



BRIESE LAWYERS FACTSHEET

Power of Attorney &



Advanced Health Directives

POWER OF ATTORNEY

There are two types of Power of Attorney - the Enduring Power of Attorney and the General Power of Attorney.

Anyone in business should have a Power of Attorney, particularly if you are the sole operator of a business. If you were to have an accident and was incapacitated, your business may suffer because there is no one to look after it in a legal sense. Although it may be possible to have someone appointed as your guardian or manager under other laws, a Power of Attorney is a quick and economic way of ensuring that your absence does not hinder the administration of your affairs.

Enduring Power of Attorney (EPOA):

An EPOA allows health, personal and/or financial affairs to be dealt with in the way you wish, even (and particularly) if you lose the capacity to make decisions for yourself. For example, if you suffer a head injury, develop dementia etc.

Giving someone an Enduring Power of Attorney means that your Attorney will have the power to make decisions in your interest and sign all necessary legal documents. The power begins:

- for personal/health matters - only when you are incapable of making decisions yourself;
- for financial matters - you can specify whether the power is to begin immediately, on a particular date or on a particular occasion, such as your incapacity.

Your Attorney can make decisions such as deciding where and with whom you live, or day to day issues including diet and dress, or those relating to basic health care. However, your Attorney can not make decisions relating to special health matters and special personal matters on your behalf, such as making a Will, or making or revoking a Power of Attorney.

If you were to temporarily or permanently lose capacity to make decisions and did not have an EPOA, the Public Trustee would step in to make financial decisions for you (for a fee) and health matters would be decided by your statutory health Attorney (could be your spouse, a relative or a close friend). Alternatively, your family would need to make an application to the Guardianship & Administrative Tribunal regarding the management of your affairs.

Your Attorney can only act in your best interests and must act with honesty and care and it is an offence not to do so. In relation to your health care, your Attorney must ensure that any decisions made for you contribute to your health and well being and must take into account the advice of your doctor/health care provider

General Power of Attorney:

A General Power of Attorney is given to someone to make financial decisions on your behalf when you are absent, for example, if you are overseas.

The types of decisions your Attorney can make on your behalf are paying bills, doing your banking, undertaking a legal matter in relation to your property and deciding how your income should be invested.



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Advanced Health Directives

ADVANCED HEALTH DIRECTIVE (AHD)

An AHD clearly states what sort of medical treatment you do and do not want to receive if you are seriously ill and comes into effect when you are unable to make your own decisions. You may also set out preferences about organ donation and life sustaining medical treatment.

How an AHD works:

1. you fill out a form with general or specific wishes for treatment; and
2. your general practitioner certifies that you understand the choices you have made; and
3. treating medical staff will subsequently refer to your AHD if you can no longer make decisions for yourself.

When entering into an AHD, you should consider:

1. that you may express wishes in a general way:
 - any particular type of medical treatment you do or do not want to receive;
 - specifics regarding medical conditions that medical staff should know, for example an allergy to certain medications, or diabetes; and
 - any religious beliefs that may affect your treatment, such as blood transfusions.
2. that you may also give specific instructions about what treatment you do or do not want to receive if:
 - you have a terminal illness;
 - you have an incurable illness;
 - you have an irreversible condition;
 - you are permanently unconscious; or
 - you are so seriously ill or injured that you cannot survive without a life support system.
3. that you may state whether you would want any particular type of medical intervention to keep you alive, if you had any of the above conditions. Such interventions may include:
 - emergency measures such as CPR;
 - artificial feeding; and
 - a machine to keep you breathing.

You may authorise your Attorney/s to make decisions about health matters should your directions in your AHD be inadequate.

If you wish to donate your organs only for transplantation and not for scientific purposes, you should register your name on the Australian Organ Donor Register. You may use your AHD to authorise tissue and organ donations for the purpose of transplantation or for other medical or scientific purposes.

Further details with respect to Powers of Attorney or Advanced Health Directive may be obtained by contacting one of our lawyers, who can offer practical legal advice and guidance, ensuring that your wishes are looked after.



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