

## Information Sheet

# Effect of an Advance Care Directive that refuses ECT

This Information Sheet considers matters relating to the provision of Electro-Convulsive Therapy (ECT) under section 42 of the *Mental Health Act 2009* (MHA), in particular the effect of an Advance Care Directive (ACD) refusing ECT.

### *Advanced Care Directives Act (2013)*

The *Advance Care Directives Act 2013* (ACDA) allows for a person to make an ACD, which may contain binding provisions for the refusal of particular treatments.

- > Such a binding provision can include refusal of ECT.
- > A binding provision refusing ECT cannot be displaced by a guardian or substitute decision maker.
- > A binding provision refusing ECT cannot be displaced by a psychiatrist through authorisation of emergency ECT without consent under subsection 42(6) of the MHA or through use of the emergency medical treatment powers of section 13 of the *Consent to Medical Treatment and Palliative Care Act 1995*.
- > A binding provision refusing ECT cannot be displaced by SACAT and an application to SACAT for consent to ECT under subsection 42(1) of the MHA should not be made.
- > A health practitioner, substitute decision-maker or other person is entitled to presume that an apparently genuine advance care directive is valid and in force unless he or she knew, or ought reasonably to have known, that the advance care directive was not valid or in force (as the case requires) as described in ACDA s40.
- > If a guardian, substitute decision maker or mental health service believes that a decision based on an ACD, a binding provision of an ACD or an entire ACD was made at a time when the person was incompetent to make said decision, binding provision or ACD, the guardian, substitute decision maker or mental health service can apply to SACAT for a review under section 48 of the ACDA.

For additional information contact the Legislation and Policy Team in the Office of the Chief Psychiatrist on 8226 1091.

For more information about ECT principles and practices see the *ECT Policy Guideline* and *ECT Chief Psychiatrist Standard* now available on the OCP website.

<https://www.chiefpsychiatrist.sa.gov.au>

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## For more information

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