. DO NOT attempt or continue any RESUSCITATION (DNR)**

SECTION B – CARE

If I HAVE a pulse and I AM breathing:

(Initial one choice)

_____ **A. COMFORT MEASURES ONLY:** These include nursing care, medication for managing symptoms including pain, oxygen, hydration except by intravenous (IV) therapy, mouth care, positioning, warmth, emotional and spiritual support, and other measures to relieve pain and suffering. No other medical treatment will be provided.

OR

_____ **B. SPECIFIED MEDICAL CARE:** In addition to comfort measures, I would want the following if recommended by my health care providers. This may necessitate transfer to a hospital.

_____ antibiotics

_____ surgery

_____ other medications

_____ intravenous therapy

_____ radiation

_____ chemotherapy

_____ tube feedings

_____ kidney dialysis

_____ defibrillation (shock to heart)

_____ blood transfusions

_____ intubation (for breathing)

_____ other treatment

OR

_____ **C. EVERYTHING:** All necessary health care to prolong my life.

Additional Instructions:

3. Personal Care Wishes

My wishes regarding personal care are:

(Examples: • death at home if possible • admission to a care facility if necessary)

4. Personal Values

It is not usually possible to foresee in advance all of the types of health care decisions which may have to be made for you. Use this space to express any personal beliefs or values that you think will help your proxy understand and follow your wishes:

(Examples: • I would prefer to stay at home as long as this does not cause undue stress on my family and caregivers • do everything possible to maintain life • my religious beliefs are important and because of this, I want ... • If I am nearing my death, I want ...)

SPECIAL AUTHORITY TO PROXIES (Optional)

(A certificate of Legal Consultation must be filled out by a lawyer if you fill out anything in this Attachment.)

1. Authority requiring Legal Advice

I grant my proxies additional authority to make decisions for the following matters. I understand that this specific authority is only valid if I consult with a lawyer and have the lawyer complete a certificate of legal advice:

_____ *(Initial the authority you want to give to your proxies.)*

_____ **A.** Authority to physically restrain, move or manage me when necessary and despite my objections in the following circumstances:

*(Examples: • when I exhibit the following symptoms of my illness (e.g. symptoms of bipolar affective disorder or symptoms of toxins in the body as a result of kidney disease)
• when two health professionals and a certain family member people agree that I am exhibiting symptoms of my illness)*

_____ **B.** Authority to give consent in the following circumstances to the following kinds of health care even if I am refusing to give consent at the time:

(Examples: • authority to give me certain medications when I am behaving in a certain way • authority to hospitalize me if necessary to provide me with medications or to protect my safety or the safety of other people • authority to carry out the following emergency crisis action plan)

_____ **C.** Authority to waive my right to apply to the Capability and Consent Board for a review of a decision regarding my incapability to make a health care decision

_____ **D.** Authority to give or refuse consent to specific health care marked below:

_____ abortion

_____ electroconvulsive therapy (ECT)

_____ removal of any tissue from my body for implantation in another human body (e.g. organ donation to a relative) or for medical research

_____ experimental health care

_____ participation in a health care or medical research program

_____ treatments involving aversive stimuli

Specific wishes regarding the above authorities:

(Examples: • preferences for treatment and hospitalization • visitors • people to inform including what to tell my employer or family members)

(If you filled out attachment B of the Advance Directive Form, this certificate must be completed by a lawyer.)

I, _____ of _____
(print full name) (print address)

Certify that:

1. I was consulted by _____
(print full name of Maker)
of _____
(print full address of Maker)

regarding the application of section 30 of the *Care Consent Act* to a Directive made by the Maker on

(day/month/year)

2. I am: _____ a member of the Yukon Law Society
OR
_____ a lawyer licensed to practice in the province/territory of _____
where the Directive was made

3. I believe the Maker of this Directive understands the nature and effect of the provisions of the Directive involving section 30 of the *Care Consent Act*.

The truth of this statement is certified at _____, Yukon
(print name of city)
on _____
(day/month/year)

(signature of lawyer)

