



# Providing health care in contravention of an Advance Care Directive binding refusal in the case of suicide or self-harm

If a person is suspected to have attempted suicide or self-harm, health practitioners may need to provide urgent lifesaving treatment.

From 1 March 2024, the *Advance Care Directive Act 2013* ensures health practitioners can provide lifesaving treatment in these circumstances even if a person's advance care directive has a binding refusal of this treatment. This has been legislated through Regulation since 2019.

## Why has the Act changed?

In 2023, the South Australian Parliament agreed to amend the *Advance Care Directive Act 2013* to ensure that an advance care directive cannot be used as the basis for refusing life-saving treatment following an attempt of suicide or self-harm.

This provision has been in place through the Advance Care Directives Regulations since 2019, but is now being formalised as part of the Act following a recommendation by Professor Wendy Lacey in her review of the Act in 2019.

## When might this occur?

A person may present with life-threatening injuries and require urgent lifesaving treatment.

They may have with them an advance care directive, that includes a binding provision regarding specific treatment being refused or outcomes that should apply to all health care. For example, a binding refusal may be "do not resuscitate". A person's binding refusal might be conflicting with the urgent treatment needed to save that person's life.

## What do I need to do differently?

If this scenario occurs, a health practitioner will need to reasonably suspect attempted suicide or self-harm and believe health care is reasonably necessary to save the person's life.

Health practitioners will also be required to record and report health care provided in contravention of a binding provision of an advance care directive.

## What else should I know?

These amendments do not authorise a health practitioner to provide health care. If a health practitioner wants to provide health care, they still need consent, either by obtaining it under the *Consent to Medical Treatment and Palliative Care Act 1995*, or by way of some other statutory authorisation.



# Providing health care in contravention of an Advance Care Directive binding refusal in the case of suicide or self-harm

Nor do these amendments compel a health practitioner to disregard a binding provision. A health practitioner may choose to comply with a person's refusal of health care and not provide health care to that person following an attempt of suicide or self-harm. Such a decision would be subject to the usual professional standards of that health practitioner.

A person's refusal in the advance care directive remain in force and applies to health care not necessary to save their life. For example, if a person requires stitches for a non-life-threatening laceration resulting from self-harm, the refusal of health care would still apply.

## How do I record and report when this happens?

A health practitioner who provides health care in contravention of a binding provision of an advance care directive must, as soon as reasonably practicable after doing so, make a written record setting out the information required by the regulations in relation to the provision of the health care. The written record must include the following information:

- the name, address and age (if known) of the person to whom the health care was provided.
- the date or dates on which the health care was provided to the person.
- the location or locations at which the health care was provided to the person.
- a description of the health care provided to the person.
- the grounds for the health practitioner's suspicion that the person had attempted suicide or self-harmed.
- the grounds for the health practitioner's opinion that the provision of the health care was reasonably necessary to save the life of the person.

The written record must be retained within the patients' medical history.

A health practitioner must also provide a report in relation to the provision of the health care in accordance with the requirements set out in the regulations. The report must include the following information:

- The health practitioner's email address.
- The health practitioner's telephone number.
- The date/s when the health care was provided.
- The location where the health care was provided.



# Providing health care in contravention of an Advance Care Directive binding refusal in the case of suicide or self-harm

## I work in the public health system, how do I make a report when this happens?

In the public health system, a health practitioner providing health care in contravention of a binding provision of an advance care directive is considered a patient incident that must be actioned in accordance with the Patient Incident Management and Open Disclosure Policy Directive, by recording the incident in the Safety Learning System.

## I work in the private sector, how do I make a report when this happens?

In the private health sector, health practitioners do not have access to the Safety Learning System to make an entry in these circumstances. A dedicated iApply online reporting portal <https://forms.sa.gov.au/#/form/64f6d792d9306e030cbee956> has been established for this purpose.

## How does the report get to the Chief Executive of SA Health?

Statistical data will be collated bi-annually from the Safety Learning System and from iApply by staff from the Department for Health and Wellbeing and provided to the Chief Executive of SA Health, with a copy of the report to the Office of the Chief Psychiatrist.

## Where can I get more information?

Visit the website to find out more [www.advancecaredirectives.sa.gov.au](http://www.advancecaredirectives.sa.gov.au)

Access the *Advance Care Directive Act 2013* [here](#).

---

## For more information

End of Life Care  
Health Services Programs  
Clinical System Support and Improvement  
[www.advancecaredirectives.sa.gov.au](http://www.advancecaredirectives.sa.gov.au)

© Department for Health and Wellbeing, Government of South Australia. All rights reserved.



<https://creativecommons.org/licenses>