

# INSTRUCTIONS FOR COMPLETING A PERSONAL DIRECTIVE

## WHAT IS A PERSONAL DIRECTIVE?

A personal directive is one of the greatest gifts you can give yourself and those who care about you. You must make your personal directive while you can still make decisions for yourself. You might not be able to make health care decisions for yourself at some time in the future. A personal directive can help to make sure that you get the care you want. It can help the people who care about you by letting them know what kinds of care you want.

## WHY COMPLETE A PERSONAL DIRECTIVE?

You can use your personal directive to do any or all of the following:

- You can name someone to make personal care decisions for you.
- You can say what personal care decisions you want to be carried out and how you want them carried out.
- You can describe your values and beliefs to help guide the people who will make and carry out personal care decisions for you.

Personal care decisions are the decisions about what a person will eat or drink, where they will live, what they will wear, what activities they will do, and what support they will need to live. It also includes what health care treatment they get, such as tests, procedures, or services to keep them healthy.

Personal directives are for personal care decisions. They do not tell others how to make decisions about your money and property. For these decisions, you must use an enduring power of attorney or a will. You can learn more about these legal documents from the Legal Information Society of Nova Scotia at [www.legalinfo.org/wills](http://www.legalinfo.org/wills).

## WHEN DOES A PERSONAL DIRECTIVE TAKE EFFECT?

Your personal directive will be used to guide personal care decisions only when you cannot make them yourself. That is called “losing capacity.” You have capacity when you can understand information you need to make a personal care decision and you appreciate what could happen if you make or do not make a decision.

Your personal directive can no longer be used when:

- you have capacity again
- you die
- you cancel the personal directive
- a court decides it is no longer in effect.

## WHERE DO I BEGIN?

We suggest that you read the [Nova Scotia Personal Directives Reflection Guide](#) before you write your personal directive (go to [legalinfo.org](http://legalinfo.org) and search for “personal directives reflection guide”). The *Reflection Guide* will help you to think about the decisions that you will talk about in your personal directive. If you have filled out the *Reflection Guide* or feel ready to make your personal directive, please go ahead.

This instructions document will help you fill out the personal directive form. The form is a separate document you can print and fill out by hand or fill out online and print, whatever is right for you.

Once the form is filled out and signed, it will be your personal directive. And it will have the legal effect of guiding all decisions about your health care and personal care when you can no longer make those decisions.

## CHOOSING DECISION MAKERS

### Naming a delegate

You may use your personal directive to name someone to make personal care decisions for you when you cannot do it yourself. That person is called a delegate. Your delegate does not have to be a relative. They must be at least 19 years old unless they are your spouse, and they must be able to make important decisions. Your spouse can be your delegate even if they are under 19.

You can choose not to name a delegate to make personal care decisions for you. Even if you do not choose a delegate, you can leave instructions and wishes about your personal care. These options come up later in the personal directive.

If you want to name a delegate, fill in on the form.

If you do not want to name a delegate, skip the rest of this section and go to *excluding decision makers* (p. 3).

### Naming more than one delegate

In most cases, it is best to name only one delegate. However, the law allows you to name more than one person to act as delegates for you. If you name more than one delegate, you must clearly give each authority for different decisions. This makes sure that only one person can make decisions in any area and avoids conflicts between decision makers.

If you want to name more than one delegate, fill in on the form and go to *Naming alternate delegates* (p. 2).

### Naming alternate delegates

You may also name an alternate delegate. This person would make decisions about your care if your delegate cannot or will not. They are like a back-up plan. You may also name more alternate delegates to make decisions in case your first alternate cannot. An alternate delegate must be at least 19 years old (unless they are your spouse) and able to make important decisions.

If you want to name alternate delegates, fill in on the form and go to *Giving delegates power to sub-delegate their authority* (p. 2).

## Giving delegates power to sub-delegate their authority

You may allow your delegates to give their responsibilities for your personal care decisions to someone else. This is called sub-delegating their authority to another person. That person will have all the authority your delegates give them. Your delegates may sub-delegate only if you say in your personal directive that they may do so.

If you want to give your delegates power to sub-delegate their decision-making authority, fill in on the form and proceed to *Allowing a former spouse to be a delegate after divorce* (p. 2).

If you do not want to give your delegates power to sub-delegate their decision-making authority, skip forward to *Allowing a former spouse to be a delegate after divorce* (p. 2).

## Allowing a former spouse to be a delegate after divorce

If you did not name your spouse to act as a delegate or alternate delegate, skip forward to *Paying delegates to care for you*.

If you named your spouse to act as a delegate or alternate delegate and then they stop being your spouse, your former spouse may still act as your delegate only if you say so in your personal directive. Otherwise, since your former spouse is no longer your spouse, that part of your personal directive is no longer valid.

If you named your spouse to act as a delegate or alternate delegate and you want them to continue even after divorce, fill in on the form and go to *Paying delegates to care for you* (p. 2).

## Paying delegates to care for you

If you named your spouse or relative to be your delegate, you can pay them to care for you without saying so in your personal directive. If you named someone who is not your spouse or relative and you wish to pay them for their personal care services, you must say this in your personal directive. You can learn more about this topic on page 15 of the *Personal Directives Reflection Guide* on the LISNS website (go to [legalinfo.org](http://legalinfo.org) and search for “personal directives reflection guide”).

If you named your spouse or relative to be your delegate, skip to *Paying delegates to make decisions* (p. [insert #]).

If you named someone who is not your spouse or relative to be your delegate and you wish to pay them for their personal care services, fill in on the form and go to *Paying delegates to make decisions* (p. 3).

## Paying delegates to make decisions

If you want to pay your delegates for making decisions under your personal directive, you must say in your personal directive that they can be paid.

If you want one or more delegates to be paid for making decisions under this personal care directive, fill in on the form and go to *Repaying your delegates' costs* (p. 3).

If you do not want any delegates to be paid for making decisions under this personal care directive, skip to *Repaying your delegates' costs* (p. 3).

## Repaying your delegates' costs

The law is not entirely clear on repaying your delegates' reasonable costs while acting as your delegates. To be certain that your delegates can be repaid for their costs, you should say that in your personal directive.

If you are comfortable leaving the repayment of your delegates' costs somewhat uncertain, go to *Excluding decision makers* (p. 3).

If you want to be certain your delegate can be repaid for any costs they must pay while acting as your delegate, fill in on the form and go to *Excluding decision makers* (p. 3).

## Excluding decision makers

Even if you do not choose delegates or leave personal care instructions or wishes, someone still might need to make a personal care decision for you. Your care providers will turn to a statutory decision maker to make certain personal care decisions for you.

A statutory decision maker is someone who is given the power by law (rather than your personal directive) to make decisions for you about your care. For example, they could accept an offer to place you in a continuing-care home or to receive home-care services. The law lists the people who will be asked to serve as statutory decision makers. This list includes your relatives and the Public Trustee if no relative can make the decision. If you have relatives you do **not** want to have the power to make these decisions for you, you should say that in your personal directive.

If you would like name anyone who you do **not** want to have the power to make decisions for you, fill on the form and go to *Instructions, wishes, values, and beliefs* (p. 4).

If you do not wish to name any individuals who you do **not** want to have the power to make decisions for you, skip to *Instructions, wishes, values, and beliefs* (p. 4).

## INSTRUCTIONS, WISHES, VALUES, AND BELIEFS

The *Nova Scotia Personal Directives Reflection Guide* has information beginning on page 10 that will help you to prepare for this step. On page 22, it also offers a list of possible values to think about. It also shows the kinds of instructions people can include in their personal directive. If you have not already done so, we recommend you read it before taking these next steps.

### Instructions and wishes about personal care

You may give instructions or make statements about your wishes for personal care. If you do, your delegates (if you have any), or statutory decision makers, or your health care providers must follow them.

You can choose to not leave any instructions or wishes about your personal care decisions. If you do this, anyone who makes personal care decisions for you must base them on what they know about your values and beliefs. If they do not know you well, they must decide based on what they think would be in your best interests.

Talk to your health care providers about these instructions so they can give you good information about health conditions and treatment options.

You may say in your personal directive what instructions or wishes about personal care you want to be followed. Three definitions to remember are:

- "Personal care" includes health care, nutrition, hydration (fluids), where you live, clothing, hygiene, safety, comfort, recreation, social activities, support services. It can also include other things. It can include decisions about whether you live in a continuing-care home or at home with home care services.

- “Health care” means any examination (test), procedure, service, or treatment that is done for a health-related purpose. It includes a course of health care or a care plan.
- “Health care decision” includes instructions you give, for example, consenting to or refusing care or treatment, or withdrawing your consent to health care.

In your personal directive, you may instruct your delegate to refuse any kind of health care (for example, CPR, antibiotics, blood transfusions, artificial hydration and nutrition, and nutrition and liquids to drink). Health care providers must respect these wishes.

You may include an instruction to ask for any kind of personal care, but requests cannot always be followed. For example, the hospital might not have a technology you want to be used, or a nursing home you like might not have a bed for you. However, if you add these instructions, your wishes are more likely to be followed.

Be as clear as possible in your instructions or wishes. Say what kinds of care you do or do not want and when. For example:

- “I do not want blood transfusions under any circumstances.”
- “I want to be given a vegetarian diet at all times.”
- “I want to live at home as long as I can afford to.”

Your family and doctors cannot follow an instruction to give you medical assistance in dying (MAiD). That is still against the law in Canada.

Health care providers cannot follow an instruction to take some or all of your organs or tissues for living organ donation. That is also against the law in Canada.

Some health care practices can make your organs more useful for transplantation after your death. You can leave instructions in your personal directive that you want these kinds of care while you are still alive.

The only way to donate your organs after your death is to sign the organ donor form when you register for or renew your health card.

If you do not have instructions or wishes about your personal care decisions, skip to *Values and beliefs about personal care* (p. 4).

If you have instructions or wishes about your personal care decisions, fill in on the form and go to *Values and beliefs about personal care* (p. 4).

## Values and beliefs about personal care

If you do not give clear instructions or a clear description of your wishes above, your delegate will have to make decisions about your care based on what they know about your values and beliefs. If you don't name a delegate or leave clear instructions or wishes about your care, a statutory decision maker must act according to what they think you would want.

You can choose to not write down your values and beliefs about your personal care decisions. But in this case, your delegate or statutory decision maker will have to make personal care decisions for you based on what they know of your values and beliefs. If they do not know what your values and beliefs are, they will have to decide based upon what they believe to be in your best interests.

In your personal directive, you can tell your delegates and health care providers about things like:

- your beliefs about the value of life and the meaning of suffering
- religious or spiritual rites, rituals, and care you want performed before you die
- your cultural or moral commitment to a certain diet
- the value you place on being able to move, to communicate, and to read
- the value you place on being able to see or go into nature
- health situations you would not find acceptable

If you do not want to give information about your values and beliefs, skip to *Consulting and notifying others* (p. [insert #]).

If you want to give information about your values and beliefs, fill in on the form and go to *Consulting and notifying others* (p. [insert #]).

## Consulting and notifying others

### Who the delegate must talk to when making personal care decisions

You can say in your personal directive that your delegate must talk with other people when making personal care decisions for you. You can do this by naming the people your delegate should talk with.

Instructing your delegate to talk with other people when making care decisions for you can help in two ways. First, people who knew you when you could make decisions may know about your instructions, wishes, values, and beliefs. Second, family members who have not been named as delegates may take comfort in being asked about personal care decisions.

If you do not wish to give instructions about who your delegate must talk with when making personal care decisions, skip to *Consultation when assessing capacity* (p. 5).

If you wish to give instructions about who your delegate must talk with when making personal care decisions, fill in on the form and go to *Consultation when assessing capacity* (p. 5).

## Consultation when assessing capacity

Your personal directive takes effect when you can no longer make personal care decisions for yourself. This is called losing capacity. To decide if you have lost capacity, a health care professional will assess (or test) your ability to make decisions. This might include talking with people who know you well.

You may name who you want the health care provider to talk to when they assess your capacity. The person or people you name may be able to give information that helps the person assessing your capacity. It may also help the people who care about you to feel included in your care.

If you do not wish to give instructions about who to talk with when your capacity is being assessed, skip to *Telling people about your loss of capacity* (p. 5).

If you wish to give instructions about who to talk with when your capacity is being assessed, fill in on the form and go to *Telling people about your loss of capacity* (p. 5).

## Telling people about your loss of capacity

You may give instructions about who must be told when you lose capacity to make personal care decisions. You can also say who must not be told.

If you do not wish to give instructions about who should or should not be told if you lose capacity, skip to *Telling people about your loss of capacity* (p. 5).

If you wish to give instructions about who should or should not be told if you lose capacity, fill in on the form and go to *Telling people about your loss of capacity* (p. 5).

## Finalizing your personal directive

Now that you have recorded all your decisions, it's time to take the last few steps to make your personal directive a document that has does what you need it to do. You must print and sign it and get someone to witness your signature.

Your signature must be witnessed. The witness cannot be your delegate, the spouse of a delegate, the person who signs the personal directive for you or their spouse. A "spouse" includes married, common law (partners living together for one year or more), and registered domestic partners.

If you are able to sign the personal directive yourself, complete the signature page.

If you are physically unable to sign the personal directive yourself, have someone sign the signature page for you.

And it only works for you if people know it exists. If you named delegates, you must tell them about your personal directive. If you have no delegates, you might want to print a wallet card so that people in the hospital know you have a personal directive.

In order to avoid any confusion or conflict when your personal directive comes into effect, it is best to cancel any personal directives, instructions, and authorizations you have made in the past. You can find more information about this in the [Personal Directives Reflection Guide](#) on page 17.