Categories: End of life planning,

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Australia

How preparation towards the end of life works in Australia:

Estate planning
Estate planning may comprise: your will; power of attorney; power of guardianship; an Advance Care Directive.

Will
Your will can be written by a solicitor or by a Public or State Trustee.

Power of attorney
A general power of attorney allows someone to make financial and legal decisions for you. If you lose capacity, it becomes invalid. An enduring power of attorney appoints someone to make financial and legal decisions on your behalf if you become unable. A medical power of attorney allows someone to make medical decisions for you if you lose capacity. An enduring power of guardianship appoints one or more people to make lifestyle and health decisions for you if you are incapacitated.

Advance Care Directive
An Advance Care Directive (or living will) outlines your medical wishes including what treatment you want to refuse, even if that might result in death. It can include your values and life goals. If you have not appointed an Enduring Guardian, you can nominate a substitute decision-maker to make future healthcare decisions if you lose capacity. Common Law Advance Care Directives can be verbal or in writing. Statutory Advance Care Directives must be in writing, signed and witnessed. Advance Care Directives are legally binding.

Advance care plans
An advance care plan is created by someone else on your behalf if you have diminished or no capacity. It can include your beliefs, values and preferences. Advance care plans are not necessarily legally binding. Please note all regulations covered on this page may differ somewhat between states and territories.

Voluntary Assisted Dying (VAD) is available in Queensland, New South Wales, South Australia, Victoria, Western Australia and Tasmania. It occurs when someone has an advanced medical condition that causes intolerable suffering. VAD may happen via the self-administration of medication or via practitioner administration.

VAD is currently illegal in the Northern Territory (NT) and Australian Capital Territory (ACT). However draft legislation to legalise VAD was introduced in ACT in October 2023, and NT awaits the findings of an Expert Advisory Panel on the matter in 2024.

Useful Websites

Advance Care Planning Australia Advance Care Planning explained.

Australian government site explains what to organise before you die.

Australian Unity provides this PDF on estate planning.

End of Life Directions for Aged Care (ELDAC) provides an overview of VAD, as well as Advance Care Planning.

End of Life Law in Australia explains the status quo.

MLC The essentials of estate planning.

Money Smart covers estate planning.

Services Australia (Australian Government) What to do when a loved one dies.

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