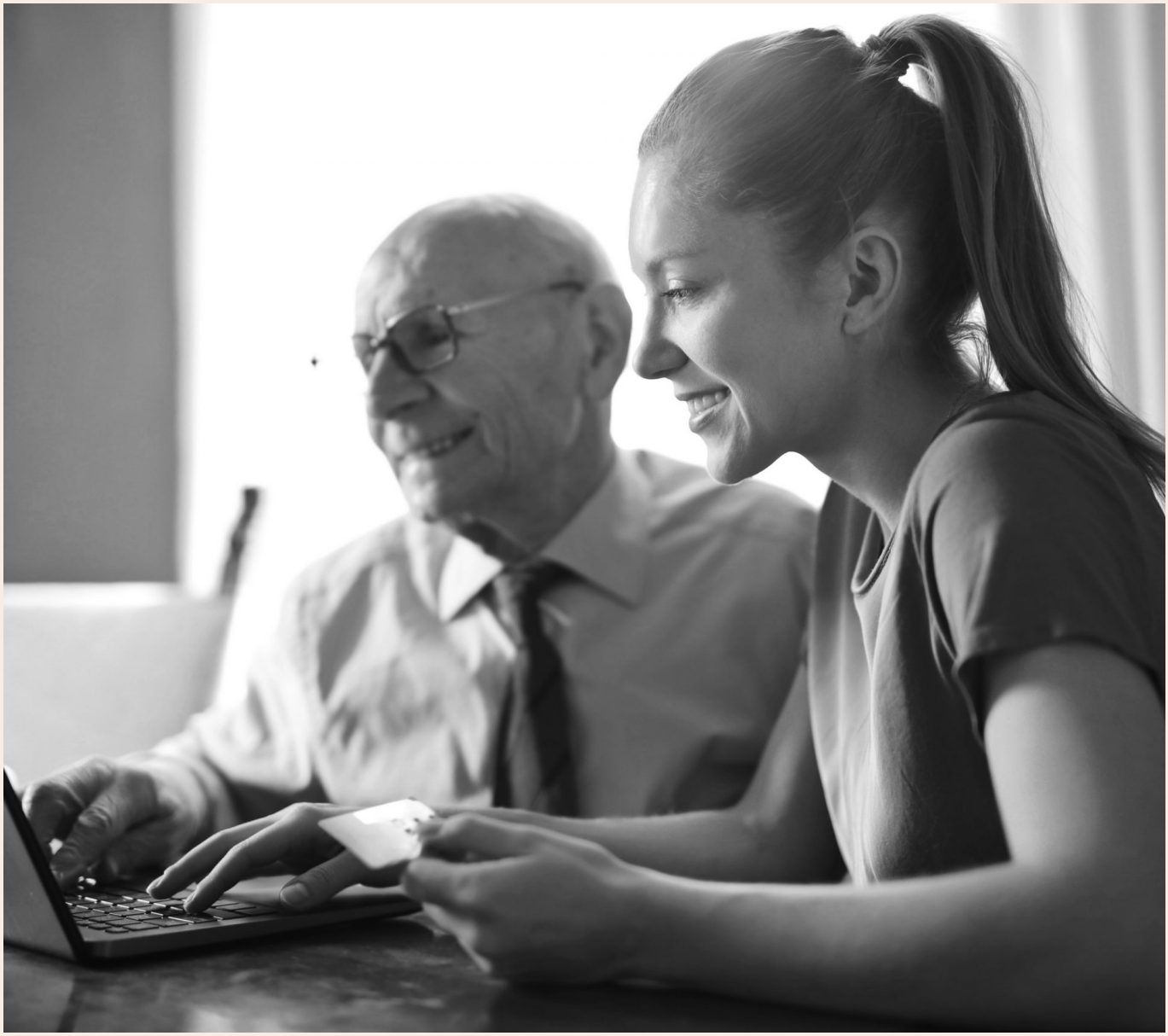


When does my Advance Care Directive become active?

An Advance Care Directive (“ACD”) is a document that you make with the assistance of a lawyer in which you advise your directives for your medical care and treatment in the event that you are unable to make a decision on your own. In the ACD you can nominate one or more substitute decision makers to act on your behalf and in accordance with your wishes outlined in your ACD document.

If a person acts as your substitute decision maker and they have not been validly appointed then that person commits an offence and is in breach of the Act and could potentially face prison time of 10 years.

Once the ACD is signed by you and your nominated substitute decision makers (if any) have also signed, then the document is active and valid provided it meets the requirements of the *Advance Care Directives Act 2013 (SA*) **("the Act").**

An ACD can only be used when you (the person who gave the directive) have lost your decision making capability or if you have impaired decision making capability. It is important to note that your capability to make a decision on your health and medical treatment is based on your mental capacity at the particular time that you have been asked to make a decision. Your mental capacity may fluctuate.

You are presumed to have capacity to make decisions in relation to your own medical treatment unless:

1. you cannot understand any information or consequences of a particular decision;
2. you cannot retain information about decisions or consequences;
3. you are not able to use information given to you in the course of making a decision;
4. you are unable to communicate your decision in any manner.

Your ACD is valid for health treatment in South Australia and other Australian States where there is equivalent legislation. Your ACD is not able to be used overseas.

> An ACD can only be used when you have lost your decision making capability or if you have impaired decision making capability.

The information in this article is general in nature and was accurate at the time of publication. Laws and circumstances can change. For advice specific to your situation, please seek professional legal advice.