Lasting Power of Attorney
Advance Medical Directive

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Advance Care Planning

- Advance Care Planning (ACP) involves conversations between healthcare professionals, patients and their family members about the patient's future healthcare plans.

  Having these discussions can reduce crisis decision-making and ensure that medical decisions are made in the patient's best interest.

  AIC, together with the ACP Steering Committee, has facilitated training for over 170 ACP facilitators and organised awareness talks for healthcare staff in restructured hospitals, nursing homes, hospices and dialysis centres.

What is ACP?

- Advance care planning is an on-going communication process between the advance care planning facilitator, the patient, health professionals involved in the patient's care, and the patient's next-of-kin. It helps the patient reflect, plan and make decisions for future healthcare options. The patient's thoughts and wishes are documented and shared with everyone involved in his or her care. If the patient loses capacity to make specific healthcare decisions in the future advance care planning will help guide decisions to ensure the patient's interest.

Advance Care Planning is:

- An inclusive process that involves the patient's loved ones
- A non-legal plan for future medical care in relation to the patient's current clinical status
- An ongoing communication process

How does ACP work?

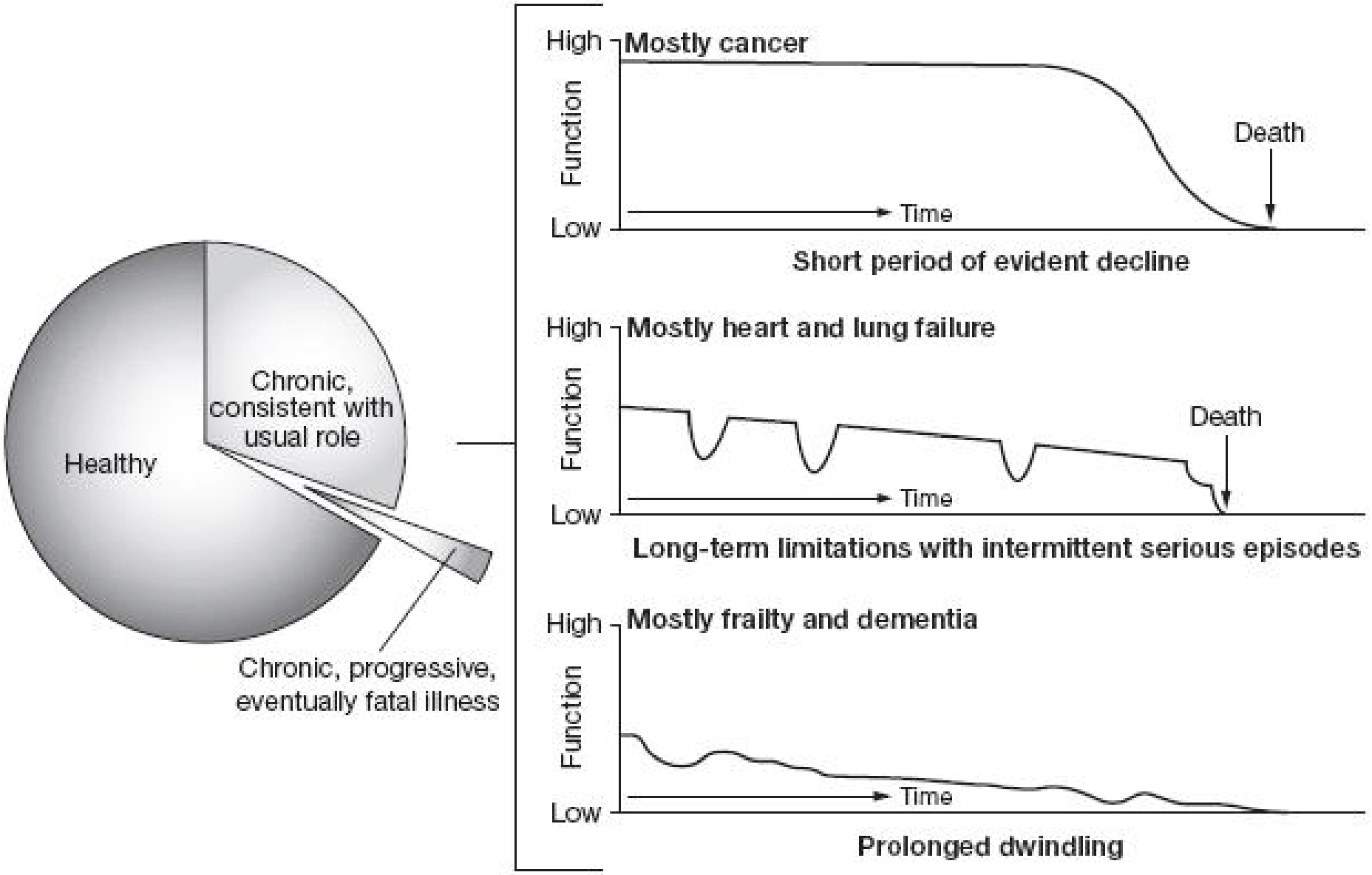
- ACP encourages open communication. It assists patients, their loved ones and health professionals involved in their care think and talk about their medical options in a non-emergency environment.
- This anticipatory care approach is not only useful for patients with an illness and who want to make decisions about specific treatments, but is also beneficial for healthy individuals who want to make known the sort of medical treatments they would like or would refuse.
- The Living Matters ACP framework also encourages patients to appoint a substitute decision maker who can make decisions on their behalf if they become too ill to speak.

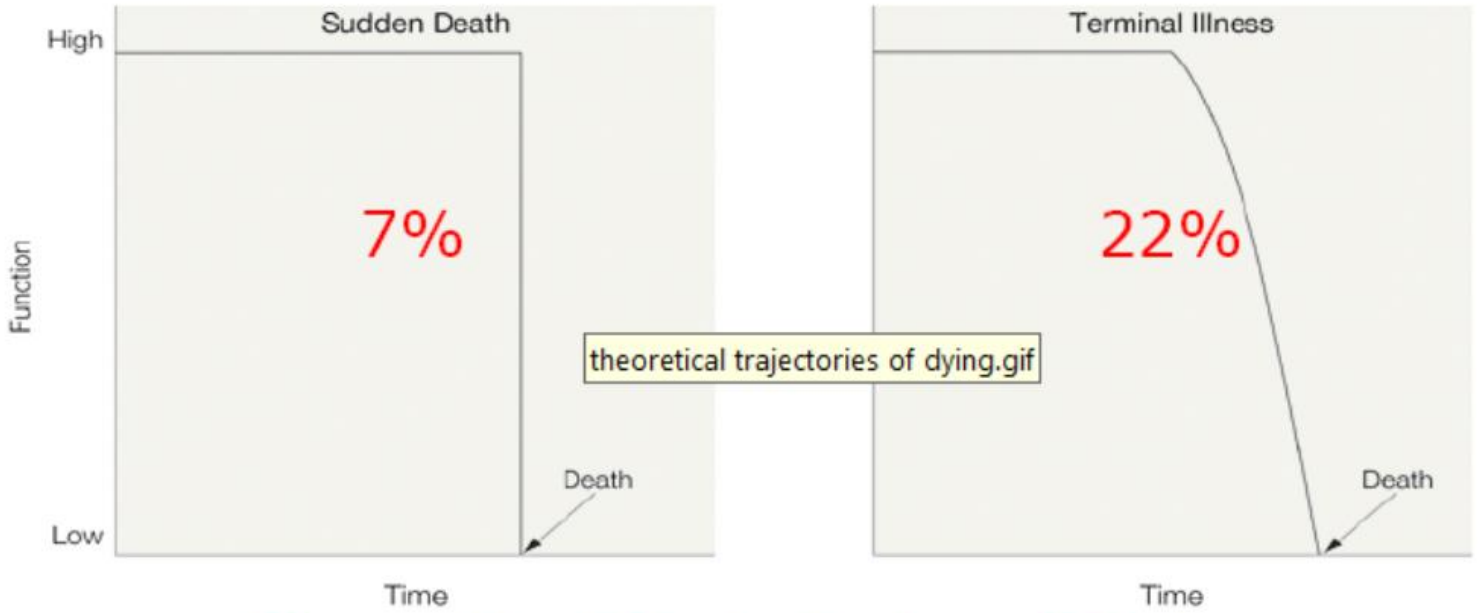

Understand
(learn more about your medical condition)
Reflect
(think about your goals and values)
Discuss
(choose someone to speak on your behalf)
Communicate
(your wishes and values)
Document
(the discussion)
Review

Advance Care Planning

Communication in the formulation of the care arrangement and treatment for hypothetical but highly possible future scenarios, e.g. -

- Possible theoretical trajectory of dying
- Diseases leading to demise
- Disability and period of dependency to care givers
- Example: Dying with Dignity





Theoretical Trajectories of Dying

Lunney JR, Lynn J, Hogan C. Profiles of older Medicare decedents. J Am Geriatr Soc. 2002; 50: 1108-1112

Advance Care Planning

- Recognise the options available
- Input ideas, concerns and expectations on end of life care plans
- Deciding on proxy decision makers
- Making them official via LPA and AMD
- Keep dying issues alive and kicking

Decision on Goals of Care

- No more treatment if ill, not even oral antibiotics. Only medications providing comfort e.g. morphine
- Treatment at home only, no hospitalisation
- Hospitalisation but only maximum ward treatment, no CPR or ICU
- High Dependency care but no CPR or ventilatory support
- Intensive Care Unit admission and indefinite support with CPR and ventilatory support

Advance Psychosocial & Spiritual Planning

- Religious support
- Site of care, in hospital/hospices/nursing homes/own home
- Persons to care and to meet during the last days
- Lasts wishes, wills
- Rites and rituals at funeral; Organ donations; type of burial etc

Lasting Power of Attorney

The Office of the Public Guardian

- The Office of the Public Guardian ("OPG") works towards protecting the dignity and interests of individuals who lack mental capacity and are vulnerable as well as encouraging proactive planning for an eventuality of losing one's mental capacity.
- The OPG is a Division of the Ministry of Social and Family Development ("MSF"). The Office supports the Public Guardian in carrying out his functions.

The Public Guardian

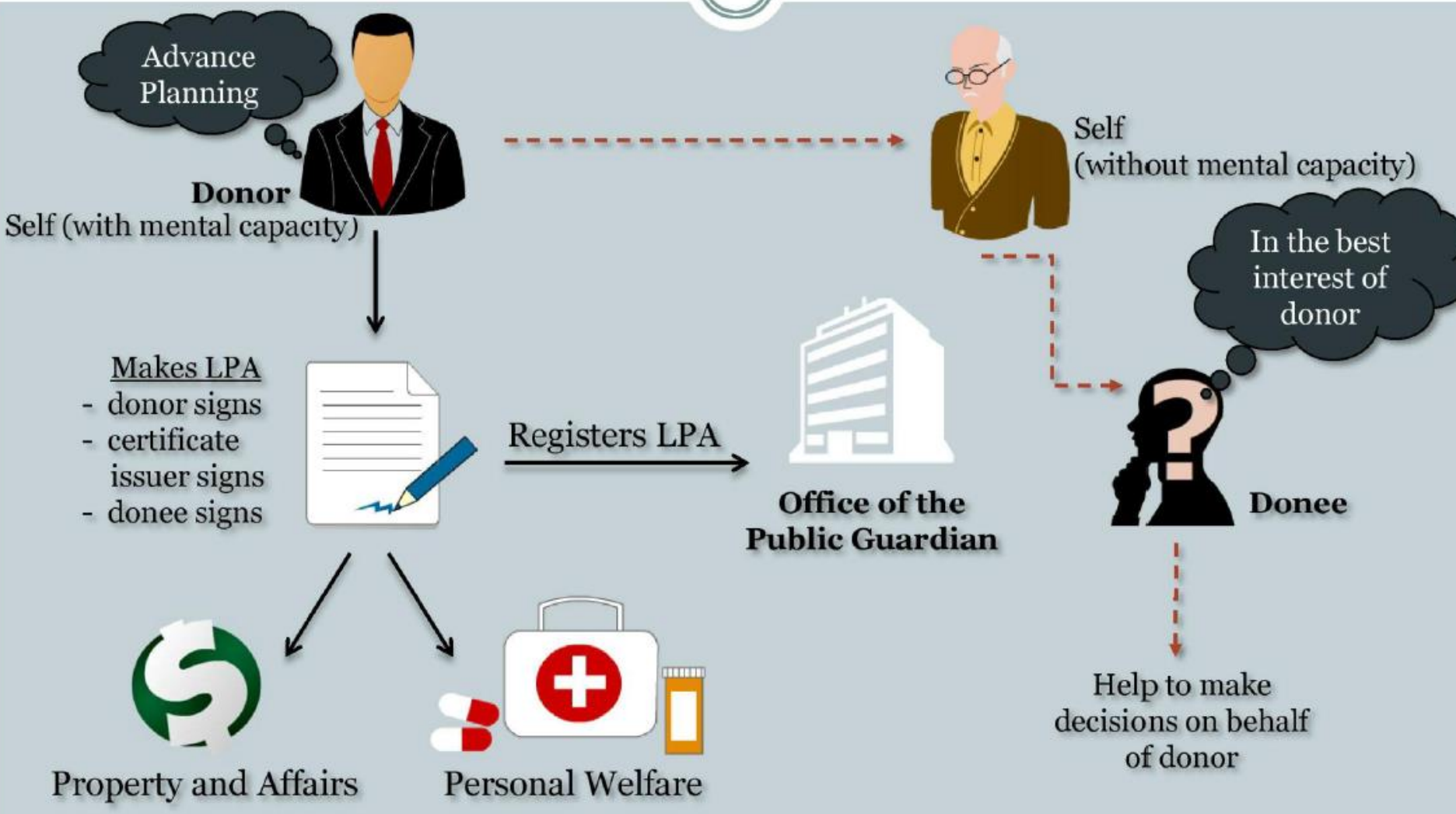
The Public Guardian carries out various functions towards enabling and protecting persons who lack capacity. These functions include:

- To set up and maintain a register of Lasting Power of Attorney ("LPA") and to set up and maintain a register of court orders that appoint deputies,
- To supervise deputies,
- To receive reports from donees and deputies,
- To investigate any alleged violation of any provision in the Mental Capacity Act, including complaints about the way in which donees and deputies are exercising their powers. Recent case on Mdm Chung Khin Chun and Mr Ng Kong Yeam

The Lasting Power of Attorney

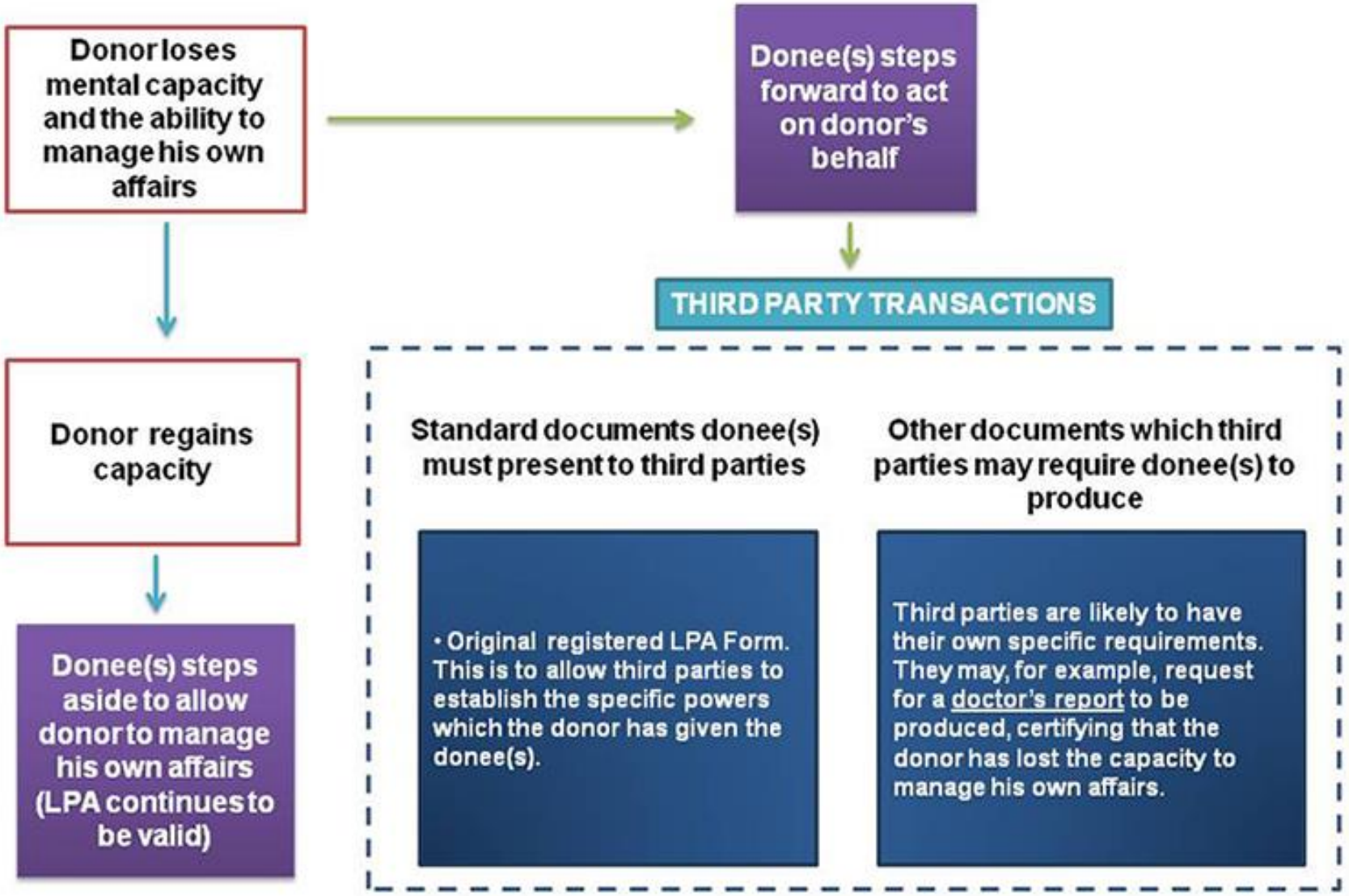
- A Lasting Power of Attorney ("LPA") is a legal document which allows a person who is at least 21 years of age ('*donor*'), to voluntarily appoint one or more persons ('*donee(s)*'), to make decisions and act on his behalf as his proxy decision maker if he should lose mental capacity one day. A donee(s) can be appointed to act in two broad areas: **personal welfare** as well as **property & affairs** matters.

LPA Process


Advance Planning
Donor
Self (with mental capacity)
Self
(without mental capacity)
In the best interest of donor
Makes LPA
- donor signs
- certificate issuer signs
- donee signs
Registers LPA
Office of the Public Guardian
Donee
Help to make decisions on behalf of donor
Property and Affairs
Personal Welfare

Using a Lasting Power of Attorney

The chart below presents a generic overview of key procedures to use a Lasting Power of Attorney (LPA). The LPA should only be used when the donor loses capacity and has been certified to be incapable of managing his own affairs. Should the donor regain his capacity again, the donee should step aside to allow the donor to manage his own affairs again. The LPA remains valid.



Procedure to sign an LPA

- LPA can be issued by accredited GPs, any Lawyers or Psychiatrists
- Demonstrating Decision-making capacity:
  - Understand information relevant to the decision, including the purpose of any proposed course of action, the main benefits, risk and alternatives, and the consequences of refusing to follow the proposed course of action and of failing to make a decision
  - Retain the information long enough to make a decision
  - Use or weigh that information as part of the process of making the decision
  - Communicates his or her decision, whether by speech, sign language or other means.

Step 1

Consider **who you wish to appoint** as your donee(s) and **the powers to be given to** your donee(s)

Choose the appropriate LPA Form:

- LPA Form 1 **or** LPA Form 2
- Read information sheet

Step 2

Refer to our available guides on preparing your LPA application

- Step-by-Step Guide
- Sample of duly completed LPA Form 1 (2014)
- Checklist on completing your LPA

Step 3

See an LPA Certificate Issuer to sign as your witness and to certify that you know the implications of making an LPA

Step 3A

If making an LPA using LPA form 2

Visit a lawyer to draft the Annex to Part 3 of your LPA

Step 4

Submit the completed LPA Form & Application Form

- **Complete** the LPA Form & Application Form
- **Submit** application **to OPG via post**

*Note: You may obtain **Business Reply Service** (BRS) envelopes/Print BRS label to be affixed on an envelope*

Step 4A

Singapore Permanent Residents and Non-Singaporeans, making an LPA, have to pay **an application fee**.

(Note: Payment will be advised when OPG has received and verified the application.)

Step 5

After verification by OPG to ensure the application can be accepted, there will be a **mandatory six (6) weeks waiting period**, after which your LPA will be registered if there are no valid objections raised.

Advance Medical Directive

- An Advance Medical Directive (AMD) is a legal document you sign in advance to inform your doctor that you do not want the use of any life-sustaining treatment to be used to prolong your life in the event you become terminally ill and unconscious and where death is imminent.

Advance Medical Directive

- The AMD can be made by any person, aged 21 years and above, and is not mentally disordered. The AMD form is a legal document which must be completed and signed in the presence of two witnesses before it is returned to the Registrar of AMDs.
- The patient's doctor must be one of the two witnesses, while the other witness must be at least 21 years old. In addition, both witnesses must not have any vested interests in the patient's death.

Advance Medical Directive

Certification of terminal condition by doctor-in-charge of care, using a prescribed form, and **submit the certificate to the Registrar of AMD**, who will in turn conduct a search if the patient is on the register.

- **A total of 3 doctors need to concur on 'terminality'**, and at least 2 of them must be Specialists. In case of disagreement, DMS can appoint 3 specialists to deliberate on this. The assessment must be unanimous.
- Unless the doctor-in-charge of care has registered his objections, he is obligated to comply with the AMD.

Advance Medical Directive

It is **offence for the doctor to enquire** whether Directive **has been made, or is to be made** by the patient, unless such discussions are: -

- consistent with good medical practice;
- held in the context of doctor-patient relationship
- in furtherance of the purposes of public education

ADVANCE MEDICAL DIRECTIVE ACT

Chapter 4A

New advances in medical knowledge and technology create new choices for both patients and health care providers. Some of these choices raise new ethical and legal issues.

One issue is that modern medical technology can technically prolong life in the final stages of a terminal illness. However, it cannot stop the dying process. In such situations, further medical intervention would be medically ineffective, and a decision has to be made whether to withdraw such futile medical intervention. Some terminally ill persons who are unable to express their wishes at that time, may want to be spared further suffering and be allowed to die naturally, in peace and with dignity.

The law in Singapore allows Singaporeans who wish to make an advance medical directive to do so. The AMD Act was passed in Parliament in May 1996.

ADVANCE MEDICAL DIRECTIVE ACT

- [1] "Extraordinary life-sustaining treatment" is any medical treatment which serves only to prolong the process of dying for terminally ill patients but does not cure the illness. An example is the respirator that is connected to a patient to assist him/her to breathe. It serves only to artificially prolong the life of a terminally ill patient.

  [2] "Terminal illness" is defined in the Act as an incurable condition caused by injury or disease from which there is no reasonable prospect of a temporary or permanent recovery. For such a condition, death is imminent even if extraordinary life-sustaining measures were used. These measures would only serve to postpone the moment of death for the patient.

AMD Form

- http://www.moh.gov.sg/content/dam/moh_web/Forms/FORM1AMD(270905).pdf

Pit Falls

- LPA –
  - Proxy not involved in discussion
  - Patient's preference is vague or non-specific
  - Family disagrees with patient's decisions
- AMD –
  - Not practical in real life clinical practice
  - No role on emergency practice or resuscitation processes

- INTERPRETATION OF TERMS
  - What is and is not terminal in modern medicine?

Interviews with practitioners:

- “It is very restrictive…having to check with the Register only DURING OFFICE HOURS. Many a times, we make decisions for intubation outside office hours you know. We can’t wait for AMD office to operate. ..
- Through my career, perhaps I might have attempted 4-5 times to activate AMD, almost always only after having been informed by a family member. If the family member had not told us, we might not have checked! Anyway, a good window to check would be the point when we decide to open a tracheostomy, after an Endotracheal tube had been inserted – but then again, if we do decide to do tracheostomy, we must believe the patient will survive, right? Then he is not terminal…
- Moreover, it is a whole spectrum of degree of ‘active care’ that can be done. “Life support is not ‘black or white’.”
  - *paraphrased from a senior anaesthetist-intensivist in private practice*

Interviews with practitioners:

- “Actually the grey file of hospice care association is more useful. Immediately tells us the extend of care expected. I have never used the AMD nor seen it used during resuscitation.”
  - *a senior ED Physician in a restructured hospital*

- “The AMD is very narrow – the patient must be terminally ill. If the person is brain-dead, I don’t even need the AMD to decide on what to do next. How do you define being ‘terminally ill’? if the life can be sustained with ventilator and artificial feeding and hydration, is the patient terminally ill?”
  - *another intensivist in a restructured hospital*