

1 Emergency health care

Must be necessary, as a matter of urgency to:

- save the individual's life; or
- prevent serious damage to the individual's health; or
- prevent the individual suffering, or continuing to suffer, from significant pain or distress; and

The health care must be limited to what is necessary, as a matter of urgency.

2 Decision making capacity

All adults are presumed to have capacity to make their own health care decisions.

An adult **does not** have impaired decision-making capacity merely because they appear to have a disability and/or need help to understand and retain information or communicate their decision.

Impaired decision making capacity should be determined in relation to the specific decision needed at the time, after reasonable adjustments have been made to address the person's impairments as far as possible.

See [Determining decision making capacity for a health care decision guideline](#)

3 Advance consent decisions

Advance consent decisions made by an adult in an Advance Personal Plan have effect for all purposes as if it is a health care decision made by a fully informed adult with capacity to make the health care decision. Consent is not required from a health care decision maker on behalf of the adult in this instance.

A health care provider **cannot** administer health care to an individual if the health care provider is aware the individual has refused that health care by way of:

- an advance consent decision; or
- a previously informed refusal when the individual did not have impaired decision making capacity.

Initial responsibilities of health care providers

Before administering health care a health care provider must make reasonable efforts to:

1. Ascertain if the adult has an Advance Personal Plan containing an **advance consent decision** in relation to the health care needed.
2. Contact the appropriate health care decision maker for the adult with impaired decision making capacity.
3. Determine the need for a health care decision maker to exercise their authority.

See [Initial responsibilities of a health care provider guideline](#)

4 Routine health care

Health care providers can administer health care that will not cause significant distress, pain, side effects or risk with implied consent from the person (routine health care) without consent of the health care decision maker.

See [Routine health care guideline](#)

5 Health care decision maker

See [Determining the appropriate health care decision maker guideline](#)

Note – A health care decision maker has no authority to consent to:

- restricted health care
- restrictive practices except in limited and defined circumstances

See [Directives of the Senior Practitioner](#)

- Treatment under the *Mental Health and Related Services Act 1998*. If the person is an involuntary patient under the *Mental Health and Related Services Act 1998*, then that act applies.

Unnecessary health care

Nothing in the *Health Care Decision Making Act 2023* requires a health care provider to administer health care that is extraordinary, excessively burdensome, intrusive or futile.

