

Guardianship and Administration Amendment Regulations 2022

SL 2022/102

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Guardianship and Administration Amendment Regulations 2022*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 4 August 2022.

3. Regulations amended

These regulations amend the *Guardianship and Administration Regulations 2005*.

4. Part 4 inserted

After regulation 8 insert:

Part 4 — Transitional provisions for *Guardianship and Administration Amendment Regulations 2022*

9. Advance health directive form during transitional period

- (1) In this regulation —
commencement day means 4 August 2022;
former regulations means these regulations as in force immediately before commencement day;
transitional period means the period of 6 months beginning on commencement day.
- (2) During the transitional period, each of the following is the form prescribed for an advance health directive —
 - (a) the form in Schedule 2;

- (b) the form in Schedule 2 of the former regulations.

5. Schedule 2 replaced

Delete Schedule 2 and insert:

Schedule 2 — Advance health directive form

[r. 7]

ADVANCE HEALTH DIRECTIVE FORM

This form is for people who want to make an Advance Health Directive in Western Australia.

To make an Advance Health Directive, you must be 18 years or older and have full legal capacity. Your Advance Health Directive is about your future treatment. It will only come into effect if you are unable to make reasonable judgments or decisions at a time when you require treatment.

- ✦ Part 4, marked with this symbol, contains your treatment decisions. If you choose not to make any treatment decisions in Part 4, then the document is not considered a valid Advance Health Directive under the *Guardianship and Administration Act 1990*.

Please tick the box below to indicate that by making this Advance Health Directive you revoke all prior Advance Health Directives completed by you.

- ☐ In making this Advance Health Directive, I revoke all prior Advance Health Directives made by me.

This form includes instructions to help you complete your Advance Health Directive. For more information on how to complete the form and to see examples, please read *A Guide to Making an Advance Health Directive in Western Australia*.

Before you make your Advance Health Directive, you are encouraged to seek legal and/or medical advice, and to discuss your decisions with family and close friends. It is important that people close to you know that you have made an Advance Health Directive and where to find it. Once you complete your Advance Health Directive, it is recommended that you:

- store the original in a safe and accessible place and tell your close family and friends that you have made an Advance Health Directive and where to find it
-

- upload a copy of your Advance Health Directive to your My Health Record — this will ensure that your Advance Health Directive is available to your treating doctors if it is needed
- give a copy of your Advance Health Directive to health professionals regularly involved in your health care (for example, your General Practitioner (GP), a hospital you attend regularly, and/or other health professionals involved in your care).

PART 1: MY PERSONAL DETAILS

You **must** complete
Part 1.

This Advance Health Directive is made under
the *Guardianship and Administration Act 1990*
Part 9B on the of,
(day) (month) (year)
by
(name)

PART 2: MY HEALTH	
2.1 My major health conditions	
<p>Use Part 2.1 to list details about your major health conditions (physical and/or mental).</p> <p>Cross out Part 2.1 if you do not want to complete it.</p>	<p>Please list any major health conditions below:</p>

2.2 When talking with me about my health, these things are important to me	
<p>Use Part 2.2 to provide information about what is important to you when talking about your treatment.</p> <p>This might include:</p> <ul style="list-style-type: none"> • How much you like to know about your health conditions • What you need to help you make decisions about treatment • Whether you like to have certain family members with you when receiving information from your health professionals <p>Cross out Part 2.2 if you do not want to complete it.</p>	<p>Please describe what is important to you when talking to health professionals about your treatment:</p>

PART 3: MY VALUES AND PREFERENCES
<p>This part encourages you to think about your values and preferences relating to your health and care now and into the future. This may help you to decide what treatment decisions you want to make in Part 4: My Advance Health Directive Treatment Decisions.</p> <p>In this part, you are not making decisions about your future treatment. Use Part 4 to make decisions about your future treatment.</p> <p>Cross out any parts that you do not want to complete.</p>

3.1 These things are important to me

Use Part 3.1 to provide information about what “living well” means to you now and into the future.

This might include:

- What the most important things in your life are
- What “living well” means to you

Cross out Part 3.1 if you do not want to complete it.

Please describe what “living well” means to you now and into the future. Use the space below and/or tick which boxes are important for you.

Please describe:

- ☐ Spending time with family and friends
- ☐ Living independently
- ☐ Being able to visit my home town, country of origin, or spending time on country
- ☐ Being able to care for myself (e.g. showering, going to the toilet, feeding myself)
- ☐ Keeping active (e.g. playing sport, walking, swimming, gardening)
- ☐ Enjoying recreational activities, hobbies and interests (e.g. music, travel, volunteering)
- ☐ Practising religious, cultural, spiritual and/or community activities (e.g. prayer, attending religious services)
- ☐ Living according to my cultural and religious values (e.g. eating halal, kosher foods only)
- ☐ Working in a paid or unpaid job

3.2 These are things that worry me when I think about my future health

Use Part 3.2 to provide information about things that worry you about your future health.

This might include:

- Being in constant pain
- Not being able to make your own decisions
- Not being able to care for yourself

Cross out Part 3.2 if you do not want to complete it.

Please describe any worries you have about the outcomes of future illness or injury:

3.3 When I am nearing death, this is where I would like to be

Use Part 3.3 to indicate where you would like to be when you are nearing death.

When you are nearing death, do you have a preference of where you would like to spend your last days or weeks?

Cross out Part 3.3 if you do not want to complete it.

Please indicate where you would like to be when you are nearing death. Tick the option that applies to you. You can provide more detail about the option you choose in the space below.

- ☐ I want to be at home — where I am living at the time
- ☐ I do not want to be at home — provide more details below
- ☐ I do not have a preference — I would like to be wherever I can receive the best care for my needs at the time
- ☐ Other — please specify:

Please provide more detail about your choice:

3.4 When I am nearing death, these things are important to me

Use Part 3.4 to provide information about what is important to you when you are nearing death.

This might include:

- What would comfort you when you are dying
- Who you would like around you


Cross out Part 3.4 if you do not want to complete it.

Please describe what is important to you and what would comfort you when you are nearing death. Use the space below and/or tick which boxes are important for you.

Please describe:

- ☐ I do not want to be in pain, I want my symptoms managed, and I want to be as comfortable as possible
(Please provide details of what being comfortable means to you)
- ☐ I want to have my loved ones and/or pets around me
(Please provide details of who you would like with you)
- ☐ It is important to me that cultural or religious traditions are followed
(Please provide details of any specific traditions that are important for you)

	<input type="checkbox"/> I want to have access to pastoral/spiritual care <i>(Please provide details of what is important for you)</i>
	<input type="checkbox"/> My surroundings are important to me (e.g. quiet, music, photographs) <i>(Please provide details of what is important for you)</i>

PART 4: MY ADVANCE HEALTH DIRECTIVE 	
TREATMENT DECISIONS	
<p>This part of your Advance Health Directive contains treatment decisions in respect of your future treatment. A treatment is any medical or surgical treatment (including palliative care or life-sustaining measures such as assisted ventilation and cardiopulmonary resuscitation), dental treatment, or other health care.</p> <p>A treatment decision in an Advance Health Directive is a decision to consent or refuse consent to the commencement or continuation of any treatment and includes a decision to consent or refuse consent to the commencement or continuation of the person's participation in medical research. This decision applies at any time you are unable to make reasonable judgments in respect of that treatment.</p> <p>Treatment you consent to in this Advance Health Directive can be provided to you. Treatment you refuse consent to in this Advance Health Directive cannot be provided to you. Your enduring guardian or guardian or another person cannot consent or refuse consent on your behalf to any treatment to which this Advance Health Directive applies.</p> <p>It is recommended that you discuss your treatment decisions with your doctor before completing this part.</p> <p>Cross out any parts that you do not want to complete.</p> <p>You MUST make at least one treatment decision in Part 4 to make a valid Advance Health Directive.</p>	

4.1 Life-sustaining treatment decisions



Use Part 4.1 to indicate your instructions for future life-sustaining treatments.

You can give an overall instruction or list individual treatments that you consent or refuse consent to receiving in the future. You can also list circumstances in which you consent or refuse consent to a particular treatment.

Life-sustaining treatments are treatments used to keep you alive or to delay your death.

Read all options before making a decision. The options are over two pages.

Cross out Part 4.1 if you do not want to complete it.

You MUST make at least one treatment decision in Part 4 to make a valid Advance Health Directive.

If I do not have the capacity to make or communicate treatment decisions about my health care in the future, I make the following decisions about life-sustaining treatment:

(Tick **only one** of the following options. If you choose Option 4, complete the table overleaf).

Option 1 ☐ **I consent to all** treatments aimed at sustaining or prolonging my life.

OR

Option 2 ☐ **I consent to all** treatments aimed at sustaining or prolonging my life **unless** it is apparent that I am so unwell from injury or illness that there is no reasonable prospect that I will recover to the extent that I can survive without continuous life-sustaining treatments. In such a situation, I withdraw consent to life-sustaining treatments.

OR

Option 3 ☐ **I refuse consent to all** treatments aimed at sustaining or prolonging my life.

OR

Option 4 ☐ **I make the following decisions about specific life-sustaining treatments as listed in the table below.**
(Tick a box in each row of the table)

OR

Option 5 ☐ **I cannot decide at this time**

Please complete this table if you have ticked Option 4 above.

If you have ticked Option 1, 2, 3 or 5, do not complete this table.

This table lists some common life-sustaining treatments. Use the boxes to indicate which treatments you consent or refuse consent to receiving. You can also list circumstances in which you consent to treatment. There is also space for you to add any life-sustaining treatments not listed here.

Tick one box per row in the table below.

If you choose Option B for any treatments, please specify the circumstances in which you consent to the treatment.

Life-sustaining treatment	A. I consent to this treatment in all circumstances	B. I consent to this treatment in the following circumstances	C. I refuse consent to this treatment in all circumstances	D. I cannot decide at this time
CPR Cardiopulmonary resuscitation	<input type="checkbox"/>	<input type="checkbox"/> In which circumstances do you consent to this treatment?	<input type="checkbox"/>	<input type="checkbox"/>
Assisted ventilation A machine that helps you breathe using a face mask or tube	<input type="checkbox"/>	<input type="checkbox"/> In which circumstances do you consent to this treatment?	<input type="checkbox"/>	<input type="checkbox"/>
Artificial hydration Fluids given via a tube into a vein, tissues or the stomach	<input type="checkbox"/>	<input type="checkbox"/> In which circumstances do you consent to this treatment?	<input type="checkbox"/>	<input type="checkbox"/>
Artificial nutrition A feeding tube through the nose or stomach	<input type="checkbox"/>	<input type="checkbox"/> In which circumstances do you consent to this treatment?	<input type="checkbox"/>	<input type="checkbox"/>
Receiving blood products such as a blood transfusion	<input type="checkbox"/>	<input type="checkbox"/> In which circumstances do you consent to this treatment?	<input type="checkbox"/>	<input type="checkbox"/>
Antibiotics Drugs that are used to treat infection	<input type="checkbox"/>	<input type="checkbox"/> In which circumstances do you consent to this treatment?	<input type="checkbox"/>	<input type="checkbox"/>
Use the boxes below to list any other life-sustaining treatments you do/do not consent to receive:				
Other life-sustaining treatment (1) State the treatment: 	<input type="checkbox"/>	<input type="checkbox"/> In which circumstances do you consent to this treatment?	<input type="checkbox"/>	<input type="checkbox"/>

**Other
life-sustaining
treatment (2)**

☐
☐
☐
☐

In which circumstances do
you consent to this treatment?

State the
treatment:

.....

4.2 Other treatment decisions



**Use Part 4.2 to
indicate your
decisions for other
(non-life-sustaining)
treatments.**

There are a range of
other treatments that
may be options for you
in the future.

Examples include
treatments for mental
health (e.g.
electroconvulsive
therapy) and drugs
used to prevent certain
health conditions (e.g.
aspirin, cholesterol
treatments).

When making a
treatment decision, list
the circumstances in
which you want your
decision to apply (e.g.
in all circumstances, or
specify particular
circumstances).

A treatment decision
only applies in the
circumstances you
specify.

Please ensure that you
indicate in the “My
treatment decisions”
column whether you
consent or refuse
consent to any
treatment you refer to.

If you need more
space, use the template
in the *Guide to Making
an Advance Health
Directive in Western
Australia* and attach it
to your Advance
Health Directive form.

Health circumstances

My treatment decisions

- ☐ I have made more treatment decisions using
the template and attached (*specify
number of pages*) additional pages.

<p>Cross out Part 4.2 if you do not want to complete it.</p> <p>You MUST make at least one treatment decision in Part 4 to make a valid Advance Health Directive.</p>	
---	--

4.3 Medical research ✎					
<p>Use Part 4.3 to provide treatment decisions about the medical research activities you consent or refuse consent to take part in, and any circumstances in which these decisions apply.</p> <p>Taking part in medical research may be an option for you even if you are unable to make or communicate decisions.</p> <p>A treatment decision may include deciding whether to start or continue to take part in medical research. Your involvement in medical research, and any treatments you receive as part of the medical research, must be consistent with what you have agreed in your Advance Health Directive. The decisions you make in your Advance Health Directive about participating in medical research only operate while you are alive.</p> <p>If you do not make a decision about participation in medical research, Part 9E of the <i>Guardianship and Administration Act 1990</i> will operate as to how decisions will be made about participation in medical research.</p> <p>Cross out Part 4.3 if you do not want to complete it.</p> <p>You MUST make at least one treatment decision in Part 4 to make a valid Advance Health Directive.</p>					
<p>Please tick a box showing whether you consent to taking part in the listed medical research activities and the circumstances in which you consent. You may tick more than one circumstance for each research activity.</p>					
RESEARCH ACTIVITIES	I consent to taking part in the following circumstances:				I do not consent
	Where I require urgent treatment to save my life, or to prevent serious damage to my health, or to prevent me suffering or continuing to suffer significant pain and distress	Where the medical research may improve my condition or illness	Where the medical research may not improve my condition or illness but may lead to a better understanding of my condition or illness in the future	Where there are no other treatment options	

The administration of pharmaceuticals or placebos (inactive drug)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The use of equipment or a device	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Providing health care that has not yet gained the support of a substantial number of practitioners in that field of health care	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Providing health care to carry out a comparative assessment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Taking blood samples	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Taking samples of tissue or fluid from the body, including the mouth, throat, nasal cavity, eyes or ears	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Any non-intrusive examination of the mouth, throat, nasal cavity, eyes or ears	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
A non-intrusive examination of height, weight or vision	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Observing an individual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Undertaking a survey, interview or focus group	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Collecting, using or disclosing information, including personal information	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Considering or evaluating samples or information taken under an activity listed above	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Any other medical research not listed above	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

PART 5: PEOPLE WHO HELPED ME COMPLETE THIS FORM	
5.1 Did an interpreter help you to complete this form?	
<p>Use Part 5.1 to show whether an interpreter helped you to complete this form.</p> <p>If English is not your first language, you can use an interpreter to help you complete this form.</p> <p>If you use an interpreter to help you to complete this Advance Health Directive, you and your interpreter should complete the interpreter statement provided in <i>A Guide to Making an Advance Health Directive in Western Australia</i> and attach it to your Advance Health Directive.</p> <p>Cross out Part 5.1 if you do not want to complete it.</p>	<p>Tick the option that applies to you:</p> <p>Option 1 <input type="checkbox"/> English is my first language — I did not need to use an interpreter</p> <p>Option 2 <input type="checkbox"/> English is NOT my first language — an interpreter helped me make this Advance Health Directive and I have attached an interpreter statement</p> <p>Option 3 <input type="checkbox"/> English is NOT my first language — I did NOT receive help from an interpreter to make this Advance Health Directive</p>

5.2 Have you made an Enduring Power of Guardianship (EPG)?

Use Part 5.2 to indicate whether you have made an Enduring Power of Guardianship (EPG) and provide details if relevant.

An Enduring Power of Guardianship allows you to name and legally appoint one or more people to make decisions about your lifestyle and health care if you lose capacity.

A person you appoint to make decisions on your behalf is called an enduring guardian.

An enduring guardian cannot override decisions made in your Advance Health Directive.

Cross out Part 5.2 if you do not want to complete it.

Tick the option that applies to you:

Option 1 ☐ I have NOT made an Enduring Power of Guardianship

Option 2 ☐ I have made an Enduring Power of Guardianship

My EPG was made on: / /
(day) (month) (year)

My EPG is kept in the following place (be as specific as possible):
.....

I appointed the following person/s as my enduring guardian.

Name Phone

Joint enduring guardian (if appointed):

Name Phone

Substitute enduring guardian (if any):

Name Phone

Other substitute enduring guardian (if more than one):

Name Phone

5.3 Did you seek medical and/or legal advice about making this Advance Health Directive?

Use Part 5.3 to indicate whether you obtained medical and/or legal advice before making this Advance Health Directive and provide details if relevant.

You are encouraged (but not required) to seek medical or legal advice to make an Advance Health Directive.

Cross out Part 5.3 if you do not want to complete it.

Medical Advice — tick the option that applies to you

Option 1 ☐ I did NOT obtain medical advice about the making of this Advance Health Directive.

Option 2 ☐ I DID obtain medical advice about the making of this Advance Health Directive.

I obtained medical advice from:

Name	
Phone	
Practice	

Legal Advice — tick the option that applies to you

	<p>Option 1 <input type="checkbox"/> I did NOT obtain legal advice about the making of this Advance Health Directive.</p> <p>Option 2 <input type="checkbox"/> I DID obtain legal advice about the making of this Advance Health Directive.</p> <p style="margin-left: 40px;">I obtained legal advice from:</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <tr> <td style="width: 20%; padding: 5px;">Name</td> <td style="width: 80%;"></td> </tr> <tr> <td style="padding: 5px;">Phone</td> <td></td> </tr> <tr> <td style="padding: 5px;">Practice</td> <td></td> </tr> </table>	Name		Phone		Practice	
Name							
Phone							
Practice							

<p>PART 6: SIGNATURE AND WITNESSING</p> <p>You must complete this Part</p>
<ul style="list-style-type: none"> You <u>must</u> sign this Advance Health Directive in the presence of two (2) witnesses. If you are physically incapable of signing this Advance Health Directive, you can ask another person to sign for you. You must be present when the person signs for you. Two (2) witnesses must be present when you sign this Advance Health Directive or when another person signs for you. Each of the witnesses must be 18 years of age or older and cannot be you or the person signing for you (if applicable). At least one of the witnesses must be authorised by law to take statutory declarations. The witnesses must also sign this Advance Health Directive. Both witnesses must be present when each of them signs. You and the person signing for you (if applicable) must also be present when the witnesses sign. If you need to use a marksman clause to sign this Advance Health Directive, you should complete the marksman clause template provided in <i>A Guide to Making an Advance Health Directive in Western Australia</i> and attach it to your Advance Health Directive.
<p style="text-align: center;">YOU MUST SIGN THIS FORM IN THE PRESENCE OF TWO (2) WITNESSES. BOTH WITNESSES MUST BE PRESENT WHEN YOU SIGN THIS FORM. THE WITNESSES MUST SIGN IN EACH OTHER'S PRESENCE.</p> <p>Signed by:</p> <p style="margin-left: 40px;"><i>(signature of person making this Advance Health Directive)</i></p> <p>Date: / /</p> <p style="margin-left: 40px;"><i>(day) (month) (year)</i></p> <p>OR</p>

Signed by: <i>(insert name of person who the maker of Advance Health Directive has directed to sign)</i> in the presence of, and at the direction of <i>(insert name of maker of Advance Health Directive)</i> Date: / / <i>(day) (month) (year)</i> Witnessed by a person authorised by law to take statutory declarations:	
Authorised witness's signature	
Authorised witness's full name	
Address	
Occupation of authorised witness	
Date / / (day) (month) (year)
And witnessed by another person:	
Witness's signature	
Witness's full name	
Address	
Date / / (day) (month) (year)

V. MOLAN, Clerk of the Executive Council.
