



Advance medical directives

Act Respecting
End-Of-Life Care

Advance medical directives

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Masculine pronouns are used generically in this document.

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Definitions

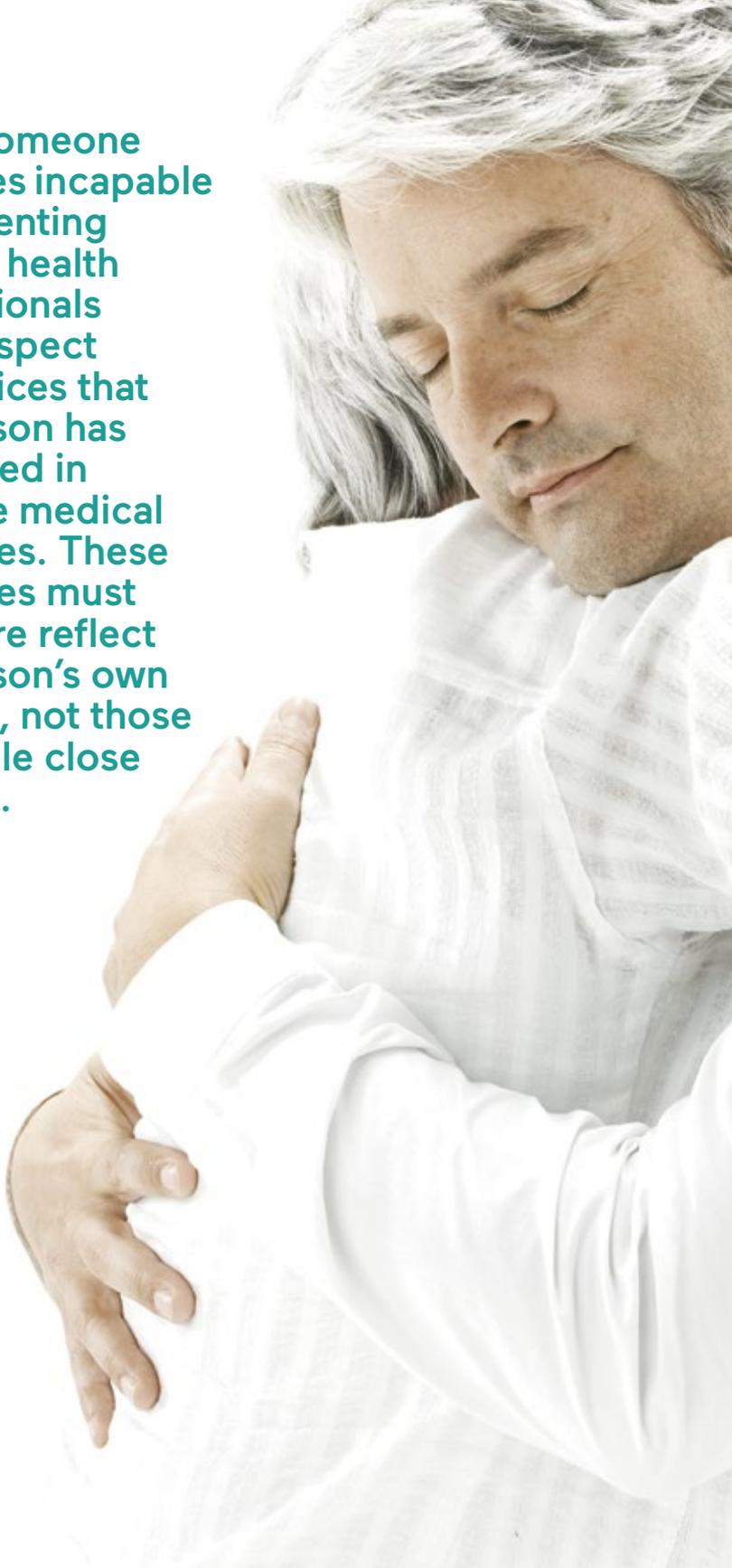
Advance medical directives

Advance medical directives are a way of expressing one's wishes in anticipation of incapacity to consent to care deriving from the Act Respecting End-Of-Life Care.

Specifically, advance medical directives are contained in a written document in which a person of full age who is capable of giving consent to care specifies in advance the medical care that they will agree or refuse to receive in the event that they become incapable of giving consent to care in specific clinical situations.

Advance medical directives are binding; in other words, health professionals that have access to them must comply with them.

When someone becomes incapable of consenting to care, health professionals must respect the choices that the person has expressed in advance medical directives. These directives must therefore reflect the person's own choices, not those of people close to them.



Incapacity to consent to care

When a decision regarding a person's state of health has to be taken, health professionals always ask the person whether they agree or refuse to receive appropriate care. The decision remains with the person as long as they have the required capacity to consent to the care that is offered, that is, they are able to:

- / understand the information provided to them about their state of health;
- / decide what suits them best;
- / communicate their wishes.

However, a medical condition may prevent someone, temporarily or permanently, from understanding information about their state of health, such as the proposed procedures or treatments, their risks and benefits, or alternative care that could be envisaged. A person in this condition is considered by their doctor to be incapable of consenting to care – that is, they are unable to take a fully informed decision by themselves about the treatment that is proposed. A physician does not need a court judgment to declare a person incapable of consenting to care.

In Québec, in the absence of advance medical directives, if a person has no legal representative (mandatary, tutor or curator), the responsibility for taking decisions on their behalf falls to someone close to them. If the person is married, in a civil union or a de facto union, this someone may be their spouse; if they are single, it may be a close relative or person who has a special interest in them. Only one person may act as representative. They must do so in the interests of the person they represent and, as far as possible, respect the wishes that the person expressed at the time when they were capable of doing so.

Expressing your wishes for care

Your values: points to reflect on

Before taking a decision regarding your wishes for care in the event of your becoming incapacitated, it is important to consider your values.

Here are some questions and points to reflect on that might help you in this:

What has the greatest value for you? What makes you happy?

Would you be prepared to accept certain limitations in order to live a few months or a few years longer (for example, having to depend on someone else to move you, wash you, feed you, etc.)?

Would you be prepared to go without treatments that could prolong your life in order to stay as independent as possible until the end of your life?

What are your feelings about death and the circumstances surrounding the process of dying?

What do you need most in order to safeguard your mental or physical well-being?

Are there mental or physical conditions that would lead you to think that treatments to prolong life should not be given or should be stopped?

Could your relations with others and your general responsibilities influence your choices and decisions regarding your state of health?

These questions are important, in particular for taking decisions concerning care that you wish to receive should you become unable to consent to care. If you have not already done so, discuss your values and your wishes with those close to you. Even if you have expressed your choices in writing, it may be difficult for those close to you to understand them. Discussing your wishes with them, now that you are capable of doing so, may reduce their doubts and their anxiety in the event that you should become unable to consent to care.

The answers to these questions may well change over time, because your values can evolve. For this reason it may be helpful to repeat this exercise periodically or at particular stages in your life – for example, following a separation, or the death of a person close to you, when a serious illness is diagnosed, or when your health deteriorates.

Possible options for expressing your wishes for care in the event of incapacity

It is important to express your wishes in the event of incapacity to consent to care in advance, while you are still able to do so. You can:

- / verbally inform those who are close to you of your wishes for care;
- / write a document in which you set out your wishes for care in the event of incapacity. This document is called a *living will*. It can be used by the person who will consent to care on your behalf should you become unable to do so;
- / write down on a sheet of paper what you wish and what you do not wish, date it and sign it;
- / record a video in which you express your wishes;
- / express your wishes after discussing them with your doctor, who will record them in a levels of medical intervention form that will be filed in your medical record;
- / make a mandate given in anticipation of the mandator's incapacity. This document authorizes the person you have designated as mandatory to take decisions on your behalf, in your interests. This is the person who will agree to or refuse care for you should you become unable to do so. This mandate can be written with or without the help of a notary and takes effect once it has been homologated;
- / express your advance medical directives using the form *Advance Medical Directives in Case of Incapacity to Give Consent to Care*, or by notarial deed, in which you express your consent or your refusal to consent to certain forms of care in specific clinical situations.

The Act Respecting End-of-Life Care does not permit a person to demand treatment. The choices that they have expressed verbally or in writing to another person who may consent to care on their behalf will only be respected if the treatment concerned is considered by their doctor to be required by their medical condition. Accordingly, nothing can compel a doctor to give someone treatment that is not medically indicated in a specific clinical situation, even if they have asked for it.

Mandate given in anticipation of the mandator's incapacity

Like the advance medical directives form, a mandate given in anticipation of the mandator's incapacity is an excellent tool for ensuring that your wishes are respected. Also, the two documents can coexist without any problem.

The advance medical directives form does not cover every possible medical situation, nor every possible choice of care. Accordingly, in situations not provided for in the form, health professionals must refer to the sole person designated to consent to care on your behalf. If you have issued a mandate given in anticipation of the mandator's incapacity, the mandatory can decide for you.

In case of conflict between the wishes expressed in a mandate given in anticipation of the mandator's incapacity and those expressed in the person's advance medical directives, the latter will take precedence. To avoid conflicts between those close to you, it is strongly recommended that you make sure that the wishes you have expressed in the mandate given in anticipation of the mandator's incapacity do not contradict your advance medical directives.

Advance medical directives: requirements

Clinical situations covered by advance medical directives

Advance medical directives apply in specific clinical situations that are not necessarily emergency situations. These clinical situations are ones that health professionals are increasingly encountering and in which they question the pertinence of providing certain treatments, even though they are necessary to maintain life. These situations are as follows:

End-of-life situation:

- / when a person is suffering from a serious, incurable medical condition and is at the end of life.

Situation of severe, irreversible loss of cognitive functions:

- / when a person is in a comatose state that is judged irreversible, that is, that they are permanently unconscious and confined to bed, without any possibility of regaining consciousness;
- / when a person is in a permanent vegetative state, that is, they are unconscious, but some reflexes are maintained, such as the capacity to open and close the eyes, or reaction to pain.

Another situation of severe, irreversible loss of cognitive functions:

- / when a person is suffering from severe, irreversible cognitive impairment, without any possibility of improvement, for example Alzheimer's disease or another type of dementia at an advanced stage.



Treatments covered by advance medical directives

The treatments covered by advance medical directives are life-sustaining treatments that may be necessary to prolong your life. Consequently:

- / not giving these treatments, or stopping them, can shorten your life;
- / agreeing to these treatments may prolong your life, without hope of improving your medical condition.

The table below sets out the treatments covered by advance medical directives.

| Treatment | Description |
|----------------------------------|--|
| Cardiopulmonary resuscitation | Medical intervention designed to restart heart function and respiration of a person whose heart has stopped and whose lungs have ceased to function. Cardiopulmonary resuscitation includes mouth-to-mouth resuscitation, chest compression (cardiac massage), defibrillation (treatment of abnormal heart contractions) and a ventilator (or respirator). |
| Ventilator-assisted breathing | Use of a device to provide respiration to a person who has become incapable of breathing. |
| Dialysis | Medical intervention to clean the blood when the kidneys can no longer do so. |
| Force-feeding and hydration | Feeding and hydrating a person against their will. Refusal is expressed by words or gestures. |
| Artificial feeding and hydration | Feeding and hydration of a person who can no longer feed themselves or drink using a tube passed into the stomach or by a catheter introduced into a vein. |

Note that you cannot request medical aid in dying in advance medical directives.

Whatever your wishes are, the care required to ensure your comfort and relieve your pain will be provided by health professionals.

If you have expressed a refusal to receive certain treatments in the event of incapacity, but you have consented to organ and tissue donation, the doctor will give you the care necessary to maintain your vital functions, which are required for organ donation.

Procedure for expressing your advance medical directives

Only persons who are of full age and capable of consenting to care can express their wishes through advance medical directives.

If you wish to do so, you have two options:

- / the *Advance Medical Directives in Case of Incapacity to Give Consent to Care* form;
- / notarial deed.

Advance Medical Directives in Case of Incapacity to Give Consent to Care form

The *Advance Medical Directives in Case of Incapacity to Give Consent to Care* form is prescribed by the Minister. This means that only this form is recognized by law. If you choose to express your advance medical directives using this form, you must follow these steps:

1. Make sure to learn about the advance medical directives so that you can take an informed decision.



2. Request the form from the Régie de l'assurance maladie du Québec (RAMQ) by telephone:
 - / Québec City: 418-646-4636
 - / Montréal: 514-864-3411
 - / Elsewhere in Québec: 1-800-561-9749 (toll-free)

The RAMQ will send you the form by mail.



3. Complete the form, sign it and date it.



4. Have it signed by two witnesses of full age.



5. Make your form accessible by either of the following methods:
 - / mail it to the RAMQ so that it will be filed in the Advance Medical Directives Register, at the following address:
Régie de l'assurance maladie du Québec
Case postale 16000
Québec (Québec) G1K 9A2
 - / hand it to your doctor or to a health professional so that they can file it in your medical record;
 - / hand it to a person close to you who will give it to a health professional if you become incapable of consenting to care.

In case of physical incapacity, another person may complete, sign and date the form on your behalf, in your presence. A person who cannot read or write can also have another person complete, sign and date the form.

Notarial deed

If you wish, you can consult a notary, who will record your wishes in a notarial deed whose content is the same as that of the advance medical directives form. If you so request, the notary will send the notarial deed to the RAMQ so that it will be filed in the Advance Medical Directives Register. You can also hand it to your doctor or a health professional for them to file it in your medical record. If applicable, inform those close to you of where you have filed your notarial deed.

Advance Medical Directives Register

The Advance Medical Directives Register is a database storing forms duly completed by citizens and notarial deeds drawn up by notaries that have been sent to the RAMQ. This register is accessible to health professionals.

This is the best way of ensuring that your advance medical directives will be accessible and respected in the event of your incapacity to consent to care.

This is because the Act Respecting End-of-Life Care obliges physicians to consult the Advance Medical Directives Register as soon as they observe that a person is unable to consent to care.

Benefits of expressing your advance medical directives

Expressing advance medical directives is not obligatory. However, if you decide to do so, your wishes regarding care will be respected in the event that you become incapable of giving consent to care.

Advance medical directives are intended for the physician responsible for your care should you become incapable of consenting to care. Thus, provided that the doctor can access them, he or she is required to respect your wishes. In addition, if you are incapable of consenting to care and you have expressed your advance medical directives in writing, the doctor will not need to obtain the consent of a legal representative. Your legal representative should however check that your wishes are respected.

For health professionals, advance medical directives have the same value as if you agreed to or refused care in person in the clinical situations covered.

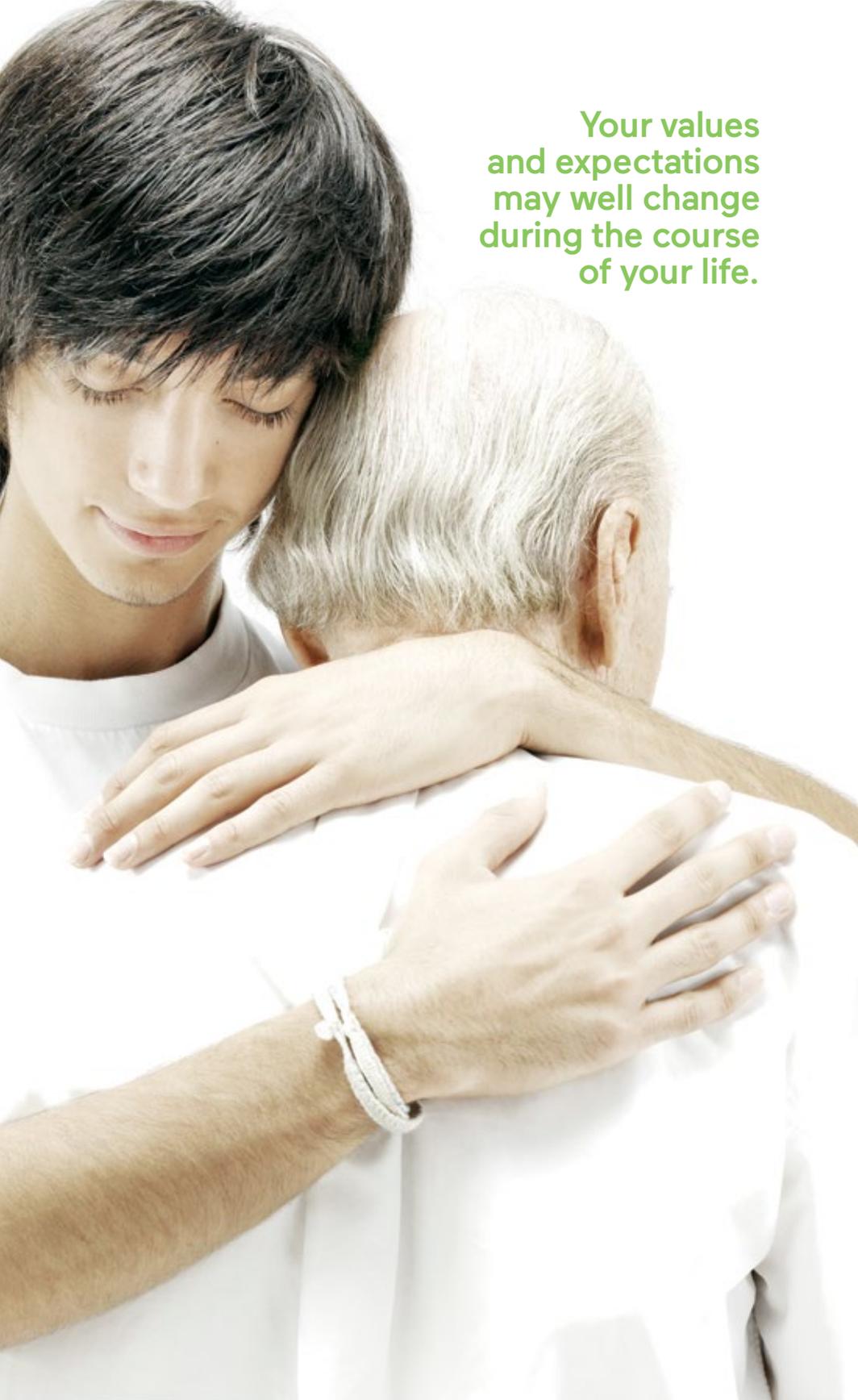
Further points concerning advance medical directives

Validity period of advance medical directives

Advance medical directives do not have a validity period. This means that an advance medical directives form or a notarial deed is always valid.

As time goes on, you are not obliged to update your advance medical directives. However, you are strongly recommended to do so if you change your mind regarding your wishes for care. This being so, you must make sure that whatever you expressed in your last advance medical directives form or notarial deed truly reflects your current wishes. You must also make sure to file the form or notarial deed in the Advance Medical Directives Register or in your medical record.

Your values
and expectations
may well change
during the course
of your life.



Modifying your advance medical directives

You can modify your advance medical directives at any time provided that you are capable of consenting to care. Simply complete a new *Advance Medical Directives in Case of Incapacity to Give Consent to Care* form, or consult a notary if you wish. You must then forward the duly completed form to the RAMQ so that it replaces the old one in the Advance Medical Directives Register, or hand it to a health professional so that they can make the change in your medical record.

The most recent advance medical directives that you express replace and cancel any that you formulated previously.

In order to avoid errors of interpretation, you cannot simply indicate changes on the form you filled out previously. You must complete a new one. The date shown on the forms will enable the physician to determine which one is valid.

Only advance medical directives brought to the knowledge of health professionals are applicable.

Revoking your advance medical directives

You are the only person who can revoke (cancel) your advance medical directives. To do so, whether they are filed in the Register or in your medical record, you must make a formal revocation using the *Revocation of Advance Medical Directives* form.

- / If your advance medical directives are stored in your medical record, you must send the revocation form to a health professional, who will file it in your medical record.
- / If your advance medical directives are in the Register, you must send the revocation form to the RAMQ. Your revocation will be taken into account from the moment when health professionals have access to it.

In case of emergency, if you are able to consent to care and you verbally express wishes different from those shown in your advance medical directives form, or in your notarial deed, the latter will automatically be revoked. However, if, after this event, you need to make known your most recent wishes regarding the medical situations covered by the form, you must make the necessary arrangements with the RAMQ.



Contestation of your advance medical directives

Your advance medical directives can be contested. Only a court can invalidate (cancel) your advance medical directives, entirely or in part, at the request of your mandatory, tutor or curator, a physician, an institution or a person who can demonstrate that they have a special interest in you. The court can invalidate your advance medical directives:

- / if it has reason to believe that you were not able to consent to care at the time you signed the *Advance Medical Directives in Case of Incapacity to Give Consent to Care* form;
- / if the directives do not correspond to your wish in the given situation.

To prevent such a situation from arising, it is important to discuss your wishes with those close to you so that they are aware of your preferences and your values in the event that you should become incapable of consenting to care.

Informing those close to you of your wishes and explaining your thinking to them will reduce the likelihood of their contesting your advance medical directives.

Examples of situations involving incapacity to consent to care

You may be wondering whether you should complete an *Advance Medical Directives in Case of Incapacity to Give Consent to Care* form, or a mandate given in anticipation of the mandator's incapacity, or both. The following table sets out how consent will be given to care in the event of incapacity where a person has expressed their wishes in writing using the advance medical directives form or a mandate given in anticipation of the mandator's incapacity, or both.

| Situation | Consent to care |
|--|---|
| <p>You have made a mandate given in anticipation of the mandator's incapacity only</p> | <p>The mandatory is the only person who can agree to or refuse any treatment that is required for you, including those described in the advance medical directives form. If you become incapable of consenting to care, the mandatory must take decisions in your best interests.</p> |
| <p>You have completed only an advance medical directives form</p> | <p>Once the advance medical directives are accessible to health professionals, they are obliged to follow them.</p> <p>If the doctor suggests a treatment that is not provided for in the advance medical directives form, consent for this treatment must be given by a person authorized by the Act. This can be a tutor, a curator, your spouse (whether you are married, in a civil union or a de facto union), a close relative or a person who can demonstrate that they have a special interest in you.</p> |
| <p>You have made a mandate given in anticipation of the mandator's incapacity and completed an advance medical directives form</p> | <p>Advance medical directives that are known to health professionals take priority over instructions in the mandate given in anticipation of the mandator's incapacity. If there is a conflict between the wishes expressed in the two documents, health professionals must follow the advance medical directives.</p> <p>If the doctor suggests a treatment that is not provided for in the advance medical directives form, the mandatory must consent to this treatment on your behalf before the doctor can provide it.</p> |
| <p>You have not made a mandate given in anticipation of the mandator's incapacity, nor completed an advance medical directives form</p> | <p>If the doctor suggests a treatment that is required for your state of health, consent must be given by a person authorized by the Act. This can be a tutor, a curator, your spouse (whether you are married, in a civil union or a de facto union), a close relative or a person who can demonstrate that they have a special interest in you.</p> |

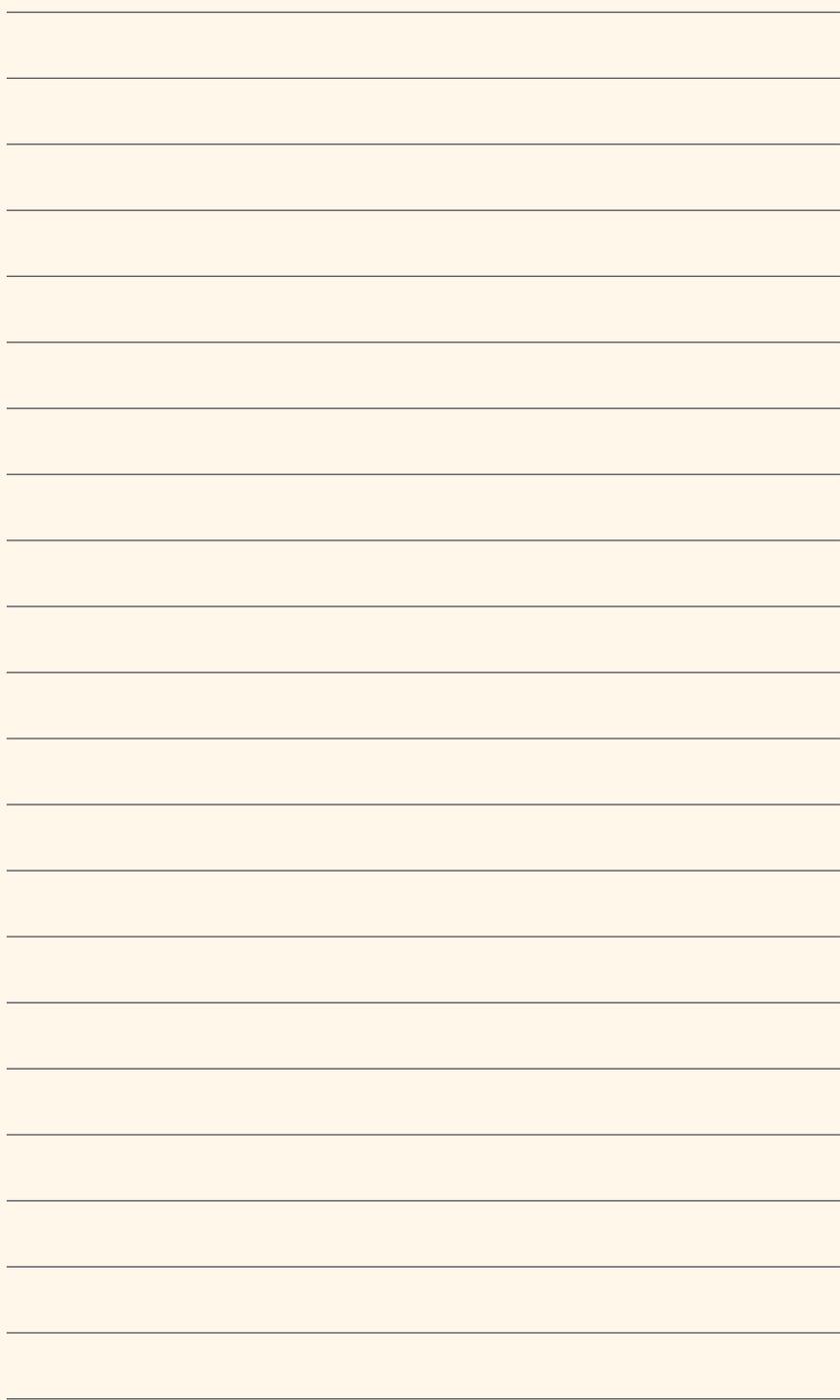
Example in which the advance medical directives apply

Jacques is 55 years old. A divorced father of three, he has completed the *Advance Medical Directives in Case of Incapacity to Give Consent to Care* form. He remembers the conflicts he had with his siblings regarding decisions that had to be taken for his own parents, both of whom suffered from dementia. He does not want his children to go through the same experience. Having always sought harmony in his relationships with others, he wishes to spare his children unnecessary conflicts. He has informed his adult children of the content of his decisions so that they will not be surprised or uncomfortable if he becomes incapable of consenting to care and so that his advance medical directives will be followed by his doctor in accordance with his wishes.

He is at the end of life and suffering from a serious, incurable medical condition. His condition calls for dialysis treatment. Since he has indicated on the form that he refuses this treatment, the doctors must respect his choice.

Example in which the advance medical directives do not apply

Pauline is 40 years old. She has made a mandate given in anticipation of the mandator's incapacity and has completed the *Advance Medical Directives in Case of Incapacity to Give Consent to Care* form. For an unknown reason, Pauline is undergoing a major psychotic episode that makes her incapable of consenting to care. She requires a surgical operation. Since the decision to be taken does not correspond to any of the care situations provided for in the form, the doctors must turn to the person authorized to give consent to care (the mandatary) after observing Pauline's incapacity to give consent.



You can find the content of this brochure, plus additional information on palliative and end-of-life care, on the *Portail santé mieux-être* at:

sante.gouv.qc.ca.

If you have specific questions about the Advance Medical Directives Register or the *Advance Medical Directives in Case of Incapacity to Give Consent to Care* form, please contact the RAMQ:

Québec City: 418-646-4636

Montréal: 514-864-3411

Elsewhere in Québec: 1-800-561-9749 (toll-free)

For all other questions about advanced medical directives or palliative and end-of-life care, call Services Québec:

Québec City area: 418-644-4545

Montréal area: 514-644-4545

Elsewhere in Québec: 1-877-644-4545 (toll-free)

Persons with a hearing or speech impairment (TTY):
1-800-361-9596 (toll-free)