

Dr Chris Moy
SA Health
End of Life Working
Group

SAAPM Seminar 25th October 2016

A DOCTOR'S PROFESSIONAL STANDARDS: AHPRA MEDICAL BOARD OF AUSTRALIA GOOD MEDICAL PRACTICE: A CODE OF CONDUCT FOR DOCTORS IN AUSTRALIA (MARCH 2014)

- 3.12.3 Understand the limits of medicine in prolonging life and recognise when efforts to prolong life may not benefit the patient
- 3.12.4 Understand that you do not have a duty to try to prolong life at all cost. However, you do have a duty to know when not to initiate and when to cease attempts at prolonging life, while ensuring that your patients receive appropriate relief from distress.

Advance Care Directive Form



By completing this Advance Care Directive you can choose to:



- 1. Appoint one or more Substitute Decision-Makers and/or
- 2. Write down your values and wishes to guide decisions about your

Version: 29.3.2015

South Australia

Consent to Medical Treatment and Palliative Care Act 1995

An Act to deal with consent to medical treatment; to regulate medical practice so far as it affects the care of people who are dying; and for other purposes.

Contents

Part 1—Preliminary

- Short title
- Objects
- References to provision of medical treatment etc to include withdrawal etc of medical
- Consent not required for withdrawal etc of medical treatment

Part 2-Consent to medical treatment generally

Division 1-Consent generally

Legal competence to consent to medical treatment

Division 4-Medical treatment of children

Administration of medical treatment to a child

Division 5—Emergency medical treatment

Emergency medical treatment

Part 2A—Consent to medical treatment if person has impaired decision-making capacity

- Interpretation
- Application of Part
- Consent of person responsible for patient effective in certain circumstances
- Person responsible for patient to make substituted decision
- Person must not give consent unless authorised to do so

Part 3-Provisions governing medical practice

Division 1-Medical practice generally

- Medical practitioner's duty to explain
- Protection for medical practitioners etc

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Advance Care Directives Act 2013

An Act to enable a person to make decisions and give directions in relation to their future health care, residential and accommodation arrangements and personal affairs; to provide for the appointment of substitute decision-makers to make such decisions on behalf of the person; to ensure that health care is delivered to the person in a manner consistent with their wishes and instructions; to facilitate the resolution of disputes relating to advance care directives; to provide protections for health practitioners and other persons giving effect to an advance care directive; and for other purposes.

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Part 1-Preliminary

- Interpretation
- References to provision of health care to include withdrawal etc of health care
- References to particular forms of health care in advance care directives
- Health practitioner cannot be compelled to provide particular health care
- Impaired decision-making capacity
- Application of Act

Part 2—Objects and principles

Principles

Part 3—Advance care directives

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- Giving advance care directives
- Provisions that cannot be included in advance care directives
- Advance care directive not to give power of attorney
- Giving advance care directives where English not first language
- Requirements for witnessing advance care directives
- When advance care directives are in force
- Advance care directive revokes previous advance care directives No variation of advance care directive
- Binding and non-binding provisions
- Advance care directive has effect subject to its terms

Division 2-Substitute decision-makers

- Requirements in relation to appointment of substitute decision-makers
- Substitute decision-makers jointly and severally empowered

[30.3.2015] This version is not published under the Legislation Revision and Publication Act 2002

[14.7.2016] This version is not published under the Legislation Revision and Publication Act 2002

IF A PATIENT HAS LOST DECISION-MAKING CAPACITY:

Decide as if "in their shoes"

My job is to save lives isn't it?

What are the clinical parameters that will tell me that this patient is at the end of their life?

What's best for this patient?

What is the protocol in this situation? What did the textbook say? What did the consultant do the last time this happened?

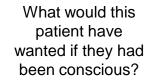
My belief is that life is sacrosanct.

What's the legal situation if I don't give treatment?
Maybe I'd better keep trying to keep him alive.

What's this bit of paper – an Advance Care Directive? And what's this plan? And who is this person calling themselves a medical power of attorney? Who do I listen to?

His children are saying that we should let him go. But his wife is saying that we must keep him alive. What do I do?

I don't know how to tell them this bad news. I need to give them hope. Maybe I'll give them one more round of treatment...



NO REQUIREMENT TO PROVIDE TREATMENT WHICH IS OF NO MEDICAL BENEFIT TO A DYING PATIENT

- 1) A change in 2014 to S17(2) of the Consent Act which clarifies that there is:
 - no longer a requirement to provide, and the ability to withdraw, treatment
 - which a doctor does not think is of benefit to a patient
 - in the terminal phase of a terminal illness, persistent vegetative state or minimally responsive state
 - Can make decisions based on what is good practice rather than on medicolegally defensive grounds

THE PREVIOUS PROBLEM

s17 (2) of the Consent to Medical Treatment and Palliative Care Act 1995

17(2) A medical practitioner responsible for the treatment or care of a patient in the terminal phase of a terminal illness, or a person participating in the treatment or care of the patient under the medical practitioner's supervision, is, in the absence of an express direction by the patient or the patient's representative to the contrary, under no duty to use, or to continue to use, life sustaining measures in treating the patient if the effect of doing so would be merely to prolong life in a moribund state without any real prospect of recovery or in a persistent vegetative state.

AMENDMENT OF SECTION 17 (2) THE CARE OF PEOPLE WHO ARE DYING:

- A medical practitioner responsible for the treatment or care of a patient in the terminal phase of a terminal illness, or a person participating in the treatment or care of the patient under the medical practitioner's supervision:
 - (a) is under no duty to use, or to continue to use, life sustaining measures in treating the patient if the effect of doing so would be merely to prolong life in a moribund state without any real prospect of recovery or in a persistent vegetative state (whether or not the patient or the patient's representative has requested that such measures be used or continued); and
 - (b) must, if the patient or the patient's representative so directs, withdraw life sustaining measures from the patient.

PROTECTION IN GIVING ADEQUATE TREATMENT TO MAINTAIN THE COMFORT AND DIGNITY OF A DYING PATIENT

The Consent Act:

- 17—The care of people who are dying
- (1) A medical practitioner responsible for the treatment or care of a patient in the terminal phase of a terminal illness, or a person participating in the treatment or care of the patient under the medical practitioner's supervision, incurs no civil or criminal liability by administering medical treatment with the intention of relieving pain or distress—
 - (a) with the consent of the patient or the patient's representative; and
 - (b) in good faith and without negligence; and
 - (c) in accordance with proper professional standards of palliative care,

even though an incidental effect of the treatment is to hasten the death of the patient.

Equals protection in giving adequate treatment to maintain the comfort and dignity of the patient, even though a secondary effect of treatment might be to hasten the death of the patient ("double effect")

WHAT IS THE DIFFERENCE BETWEEN EUTHANASIA AND PALLIATIVE CARE?.....

- Intention
- The "can you sleep at night?" rule

Consent to Medical Treatment and Healthcare – Adults

From 1 July 2014, in accordance with the Advance Care Directives Act 2013 and the Consent to Medical Treatment and Palliative Care Act 1995

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SIMPLIFIED DISPUTE RESOLUTION PROCESS

• If in doubt/dispute:

Office of the Public Advocate

• Ph: 8342 8200

Country SA Toll Free:

1800 066 969

UNDERSTANDING YOUR OBLIGATIONS AND THE LAW: A SUMMARY

For a dying patient, you now know:

- How to decide i.e. "as if in the patients shoes"
- Who to ask i.e. follow the "Consent Hierarchy"
- What to do in a dispute i.e. call the Public Advocate
- That there is no requirement to provide treatment that is of no medical benefit
- That you are protected in giving enough medication to maintain the comfort and dignity of a dying patient



So you can focus on caring for your patient

Affix patient/resident identification label in this box RESUSCITATION ALERT **RESUSCITATION PLAN -**7 STEP PATHWAY Second given name: . D.O.B.: ___/__/__ Sex: (COMMUNITY VERSION) Home/Facility address: . Home / Facility Read accompanying instructions before completing. This form is intended to be used by registered medical practitioners responsible for coordinating the medical care of a patient in South Australia. The medical practitioner should be competent in using the Resuscitation Planning - 7 Step Pathway process in accordance with SA Health Resuscitation Planning - 7 Step Pathway Policy, the South Australian Advance Care Directive Act 2013 and the Consent to Medical Treatment and Palliative Care Act 1995, and relevant professional practice standards. The SA Health version of this form should be used in SA Health services. Interns are not permitted to complete this form. Complete this form early if the clinical situation requires decisions about resuscitation or end of life care. However, the urgency to complete this form needs to be balanced with sensitivity to the readiness of the patient/resident and family to discuss these issues. Refer to Resuscitation Plan - 7 Step Pathway instructions for the 5 trigger criteria. Is there adequate clinical information to allow decisions to be made about resuscitation and/or end of life care? If YES [] > Continue with the plan. If possible, discuss the clinical situation (e.g. diagnoses, prognosis, treatment options and recommendations) with the patient/resident, Substitute Decision-Makers, and/or Person/s Responsible (and where possible, individuals that the patient/resident wishes to be involved in this planning). IMPORTANT: Interpreter use is recommended for non or limited English speakers. Does the patient/resident have decision-making capacity? Yes The clinical situation must be discussed with the patient/resident No This must be documented in the case notes and a reasonable attempt should be made to consult at least one of the following documents (if the patient/resident has one) or individuals - in order of priority below: Person with an Advance Care Directive under the Advance Care Directives Act 2013 ☐ Substitute Decision-Maker appointed for health care decisions under an Advance Care Directive ☐ Advance Care Directive with relevant instructions and NO Substitute Decision-Maker If they do not have a new Advance Care Directive (Advance Care Directives Act 2013) A Medical Agent or an Enduring Guardian Name/s: Anticipatory Direction If none of the above, a Person Responsible in the following legal order: ☐ Guardian appointed by the SA Civil and Administrative Tribunal (formerly Guardianship Board) Prescribed relative (adult with a close and continuing relationship, available and willing, and who is related to the person by blood, marriage, domestic partner, adoption or Aboriginal kinship rules/marriage) ☐ Close adult friend who is available and willing to make a decision If there is no one in the above categories then: Someone charged with the day-to-day care and well-being of the patient/resident (the person must be willing to provide consent and follow applicable employer policy)

☐ SA Civil and Administrative Tribunal (SACAT), upon application

If the patient/resident does not have capacity, and it has not been possible to find one of the above documents or individuals in time, complete the Resuscitation Plan in line with Good Medical Practice*

Note: If there is an Advance Care Plan (e.g. Statement of Choices, Palliative Care Plan), it must be referred to by those making decisions above.

RESUSCITATION ALERT **RESUSCITATION PLAN -**7 STED DATHWAY

| • | Odification |
|----|------------------------|
| | Given name: |
| | Second given name: |
| J. | D.O.B.:// Sex: |
| " | Home/Facility address: |
| | |

| (COMMUNITY VERSION) | D.O.B.: | _//_ Sex: | |
|---|---|--|---------------------|
| Home / Facility | Home/Faci | lity address: | |
| • | | | 4 |
| 4. RESUSCITATION PLAN | | | |
| Note: A treatment option or procedure (e.g. ICU, surgica or inferred to be available, without prior discussion with provides this treatment or procedure. | | | |
| Indicate if the following decisions about resus | scitation appl | y: | |
| Tick here if this single option applies: | | des I Me destados OPP) | |
| [] Patient/resident is Not for any Treatment Air Or you may specify individually each or all of the following that apply | | ging Life (including CPK) | |
| [] Patient/resident is Not for CPR | ,. | | |
| Patient/resident is Not for invasive ventilation (i.e. intub | ation) | | |
| Patient/resident is Not for intensive care treatment or a | dmission | | |
| Patient/resident is Not for the following procedures or tr | reatment (specify |): | |
| M-H-1 F (MED) | FOR HOORIT | AL USE ONLY | |
| Medical Emergency Response (MER) To be completed by the admitting doctor upon admissio | | | |
| Please circle which applies: MER Call Yes | | Call No | |
| Hospital: | | | ь |
| Date: Designation: | | | |
| Substitute Decision-Makers/Person Responsible Name | maintain patient/ ns such as pain a care measures fa tatient/resident (n | resident comfort and dignity. This could not dyspnoea, or referral to Palliative Care. | RESUSCITATION ALERT |
| Take practical steps to 6. IMPLEMENT the plan family through the process | and to 7. SU | IPPORT the patient/resident and | ا |
| Resuscitation / / Plan Date | This Resuscitation Plan is valid until: | To revoke this Resuscitation Plan (strike through and write VOID): | M |
| Practice/ mobile number | Date: | Date revoked: / / | |
| Name of | or [] Indefinitely or until | Name of Doctor revoking the plan: Designation: | |
| Designation | | | |
| Signature | | Signature: | |

SA Health Created January

THE 2010 END OF LIFE WORKING GROUP

ACD (or ACP)
To tell us the patient's wishes



Resuscitation Plan – 7 Step Pathway
For the responsible clinician to convert these wishes into usable clinical

instructions about

resuscitation and

end of life care

COMMUNITY VERSION: RESUSCITATION PLAN-7 STEP PATHWAY

RESUSCITATION ALERT Surname: **RESUSCITATION PLAN -**Given name: 7 STEP PATHWAY Second given name: . D.O.B.: ___/__ Sex: ... (COMMUNITY VERSION) Home/Facility address: Home / Facility Read accompanying instructions before completing. This form is intended to be used by registered medical practitioners responsible for coordinating the medical care of a patient in South Australia. The medical practitioner should be competent in using the Resuscitation Planning - 7 Step Pathway process in accordance with SA Health Resuscitation Planning - 7 Step Pathway Policy, the South Australian Advance Care Directive Act 2013 and the Consent to Medical Treatment and Palliative Care Act 1995, and relevant professional practice standards. The SA Health version of this form should be used in SA Health services. Interns are not permitted to complete this form. 1. TRIGGER Complete this form early if the clinical situation requires decisions about resuscitation or end of life care. However, the urgency to complete this form needs to be balanced with sensitivity to the readiness of the patient/resident and family to discuss these issues. Refer to Resuscitation Plan - 7 Step Pathway instructions for the 5 trigger criteria. Is there adequate clinical information to allow decisions to be made about resuscitation and/or end of life care? If YES []> Continue with the plan. 3. CONSULTATION If possible, discuss the clinical situation (e.g. diagnoses, prognosis, treatment options and recommendations) with the patient/resident, Substitute Decision-Makers, and/or Person/s Responsible (and where possible, individuals that the patient/resident wishes to be involved in this planning). IMPORTANT: Interpreter use is recommended for non or limited English speakers. Does the patient/resident have decision-making capacity? Yes The clinical situation must be discussed with the patient/resident No This must be documented in the case notes and a reasonable attempt should be made to consult at least one of the following documents (if the patient/resident has one) or individuals - in order of priority below: Person with an Advance Care Directive under the Advance Care Directives Act 2013 ☐ Substitute Decision-Maker appointed for health care decisions under an Advance Care Directive Advance Care Directive with relevant instructions and NO Substitute Decision-Maker If they do not have a new Advance Care Directive (Advance Care Directives Act 2013) A Medical Agent or an Enduring Guardian Anticipatory Direction If none of the above, a Person Responsible in the following legal order: Guardian appointed by the SA Civil and Administrative Tribunal (formerly Guardianship Board) Prescribed relative (adult with a close and continuing relationship, available and willing, and who is related to the person by blood, marriage, domestic partner, adoption or Aboriginal kinship rules/marriage) Close adult friend who is available and willing to make a decision If there is no one in the above categories then: Someone charged with the day-to-day care and well-being of the patient/resident (the person must be willing to provide consent and follow applicable employer policy) SA Civil and Administrative Tribunal (SACAT), upon application If the patient/resident does not have capacity, and it has not been possible to find one of the above documents or individuals in time, complete the Resuscitation Plan in line with Good Medical Practice* Note: If there is an Advance Care Plan (e.g. Statement of Choices, Palliative Care Plan), it must be referred to by those making decisions above.

| DECII | SCITATION ALERT | | II . | Affix patient/resident identification label in this box | |
|----------------------------|--|-----------|--|---|---|
| | | | 11 | × | |
| | SUSCITATION PLAN – 7 STEP PATHWAY | | | en name: | |
| | | | I | _//_ Sex: | |
| (COM | MUNITY VERSION) | | | lity address: | |
| Home / Facilit | y | | | | |
| | | | | | - |
| 4. RESUSCI | TATION PLAN | | | | |
| or inferred to be | | | | lysis) must not be offered, recommended, nent of, the relevant clinical team which | ı |
| Indicate if the | e following decisions about | resus | scitation apply | y: | |
| Tick here if this sing | gle option applies: | | | | |
| | esident is Not for any Treatmo | | | ging Life (including CPR) | F |
| | individually each or all of the following t | hat apply | <i>y</i> : | | |
| | esident is Not for CPR dent is Not for invasive ventilation (i. | e intub | ation) | | |
| | dent is Not for intensive care treatme | | • | | Е |
| | dent is Not for the following procedu | | |): | |
| | | | | | |
| Medical Emerge | ency Response (MER) | | FOR HOSPIT | AL USE ONLY | L |
| To be complete | d by the admitting doctor upon ad | lmissio | n if patient/resid | lent is hospitalised. | Г |
| Please circle wh | nich applies: MER Call | Yes | MER | Call No | P |
| Hospital: | | N | lame of doctor: | | h |
| Date: | Designation: | | Si | ignature: | Е |
| Treatment mu | ıst include a plan (or a contingency p | olan) to | maintain patient/ | care (e.g. IV fluids, antibiotics) being provided. resident comfort and dignity. This could and dyspnoea, or referral to Palliative Care. | יירטססטייטייטייטייטייטייטייטייטייטייטייטייט |
| | RANSFER TO HOSPITAL unless pa ent in their place of residence. | alliative | care measures fa | ail to maintain the comfort and dignity of the | 3 |
| 5. TRANSPA | RENCY | | | | Í |
| Resuscitation | on plan explained to: | □ P | atient/resident (m | nandatory if he/she has capacity) or | 1: |
| Substitute De | ecision-Makers/Person Responsible | Name | »: | | 15 |
| □ T | ick if an interpreter is used: | Interp | reter's Name: | | = |
| | al steps to 6. IMPLEMENT the | | | IPPORT the patient/resident and | |
| Resuscitation Plan Date | | | This Resuscitation Plan is valid until: | To revoke this Resuscitation Plan (strike through and write VOID): | |
| Practice/ mobile number | 1 1 | | Fiantis vand until. | and write VOID): | |
| Name of | 1 1 | - 1 | Date: | Date revoked: / / | |
| | 1 1 | | Date: or [] Indefinitely | Date revoked: / / Name of Doctor revoking the plan: | |
| Doctor | 1 1 | | Date: | Date revoked: / / Name of Doctor revoking the plan: | |

Original copy - file in the patient's/resident's medical record Duplicate copies - provide to the patient/resident and the patients/resident's facility/carer (if applicable)

THE RESUSCITATION PLAN-7 STEP PATHWAY

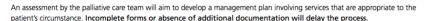
- Will replace the practice of writing informal "NFR", "Not for CPR" or "Not for Cardiopulmonary Resuscitation" orders in notes
- Supports a clinician in working through the correct:
 - clinical
 - legal
 - ethical steps in the correct order
- And, if the patient is not for resuscitation, MUST ask:
 - "What are you going to do to maintain the patient's comfort and dignity?"

WHY DO WE NEED ANOTHER FORM? ACTUALLY, WE DON'T. THE HEART OF THIS IS A PROCESS, NOT A FORM

- NFR order with process around it
- Helps doctors make the right decision
- Protects both the patient and the doctor
- Standardised document that everyone recognises and respects- doctors, nurses, ambulance officers, aged care staff
- Can be used- and is transferable across- all hospital, aged care and community sectors
- Includes "Not for Transfer to Hospital" order for patients who do not wish to be transferred to hospital







If the matter is URGENT, please telephone your local palliative care service.

Criteria for eligibility and a guide for referral to a palliative care servi

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SA Civil and Administrative Tribunal (SACAT), upon application

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| (CO | BUSCITATIO TESUSCITATIO 7 STEP PAT MMUNITY | N PLAN — HWAY VERSION) | | Surname: Given name Second give D.O.B.: Home/Faci | Affix patient/resident identification label in this box S: gn name: // | |
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| Note: A trea | | ocedure (e.g. ICU, : | | | ysis) must not be offered, recommended, nent of, the relevant clinical team which | |
| Tick here if thi Patier Or you may sp. Patier Patient Patient Patient | ecify individually each t/resident is Not resident is Not for in resident is Not for in resident is Not for th | or all of the following to for CPR vasive ventilation (i.etensive care treatment of following procedure) | ent Aime that apply: i.e. intubation tent or admi | on) ilssion tment (specify) | ging Life (including CPR) | |
| Medical Em | ergency Response | (MER) | | FOR HOSPIT | AL USE ONLY lent is hospitalised. | |
| Please circle | which applies: | MER Cal | | | Call No | |
| Please circle Hospital: Date: | which applies: | MER Cal | Nan | ne of doctor: | | |
| Please circli Hospital: Date: Indicate tr. Note: | e which applies: Designation | MER Cal iii be provided: does not rule out of n (or a contingency dications to control iii or a contingency dications to control iii or a control iii o | ther treatm plan) to m symptoms alliative ca | ne of doctor: | Call No | RESUSCITATION ALERT |
| Please circli Hospital: Date: Indicate tr. Note: | Designation Desig | MER Cal iii be provided: does not rule out of n (or a contingency dications to control iii or a contingency dications to control iii or a control iii o | ther treatm plan) to m symptoms alliative ca Pati Name: Interpret ne plan a | ne of doctor: | gnature: care (e.g. IV fluids, antibiotics) being provided resident comfort and dignity. This could not dyspnoea, or referral to Palliative Care. sill to maintain the comfort and dignity of the handatory if he/she has capacity) or | |

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