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Advance Care Planning: Five Names, Nine Statutes, and Not One of Them Is Commonwealth

Programme descriptor

Programme	Advance Care Planning (OBA-ACP-2026)
Version	1.0, issued 28/09/2026. Review due 28/03/2027.
CPD	7.5 hours, MEASURED from the content
For	Nurses, midwives, support workers and team leaders in acute, aged care, disability and community settings

READ THIS BEFORE THE TITLE

The title states that the law is fragmented. THAT IS NOT A REASON TO IGNORE A DIRECTIVE, and it is not evidence that directives are unreliable. In every jurisdiction there is a legally recognised way for a person to record what they want and to appoint somebody to speak for them, and in every jurisdiction a recorded wish is the best available evidence of what that person wanted. The response to fragmentation is to FIND OUT WHICH JURISDICTION YOU ARE IN - one fact, ten minutes - not to stop looking.

The finding this programme is built on

THE FINDING

'ADVANCE CARE DIRECTIVE' IS NOT ONE THING IN AUSTRALIA. It is FIVE DIFFERENT LEGAL NAMES - Advance Care Directive, Advance Health Directive, Health Direction, Advance Personal Plan, and in NEW SOUTH WALES no statutory name at all - under NINE STATUTES across EIGHT JURISDICTIONS. AND NOT ONE OF THOSE STATUTES IS COMMONWEALTH. There is no national advance care directive, no national form, and no national rule.

AND THE SENTENCE THAT TRAVELS WITH IT, EVERY TIME

- AND HERE IS THE SENTENCE THAT TRAVELS WITH THAT FINDING, EVERY TIME IT IS SAID OUT LOUD. THE FRAGMENTATION IS NOT A REASON TO IGNORE AN ADVANCE CARE DIRECTIVE, OR TO TREAT THEM AS UNRELIABLE, OR TO DECIDE THAT THE LAW IS TOO COMPLICATED TO BOTHER WITH. The response to fragmentation is always the same and it is simple: FIND OUT WHICH JURISDICTION YOU ARE IN AND WHAT ITS LAW CALLS THE DOCUMENT. And a directive that is NOT legally binding is STILL THE BEST AVAILABLE EVIDENCE OF WHAT THE PERSON WANTED - it still guides the substitute decision-maker, it still belongs in the record, and it is still the reason the conversation happened.
- The practical consequence is not that you must learn eight systems. It is that you must know

WHICH ONE YOU ARE IN, know the NAME your jurisdiction uses, and know that a confident statement about 'advance care directives' made by somebody who trained in another State may simply be wrong where you are standing. An internationally qualified nurse, an agency nurse, and anybody who has moved interstate are the three people most likely to be carrying the wrong rule.

The map

	The instrument's legal name	Governing statute	Common law binding?
NSW	NO STATUTORY INSTRUMENT EXISTS	Guardianship Act 1987 (NSW) governs the substitute decision-maker	YES - and it is the ONLY binding kind
VIC	Advance Care Directive	Medical Treatment Planning and Decisions Act 2016 (Vic)	YES - both statutory and common law are recognised
QLD	Advance Health Directive	Powers of Attorney Act 1998 (Qld)	NO - only the statutory form binds
WA	Advance Health Directive	Guardianship and Administration Act 1990 (WA)	NOT ESTABLISHED for this build
SA	Advance Care Directive	Advance Care Directives Act 2013 (SA)	NOT ESTABLISHED for this build
TAS	Advance Care Directive	Guardianship and Administration Act 1995 (Tas)	YES - both are available
ACT	Health Direction	Medical Treatment (Health Directions) Act 2006 (ACT)	NOT ESTABLISHED for this build
NT	Advance Personal Plan	Advance Personal Planning Act 2013 (NT) AND Health Care Decision Making Act 2023 (NT)	NOT ESTABLISHED for this build

AND WHAT THIS TABLE DOES NOT TELL YOU

- It gives NAMES, not requirements. This programme states NO witnessing rule, NO form requirement, NO age, NO capacity test, NO revocation procedure and NO substitute decision-maker hierarchy for any jurisdiction, because none of that was read - both authoritative sources returned HTTP 403 to retrieval.
- The 'common law binding?' column is BLANK for Western Australia, South Australia, the ACT and the Northern Territory. That is not an oversight and it does not mean 'no'. It means the position was not established for this build, and a blank is the honest entry.

And the two states that are exact opposites

QUT, END OF LIFE LAW IN AUSTRALIA

AND THE TWO THAT ARE EXACT OPPOSITES. In NEW SOUTH WALES, only COMMON LAW advance care directives are legally binding - the state has no statutory directive at all - and a common law directive has NO FORMAL REQUIREMENTS, which means IT CAN BE MADE ORALLY. In QUEENSLAND, common law advance care directives ARE NOT LEGALLY BINDING; only the statutory Advance Health Directive is. SO THE SAME SPOKEN SENTENCE IS A BINDING REFUSAL OF TREATMENT ON ONE SIDE OF THE TWEED RIVER AND CARRIES NO LEGAL FORCE ON THE OTHER.

What you will be able to do

Module 00 - Orientation: The Same Words Bind in One State and Not the Next (24 min)

Everybody says 'advance care directive' as though it were one thing. In Australia it is five different legal names under nine statutes across eight jurisdictions, and not one of those statutes is Commonwealth. In New South Wales a directive can be made out loud and it binds; in Queensland the same spoken words carry no legal force at all. This module states that, states the sentence that must always travel with it, and shows why the response is simpler than the problem looks.

- State the finding, and say where each part of it comes from
- State the counterweight in your own words, without being prompted
- Name the five legal names the instrument carries across Australia
- Explain why the New South Wales and Queensland positions are exact opposites

Module 01 - Five Names, Nine Statutes: The Map of Australian Advance Care Directives (28 min)

The whole map on one page: what the instrument is called in each of the eight jurisdictions, which statute governs it, and - where this build could establish it - whether a common law directive binds there. Four jurisdictions are left deliberately blank, and the module says why.

- Name the instrument and the statute for your own jurisdiction without looking it up
- Recognise the four statutory names and say which jurisdictions use each
- Explain why New South Wales has no statutory instrument
- Say which four positions this build could not establish, and where to get them

Module 02 - New South Wales and Queensland: Two Systems That Are Exact Opposites (24 min)

The two most populous eastern states take precisely opposite positions on the same question. New South Wales recognises only common law directives - which have no formal requirements and can be made orally. Queensland recognises only the statutory Advance Health Directive and does not treat a common law directive as binding at all. This module works both, and uses the contrast to make the general point.

- State the NSW position, including that a directive may be made orally
- State the Queensland position, and say what it means for a spoken refusal
- Explain what a common law directive requires to be valid in NSW
- Say why the contrast matters to anybody who moves, or who trained elsewhere

Module 03 - What Advance Care Planning Actually Is, and What a Directive Is Not (24 min)

Advance care planning is a process. An advance care directive is a document. A values statement is evidence. Appointing a substitute decision-maker is a separate act. A goals of care or resuscitation form is a clinical order set. People call all five 'the advance care plan', and knowing which one you are holding is more useful than knowing any single jurisdiction's rules.

- Distinguish the five things people call an advance care plan
- Say which are legally binding, which are evidence, and which are clinical orders
- Explain why a person can appoint a decision-maker without making a directive
- Recognise a goals of care or resuscitation form and say why it is not a directive

Module 04 - Capacity: Decision-Specific, Time-Specific, and Presumed Until It Is Not (26 min)

Capacity is the hinge the whole subject turns on: a directive does nothing until capacity is lost, and a substitute decision-maker has no authority until then either. This module gives the six principles a worker needs at a bedside - and is explicit that it states no legal test, because every jurisdiction defines capacity in its own words and none of those statutes was read.

- State the six principles of capacity as they apply at a bedside
- Explain why 'has capacity' and 'lacks capacity' as global labels are almost always wrong
- Distinguish an unwise decision from an absence of capacity
- Distinguish a communication difficulty from an absence of capacity

Module 05 - The Substitute Decision-Maker, Who Also Has a Different Name Everywhere (24 min)

The decision-maker has a different legal name in nearly every jurisdiction, is appointed by different routes, and falls back to a different default hierarchy that this programme deliberately does not state. This module names the roles, explains why appointing somebody is often better advice than making a directive, and is precise about what could not be established.

- Name the substitute decision-maker role in your own jurisdiction
- Explain why appointing a decision-maker may be better first advice than making a directive
- Say what the decision-maker is supposed to reason from
- State why this programme gives no hierarchy, and what to do instead

Module 06 - When a Directive Operates - and Why It Does Nothing Until Then (22 min)

An advance care directive is written for a moment that may never arrive. While a person can make the decision in question, their current view governs - even if it contradicts what they wrote. This module is about the switch: when it flips, what happens when it flips back, and the single commonest misuse of the document.

- Say when a directive begins to operate, and when it does not
- Explain why a person's current decision overrides what they previously wrote
- Describe what happens when capacity returns
- Recognise the commonest misuse of a directive and say why it is wrong

Module 07 - The Conversation: Starting It, and Why It Is Not the Form (24 min)

Almost everything else in this programme is somebody else's task. The conversation is not. A worker who notices an opening, asks one question, listens, and writes down what was said has done the single most useful thing available in this subject - and has done it without deciding anything, witnessing anything, or completing any form.

- Explain why the conversation matters more than the document
- Recognise the moments when a conversation is already opening
- Use an opening question that does not require a diagnosis or a prognosis
- State the rules that hold the conversation safe for both people

Module 08 - Finding, Reading and Recording a Directive (24 min)

A directive that nobody can find has done nothing. A directive that is found but never shown to the treating team has done nothing either. This module is the practical core of the programme: where to look, what to ask of the document once you have it, and what to write - including what to write when you looked and found nothing.

- List six places a directive may be found, and say which one comes first
- Ask the six questions that tell you what the document in your hand actually is
- Record the six facts that make a found directive useful to the next person
- Explain why 'no directive located' is a useful entry

Module 09 - When It Is Unclear, Disputed, or Does Not Fit the Situation (24 min)

Most directives do not answer the question in front of the team exactly, most families have something to say about them, and neither of those is a failure of the document. This module works six recurring situations and gives one sentence that moves every one of them to somebody who can decide - which is the whole skill.

- Recognise the six situations in which a directive becomes a question rather than an answer
- Explain why a directive that does not fit the situation has not failed
- State what a directive becomes when it does not speak to the decision at hand
- Use one escalation sentence, and say why it is not an admission of incompetence

Module 10 - What Is Not Yours: Capacity, Validity, Witnessing and the Decision (22 min)

This module draws the line, and it is the module most likely to keep somebody out of trouble. Seven tasks in this subject belong to somebody else - and two of them are refused outright here, not because they are unimportant but because the sources that would settle them were not read. Eight things are yours, and together they are most of what determines whether a person's wishes are known when it matters.

- State seven tasks in this subject that are not a worker's
- State eight that are, and say why they are enough
- Explain why voluntary assisted dying is entirely out of scope for this programme
- Say what this programme refuses to state, and why refusing is the correct answer

How it is assessed

Summative assessment	60 items, 80% to pass, 2 attempts. Every item answerable from the programme.
Knowledge checks	One per module, formative, no attempt limit, rationale on every option including the wrong ones.
Case studies	Constructed. Nobody is named and no service is real.
Certificate	7.5 CPD hours on completion.

How the CPD figure was measured

	Measured
Module 00 - Orientation: The Same Words Bind in One State and Not the Next	24 min
Module 01 - Five Names, Nine Statutes: The Map of Australian Advance Care Directives	28 min
Module 02 - New South Wales and Queensland: Two Systems That Are Exact Opposites	24 min
Module 03 - What Advance Care Planning Actually Is, and What a Directive Is Not	24 min
Module 04 - Capacity: Decision-Specific, Time-Specific, and Presumed Until It Is Not	26 min
Module 05 - The Substitute Decision-Maker, Who Also Has a Different Name Everywhere	24 min
Module 06 - When a Directive Operates - and Why It Does Nothing Until Then	22 min
Module 07 - The Conversation: Starting It, and Why It Is Not the Form	24 min
Module 08 - Finding, Reading and Recording a Directive	24 min
Module 09 - When It Is Unclear, Disputed, or Does Not Fit the Situation	24 min
Module 10 - What Is Not Yours: Capacity, Validity, Witnessing and the Decision	22 min
Programme reading	88 min
Case study assessment	34 min
Summative assessment	52 min
TOTAL	440 min = 7.33 hours
CLAIMABLE	7.5 CPD hours

ROUNDED TO THE NEAREST HALF HOUR, INCLUDING DOWNWARDS

440 minutes is 7.33 hours, which rounds to 7.5. The figure is DERIVED, not chosen - which is the whole reason it can be checked. If a higher figure is wanted, the answer is to add content, never to change the number.

What this programme will not do

	Why
ANY STATEMENT THAT A DIRECTIVE IS OR IS NOT LEGALLY VALID, OR THAT IT DOES OR DOES NOT BIND IN A GIVEN SITUATION	THE PRIMARY ONE. Validity turns on a jurisdiction's own requirements and NONE was read. It is also a legal question with clinical consequences, and not a bedside one.
ANY WITNESSING, FORM, AGE, CAPACITY-TEST OR REVOCATION REQUIREMENT FOR ANY JURISDICTION	None was read. Stating one from memory is how a directive gets treated as invalid when it is not, or relied on when it should not be.
ANY SUBSTITUTE DECISION-MAKER HIERARCHY OR ORDER OF PRECEDENCE	Different in every jurisdiction, not read for any, and the single thing people assert most confidently.
A CLAIM THAT A DIRECTIVE MADE IN ONE STATE IS OR IS NOT RECOGNISED IN ANOTHER	Not established for this build. Only APPOINTMENTS were found to be 'usually' recognised, with restrictions - which is a different question.
THE FRAGMENTATION PRESENTED AS MEANING DIRECTIVES DO NOT MATTER, OR AS A REASON NOT TO LOOK FOR ONE	The response to fragmentation is to find out which jurisdiction you are in. A non-binding directive is still the best evidence of what the person wanted.
A CAPACITY ASSESSMENT PERFORMED OR DIRECTED BY A WORKER	Clinical, legal, and defined differently in every jurisdiction. Noticing and reporting is the worker's part.
ANYTHING ABOUT VOLUNTARY ASSISTED DYING	A separate regime in every State with its own eligibility and safeguards. Out of scope entirely, and dangerous to discuss from general knowledge.
A DIAGNOSIS, A PROGNOSIS, OR ADVICE ON WHETHER TREATMENT SHOULD BE GIVEN OR WITHHELD	Not this programme's, and not a worker's.
A NAMED INDIVIDUAL, REAL SERVICE OR REAL FAMILY IN ANY SCENARIO	Every scenario is constructed and nobody is named.
A VERDICT ON WHETHER ANY SERVICE OR PRACTITIONER COMPLIES WITH ANYTHING	Professional development, not a compliance sign-off.

And the eleven things it did not read

Not read	Why	What follows
The QUT state and territory pages themselves	HTTP 403 to automated retrieval	So the WA, SA, ACT and NT positions on common law directives are left BLANK in the map, and the programme says so on the slide.
Advance Care Planning Australia's forms and law pages	HTTP 403	So no form, no witnessing rule and no jurisdiction-specific procedure is stated.
The National Framework for Advance Care Planning Documents (May 2021)	Named, not read	It is a FRAMEWORK, not legislation. There is no Commonwealth directive and no national form.
Every one of the nine statutes, provision by provision	None was opened	So the programme states names, not requirements.
The substitute decision-maker HIERARCHY in any jurisdiction	Not read	So NO order of precedence is stated anywhere - and it is the thing people state most

		confidently.
Witnessing, form, age, capacity-test and revocation requirements	Not read	None is stated for any jurisdiction.
Interstate recognition of DIRECTIVES	Not established	Only the weaker statement that APPOINTMENTS are usually recognised, with restrictions.
NSQHS Comprehensive Care Standard actions on advance care planning	Not retrieved	So no action number is cited.
My Health Record rules	Not read	So no claim about who may upload, view or rely on a document there.
Voluntary assisted dying law in any State	Deliberately not read	OUT OF SCOPE ENTIRELY. A separate regime with its own safeguards.
Your own service's advance care planning policy and forms	Not read, not knowable	The document that actually governs what happens on your shift.

WHERE THE LINE IS

WHERE THE LINE IS. The jurisdiction map, the statute names and the New South Wales and Queensland positions come from QUT's End of Life Law in Australia, through quoted extracts. The practical suggestions - the five conversation openings, the six things to check when reading a directive, the escalation sentence - are OBA'S TEACHING and are labelled as such wherever they appear.

SCOPE

This programme is professional development. IT IS NOT LEGAL ADVICE AND IT IS NOT CLINICAL ADVICE. Advance care planning law is STATE AND TERRITORY law - eight jurisdictions, nine statutes, no Commonwealth instrument - and it changes. This programme states the NAME of the instrument and the NAME of the statute in each jurisdiction, and the New South Wales and Queensland positions on common law directives. IT STATES NO WITNESSING REQUIREMENT, NO FORM REQUIREMENT, NO AGE, NO CAPACITY TEST, NO REVOCATION PROCEDURE AND NO SUBSTITUTE DECISION-MAKER HIERARCHY for any jurisdiction, because none of that was read - both authoritative sources returned HTTP 403 to retrieval. It does not decide whether any directive is valid or applies, does not assess capacity, and says NOTHING about voluntary assisted dying. Confirm the current position with your own jurisdiction's law and your organisation's policy.