

## INFORMATION REGARDING ADVANCE DIRECTIVES UNDER THE EMERGENCY HEALTH SERVICES ACT

The Emergency Health Services Act introduced advance directives on September 1, 2011.

An advance directive is a written instruction made by a capable adult who gives or refuses consent to health care in the event that the adult is not capable of giving instruction at the time the health care is required.

### ***What makes a document an advance directive?***

An advance directive must state:

- The patient knows that a health care provider may not provide any health care for which the patient has refused consent in the advance directive.
- The patient knows that a person may not be chosen to make decisions on behalf of the patient about health care for which the patient has given or refused consent in the advance directive.
- The type of emergency health service the patient has consented to or refused.

The advance directive must be signed by the patient, dated and witnessed.

- There must be two witnesses, or only one, if it is stamped by a lawyer or public notary.

### ***How advance directives affect Emergency Medical Assistants?***

Advance directives apply to all EMAs, including First Responders.

If an EMA has reasonable grounds to believe a person has an advance directive that refuses consent to an emergency procedure, the EMA must not perform that emergency procedure.

Failure to respect an advance directive may be subject to review by the EMA Licensing Board under section 7.1 of the *Emergency Health Services Act*.

The Board would determine if the EMA had reasonable grounds to believe that there was an advance directive. For instance:

- Did the EMA observe evidence of advanced critical illness, through their patient assessment or scene surroundings (e.g. oxygen, hospital bed, IV equipment)?
- Did the EMA enquire about critical illness?
- Did the EMA enquire about an advance directive, a “No CPR” or a DNR order?

The Board would also determine if the EMA had complied with the advance directive.

In emergency situations where an EMA is not clear that the advance directive covers the specific treatment they think is required, they must give the treatment.

**What if there is a “No CPR” or DNR Order?**

In emergency situations where the EMA discovers the patient has an advance directive and a “No CPR” or DNR Order, the EMA must comply with the most recently dated document. Should the documents have the same date, the advance directive prevails.

If the patient has an undated “No CPR” or DNR bracelet or necklet and an advance directive, the EMA must comply with the advance directive.

**What if there is a representation agreement?**

In some emergency situations, the patient will have both an advance directive and a representation agreement.

If the patient has a committee of the person or a representative but no advance directive, an EMA must provide treatment unless the committee or the representative is readily available and refuses care.

An EMA must follow the patient’s instructions contained in the advance directive even if the patient’s representative disagrees.

**What if there is a temporary substitute decision maker?**

Unlike other health care providers, EMAs cannot take direction from temporary substitute decision makers. EMAs can only act on the instructions of a representative or a committee.

**What if there is an Advance Care Plan?**

An advance care plan or similar document is NOT an advance directive, unless it has all the requirements of an advance directive, listed above. If so, it must be treated as if it were an advance directive.

**What if the document is dated before September 1, 2011?**

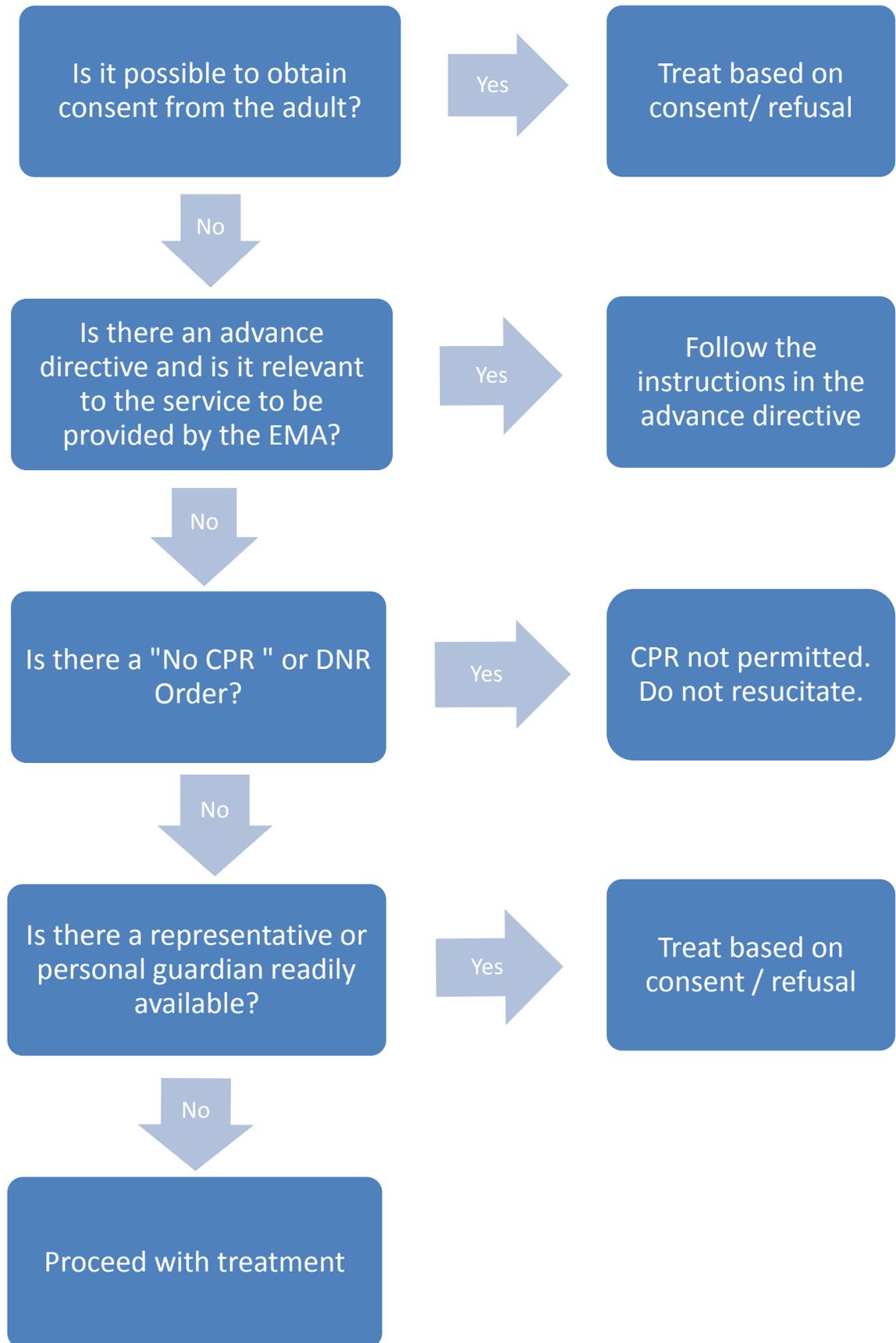
An advance directive made before September 1, 2011, which meets the requirements of an advance directive, should be treated the same as one made on or after September 1, 2011.

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*An advance directive is different than a “NO CPR” or a DNR order. An advance directive is a legal document that must be signed by a capable adult and witnessed. A “No CPR” or DNR order is a medical order signed by a doctor.*

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## CONSENT TO TREATMENT FLOWCHART



## DEFINITIONS

### **Advance Directive**

An advance directive is a written instruction made by a capable adult who gives or refuses consent to health care in the event that the adult is not capable of giving instruction at the time the health care is required.

### **Advance Care Plan**

A written summary of the capable adult's wishes to guide their temporary substitute decision-maker or representative if called to make a health care decision where the adult is incapable of making a decision.

### **Committee of the Person**

A committee of the persons is appointed by the court under the *Patients Property Act* to be the personal guardian of an adult.

### **Representative**

A person named by a capable adult to make health care decisions on behalf of the adult if they become incapable.

### **Representation Agreement**

The document in which a capable adult names a representative and sets out the type and scope of decisions that the representative may make on behalf of the adult if the adult becomes incapable.

### **Substitute Decision Maker**

Substitute decision makers are Personal Guardians, Representatives and Temporary Substitute Decision Makers.

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## LEGAL REFERENCES

*Advance directives are governed by the Health Care (Consent) and Care Facility (Admission) Act.*

*EMAs are directed by section 11.1 of the Emergency Health Services Act which says:*

*“An emergency medical assistant must not provide a service under this Act in respect of a person if the emergency medical assistant has reasonable grounds to believe that the person has made an advance directive, as defined in the Health Care (Consent) and Care Facility (Admission) Act, that refuses consent to the service.”*

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## FOR MORE INFORMATION

- Consult with your employer
- Consult the Health Care Provider's Guide to Consent to Health Care available on the Ministry of Health's website at <http://www.health.gov.bc.ca/library/publications/year/2011/health-care-providers'-guide-to-consent-to-health-care.pdf>
- Contact EMA Licensing Branch  
Phone: 250.952.1211  
E-mail: [emalbgeneral@gov.bc.ca](mailto:emalbgeneral@gov.bc.ca)