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| Advance care directives and attempted suicides |
| Medical Treatment Planning and Decisions Act 2016 |

The following information provides some general guidance about how health practitioners should treat an advance care directive if someone presents after a suicide attempt.

* A person with decision-making capacity who understands the nature and effect of each statement in their directive may make an advance care directive in which they refuse medical treatment.
* The advance care directive must be witnessed by two people, one of whom must be a registered medical practitioner. The witnesses must assess the person’s decision-making capacity and ensure the person understands the nature and effect of each statement in their directive.
* This is an important role for a medical practitioner as it provides certainty for other health practitioners who may need to rely on the advance care directive at a future time when the person does not have decision making capacity.
* An advance care directive should be a considered document, in which a person describes the treatments they do or do not want and should give some indication about why they are making this decision.
* Therefore, if a person wants to refuse all medical treatment in their advance care directive, a medical practitioner should ask why before witnessing the document. If the person intends to self-harm or is expressing suicidal thoughts, the medical practitioner should refer the person for a psychiatric assessment.
* In the unlikely event that a person who has attempted suicide and in those circumstances has a readily available advance care directive refusing all treatment, health practitioners and paramedics should be mindful of the terms of the purported advance care directive and consider their professional obligations and any applicable code of conduct.
* Section 18 of the *Medical Treatment Planning and Decision Act 2016* has the effect that any statement in an advance care directive that would require an unlawful act to be performed or which would, if given effect to, cause a health practitioner to contravene a professional standard or code of conduct is void and should not be followed. It is an offence under Victorian law to aid and abet suicide.
  + The *Crimes Act 1958* provides that ‘every person is justified in using such force as may reasonably be necessary to prevent the commission of suicide or of any act which he believes on reasonable grounds would, if committed, amount to suicide’. The existence of this section in Victorian law may significantly mitigate against the existence of unprofessional conduct or professional misconduct in circumstances where, despite an advance care directive, medical treatment is administered to save the life of a person who the practitioner is aware has attempted suicide.

**Note:** This is general guidance intended to help practitioners understand their obligations under the *Medical Treatment Planning and Decisions Act 2016*. It does not constitute legal advice nor does not take into account individual circumstances. Organisations and individuals should always obtain specific legal or other professional advice, including clinical advice, tailored to individual circumstances as needed.

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Authorised and published by the Victorian Government, 1 Treasury Place, Melbourne.

© State of Victoria, Department of Health and Human Services, December 2017.

ISBN/ISSN ISBN 978-1-76069-205-6 (pdf/online)

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