

health

Advance Statements under the Mental Health Act in Victoria

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This document is available as a PDF on the internet at:
www.health.vic.gov.au/mentalhealth/mhact2014/recovery/advance-statements.htm

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Advance Statements under the Mental Health Act in Victoria

This information is for persons who may be thinking of preparing an Advance Statement and for those who may be helping someone write up their Advance Statement.

“Advance Statements give me a chance to have my wishes about treatment respected”¹

This document summarises information about Advance Statements under the Mental Health Act 2014 (the Act) in Victoria. The Act aims to make sure that people receiving mental health services are involved in all decisions about their assessment, treatment and recovery and are supported to make, or participate in, those decisions and have their views and preferences respected. The Act also supports the involvement of carers whenever this is possible.



“As a carer, it helps me to know how best to advocate for my loved one during [a relapse]”

1

¹ The quotes in this document are from consumers and carers who assisted in the development of this material.

What is an Advance Statement?

An Advance Statement documents what treatment you would like in case you require compulsory mental health treatment. Treatment means the things used to relieve the symptoms and distress caused by being unwell.

In the event that you receive compulsory mental health treatment, doctors and other people in your treating team have to consider what treatment you would like, including preferences you have written in your Advance Statement.

Advance Statements are not required to be considered if you are receiving voluntary treatment, but it could still be a useful way for you to let your doctors know what treatments you prefer.

Who is a Nominated Person?

This is another new option created by the Act. If you decide to have a Nominated Person it will be important to involve them in developing your Advance Statement and for them to have a copy. One of your carers may be your nominated person or it could be another person you trust to express your views and preferences.

I am a carer, or a Nominated Person, how is an Advance Statement relevant to me?

As a carer, or a Nominated Person, you can encourage and assist the person you care for to write an Advance Statement. Being involved in discussions about an Advance Statement may help you to understand what treatment the person you care for would like, and the reasons for their preferences.

“It is good to encourage conversations about preferences while the person is well”

I am under 18 years of age, can I have an Advance Statement?

Yes, you can make an Advance Statement at any age as long as you understand what an Advance Statement is and what happens if you make one. You might wish to discuss this with your parents or guardians and work with them on writing the Advance Statement.

What is treatment?

The Act specifically refers to treatment provided by a mental health professional and includes electro convulsive therapy (ECT), medications like anti-psychotics and mood stabilisers.

Treatment does not include alternative therapies such as homeopathy, Chinese medicine or massage but you can include information about why you think these things are helpful in an Advance Statement as additional information so that your treating team is aware of your wishes. However, the Act doesn't require your doctor or treating team to consider preferences that are not treatment preferences.

You can also talk about them with your nominated person and other support people in your life. There is an example of a template attached below that provides guidance about how your Advance Statement could be organised.

Why should I make an Advance Statement?

Having an Advance Statement means your doctors and treating team must consider your treatment preferences in your Advance Statement. Advance Statements are helpful because:

- They express your wishes about treatments you want or do not want. This might include certain medications or electro convulsive therapy (ECT). For example, you might know what treatments work well for you when you are unwell, and what treatments have unwanted side effects.
- An Advance Statement provides you with an opportunity to say why you have these preferences so that your views and preferences are more clearly understood.
- Preferences that do not relate to treatment such as arrangements for looking after children or pets, finances or other matters are also important to acknowledge. These can be documented in an Advance Statement, as 'additional information', or in a separate document containing information the person feels would be useful to the treating team while they are under compulsory treatment. See the example of a template (later in this document) for more information.
- It gives you the chance in advance to talk about the treatment you would like with your family members, friends, nominated person or treating team. This can help important support people to understand what treatment you would like. They will then be in a better position to make sure your preferences are heard, understood and considered if you become unwell.



“It’s comforting to know my son and our family have a chance to prepare and state his wishes if he becomes unwell again”

How do I write an Advance Statement?

Your Advance Statement must be in writing. If English is not your first language you can write your Advance Statement in your preferred language, but it needs to be translated, so that it can be witnessed and referred to by the treating team.

It is a good idea to include the reasons for your treatment preferences in your Advance Statement. This will help the treating team understand why you prefer certain treatments over other treatments and help them to make a decision that is as close to what you would like as possible.

You have to sign and date your Advance Statement and have it signed by an authorised witness. The authorised witness needs to be sure that you understand what an Advance Statement is, that you understand what it means and observe you signing it. The authorised witness does not need to agree or approve the preferences you have written in your Advance Statement.

You can ask someone you trust to help you to write it. This might be your doctor, a family member or carer, your nominated person, a support worker or another trusted professional.

You can use the example of an Advance Statement template included in this brochure to help you write the Advance Statement, but it is not compulsory to use the template.

When should I make an Advance Statement and does it expire?

You can make an Advance Statement any time as long as you understand what an Advance Statement is and what it means to make an Advance Statement.

An Advance Statement does not expire unless you revoke (cancel) it, or write a new one. You can make a new Advance Statement at any time.

What does getting the Advance Statement witnessed involve?

You must have your Advance Statement signed by an authorised witness. When signing the Advance Statement the authorised witness must state that in his/her opinion you understand what an Advance Statement is and that you understand what it means to make an Advance Statement.

Who can be an authorised witness?

An authorised witness is a doctor, a mental health practitioner or a person who is allowed to witness a statutory declaration (for example, another trusted professional).

A mental health practitioner is a registered nurse, registered occupational therapist, social worker or registered psychologist who works at a clinical specialist mental health service. Other mental health workers, such as your community mental health support worker or a private psychologist might assist you to develop your Advance Statement and you will need to arrange for someone authorised by the Act, such as your General Practitioner, to be the witness.

What if I change my mind and want to cancel my Advance Statement?

If you change your mind about the preferences in your Advance Statement you have two options:

- make a statement saying that the previous Advance Statement is no longer valid. This has to be in writing, and dated and witnessed by an authorised witness. This is called a 'revocation'.
- make a new Advance Statement, which automatically cancels the old Advance Statement.

An Advance Statement cannot be amended; you have to write a new one. It is important that you give a copy of the revocation or a copy of the new Advance Statement to the support people in your life (see next question).

“The document delivers a chance to put in place what “I” want to happen”

Who keeps the Advance Statement? Who should I share it with?

It will be useful for everyone involved, including family members, carers, other support workers and those providing you with treatment, for example your general practitioner and case worker, to know that you have an Advance Statement or have made a new one.

It is important that your family or carer, nominated person (if you have one) and treating team have a copy of your Advance Statement in case you become unwell and need compulsory mental health treatment. This will make sure your Advance Statement is considered.

An Advance Statement is a private document, like a Will or a Power of Attorney, so think carefully about who you want to share it with.

If you share your Advance Statement with more than two/three people, it is important that you keep a list of the people you share your Advance Statement with. The list of names can be attached to the Advance Statement.

It is recommended you give permission for your Advance Statement to be included in your patient file and the staff can make sure it can be accessed by different parts of the mental health system, like the emergency department. If the mental health system has a copy of your Advance Statement, any treating team will be able to look up your Advance Statement whether you are admitted to your local hospital or to a hospital elsewhere.

Where can it be stored?

Keep your Advance Statement in a safe place that can be easily found. It may be helpful to give the Advance Statement to a family member or someone else you trust. If you have a Nominated Person they should have a copy. You can ask the mental health service you access to store the Advance Statement on your file or in an electronic record system.

What is the cost of getting an Advance Statement?

It will not cost you anything to make an Advance Statement. However if you ask a specialist like a lawyer or a private psychiatrist to help you then you may have to pay their normal consultation fee.

How often should I review my Advance Statement?

There is no requirement to review your Advance Statement, but it is a good idea to review it regularly to make sure it still reflects the treatment you would like if you become unwell. A good time to review your Advance Statement would be:

- after you have had a period of being unwell, especially if you have been in hospital
- after changes in diagnoses, medication and any other treatments
- after major life or health changes
- at least every one to two years

Can the Advance Statement be overridden?

An authorised psychiatrist can override your Advance Statement if they believe that the treatment you would like is not clinically appropriate or if the treatment is not available to the treating team.

If your Advance Statement is overridden, the authorised psychiatrist has to tell you about their decision, give you reasons for it and tell you that you can ask for written reasons. If you ask for written reasons, the psychiatrist has to give these to you within 10 business days.

If you have concerns with the reasons you are given, you can make a complaint with the Mental Health Complaints Commissioner.

The Mental Health Tribunal (the Tribunal) also needs to take your Advance Statement into consideration if they are making a decision about a Treatment Order or ECT. If you disagree, you can appeal the Tribunal's decisions.

What is the difference between an Advance Care Directive and an Advance Statement?

An Advance Care Directive comes into effect when a person is unable to make decisions about medical treatments other than mental health. For example when someone has dementia, an acquired brain injury or is unconscious. Advance Statements relate to treatment provided in the context of being cared for under the Mental Health Act.

Where to get more information:

- The Department of Health Victoria - Advance Statements available from:

<http://www.health.vic.gov.au/mentalhealth/mhact2014/recovery/advance-statements.htm>

- VMIAC: Phone: (03) 9380 3900, <http://www.vmiac.org.au/>
- Tandem: Phone: (03) 8803 5555, <http://tandemcarers.org.au/index.php>
- Mind Australia: Phone: 03 9455 7900, <http://www.mindaustralia.org.au/>
- Respecting Patient Choices: Phone: 03 9496 5660, <http://www.austin.org.au/page/454>
- The Mental Health Tribunal: Phone: 03 9032 3200 <http://www.mhrb.vic.gov.au/index.php/home>
- The Mental Health Complaints Commissioner: 1800 246 054 <http://mhcc.vic.gov.au/contact.htm>

ADVANCE STATEMENT OF _____ (insert name and DOB)

Insert barcode here	MY ADVANCE STATEMENT	
	Name	
	Date Of Birth	
	Address	
	Primary mental health worker/ support worker	
	Psychiatrist	
	GP	
	GP's Address	
	Health team/s you are involved with	
	Family members, carers, peer worker/s, and/or support people involved in your recovery	
<p>Suggestions for person making this Advance Statement</p> <ul style="list-style-type: none"> • Send or give a copy of your Advance Statement to your mental health worker and anyone else involved in your care in order that your statement may be placed in your healthcare records or a safe place. • If you realise you do not want to use this Advance Statement any more you can revoke your Advance Statement in writing (you could use the 'Advance Statement revocation' template below), make sure it is witnessed by an authorised witness and let key people involved in your care and recovery know that you have revoked your Advance Statement. • Alternatively, you can make a new Advance Statement and let key people know about your new statement. Making a new Advance Statement automatically revokes any previous Advance Statement. 		

Date: / /

(Please attach additional sheets if necessary)

If I become unwell and/or I am placed on a compulsory treatment order ...

My treatment preferences are...

The reasons for these preferences...

[Optional]

I would like you to contact ...

Who is my... (relationship to you, e.g. mother, carer, nominated person etc)

[Optional]

SIGNATURE:

DATE: / /

ADVANCE STATEMENT OF _____
(insert name and DOB)

ADVANCE STATEMENT WITNESS DECLARATION

In my opinion, the person making this Advance Statement understands what an Advance Statement is and the consequences of making the statement and I have observed the above named person signing the Advance Statement.

Witness Name:

Witness status as a signatory:

Witness address:

Those who can act as a witness are: (a) a registered medical practitioner; or (b) a mental health practitioner; or (c) a person who may witness the signing of a statutory declaration under section 107A of the Evidence (Miscellaneous Provisions) Act 1958

WITNESS SIGNATURE:

DATE: / /

Suggestions for person making this Advance Statement

If you want to, you could ask your mental health worker to:

- assist you in drawing up your Advance Statement
- print a minimum of three copies- for you, your records and your carer/nominated person (if you want)
- ensure a completed copy is placed into your clinical record, if you have one
- document your Advance Statement completion in their electronic alert system, your CMI, and your Recovery Plan (or equivalent, e.g. ISP etc).

ADDITIONAL INFORMATION [Optional]

You can add and/or attach additional statements to your Advance Statement, including **additional information you would like your treating team to know...** e.g. personal or non-treatment preferences, including what has helped and what has not helped in the past etc.

I understand that the following are not treatment preference/s, but I would like people to know this/these things about me if I become too unwell to communicate them.

My personal preference/s and the reasons for my personal preference/s is/are as follows:

ADVANCE STATEMENT REVOCATION

If you realise you do not want to use this Advance Statement any more, or want to write a new Advance Statement, you must fill in a revocation statement, make sure it is witnessed by an authorised witness and let all persons involved in your care and recovery know that you have revoked this Advance Statement and/or that you have made a new statement.

I, _____ (name) wish that my Advance Statement, completed on _____ (date), be revoked, as it is no longer an expression of my wishes in times of mental ill health.

SIGNATURE: _____

DATE: / /

Send or give a copy of this revocation to your mental health worker and anyone else involved in your care in order that your statement may be placed in your healthcare records or a safe place.

REVOCATION OF ADVANCE STATEMENT WITNESS DECLARATION

I have witnessed the stated person revoking this Advance Statement and I am satisfied he understands the consequences of revoking the Advance Statement and have observed the person signing this revocation.

Authorised Witness Name:

Professional Title:

Address:

WITNESS SIGNATURE: _____

DATE: / /

Suggestions for person revoking this Advance Statement

If you want to, you could ask your mental health worker to:

- assist you in revoking your Advance Statement by helping you make your revocation statement (if you want)
- print a minimum of three copies - for you, your records and your carer/nominated person (if you want)
- ensure a completed copy is placed into your clinical record, if you have one
- document your Advance Statement revocation in their electronic alert system, CMI, and your Recovery Plan (or equivalent, e.g. ISP etc).