HPCSA BOOKLETS 7 & 17: WITHHOLD, TREAT, WITHDRAW, PALLIATE – ETHICAL AND LEGAL DUTIES IN CLINICAL CARE

KEY TAKE-AWAYS

WHY THIS MATTERS

Palliative care, and decisions about withholding or withdrawing life sustaining treatment, sit at the heart of managing serious disease and dying. Yet many doctors feel uncertain how to navigate this challenging part of their patients' journeys, unsure where the boundaries lie between appropriate care, withholding or withdrawing treatment, and unlawful practices such as euthanasia and assisted suicide. Palliative care is often forgotten until it is too late.

The Health Professions Council of South Africa **(HPCSA)**, through its ethical guidelines, recognises that **good medical practice is not limited to cure or prolongation of life**, emphasising the importance of **compassion, upholding patients' dignity** and **alleviating suffering**. It frames palliative care as an integral component of holistic patient care and provides practitioners with a structured framework for responsible decision making in emotionally charged clinical contexts at the end of life.

When end of life care is poorly managed, patients and their families can suffer undue harm, and practitioners may open themselves to unnecessary litigation and regulatory review.

WHAT YOU NEED TO KNOW

HPCSA Booklets 7 and 17 provide the ethical framework for managing advanced illness and end of life. Booklet 7 provides guidance on **when and how treatment may be withheld or withdrawn**, while Booklet 17 sets out the ethical, clinical, and professional obligations relating to **palliative care**. Where these booklets are silent, practitioners must draw guidance from the Health Professions Act, National Health Act, constitutional principles, and general bioethical standards.

Important points to know:

- **Palliative care:** Palliative care is a **holistic, active approach** that

    - Enhances quality of life for patients and families
    - Addresses physical, psychological, social, and spiritual needs
    - Affirms life while recognising dying as a natural process
    - Neither hastens nor delays death
    - Supports patients and their families during illness and bereavement
    - Is shared among all practitioners involved in a patient's care

    Important to note is that palliative care and disease management do not sit at either end of a care spectrum, but they tend to overlap and run in parallel. Disease-specific indicators signalling the need for palliative care must be identified early to allow for early planning and integration of palliative care into care plans, alongside life-prolonging treatment.

- **Withholding and withdrawal of treatment:** Withholding treatment means not initiating a life sustaining intervention; withdrawal of treatment means stopping treatment that has already begun. Ethically and legally, there is **no distinction** between the two. **Both are lawful** when clinically justified and properly documented, **compared with euthanasia**, which refers to an intentional intervention aimed specifically at ending life, and which is **illegal** in South Africa.

    When treatment serves no therapeutic purpose - i.e. is considered **futile**, offering **no reasonable prospect of meaningful benefit** and is merely **prolonging suffering** or the dying process, it should be **avoided**. This may include artificial feeding and hydration at the end of life.

    Continuing futile care may constitute **overservicing**, an unethical practice.

    Scarcity may justify withholding treatment, but decisions must be transparent, ethically grounded, and never based on financial gain.

    Palliative care must always be provided.

- **No lesser ethical principles:** Standard ethical principles apply when providing palliative care and withdrawing or withholding active treatment.

Clinical appropriateness and decision making

To ensure palliative care needs are met, **advanced illness and deteriorating patient health indicators** must be identified and acted on early.

Before withholding or withdrawing treatment, practitioners must:

- Conduct a **thorough clinical assessment** of diagnosis and prognosis
- Weigh **benefits, burdens, and risks** of continued treatment
- Seek **second opinions** where appropriate
- Ensure decisions are **evidence based**, and motivated by the patient's best interests, not driven by convenience, emotion, family pressure, or funding considerations. Where the patient is a child, any decision must be in the child's best interest.
- Take decisions collectively within a multidisciplinary team, wherever possible

In **emergencies**, practitioners should initiate potentially beneficial treatment while assessment is ongoing and before a proper view on appropriateness of ongoing interventions can be formulated.

Patient autonomy and consent

Patients who have capacity must be

- Fully informed of their diagnosis, prognosis, and options.
- Allowed to refuse treatment, even if refusal may hasten death.
- Given space to engage their families, ask questions and reflect without coercion.
- Encouraged to appoint proxies and document their preferences for future medical treatment for when they can no longer communicate their wishes. Whereas **advance directives** like durable **powers of attorney** and **living wills** do not have legal standing in South Africa, they provide strong evidence of patient intent. Practitioners should assess whether the directive is authentic, sufficiently clear, applicable to the current clinical circumstances, and consistent with the patient's known wishes and best interests.
- Where the patient is a child, they should be involved in decision-making, where appropriate, if a mature minor.

For patients who lack capacity and cannot decide:

- The patient's known values and prior wishes should guide care. Valid advance directives must be respected, and proxies or family members must be consulted.
- There must always be open, compassionate and clear communication with the family.
- Wherever possible, all efforts should be made to reach family agreement. Nonetheless, where treatment is futile, this is not an absolute requirement, with the senior practitioner/multidisciplinary team remaining responsible for the final decision. Family members should nevertheless be consulted, supported, and appropriately informed throughout the decision-making process, particularly where end-of-life decisions may be emotionally difficult or disputed. Courts should be approached only as a last resort where irreconcilable conflict persists.

Record keeping and accountability

Good documentation is a critical risk management tool to ensure that patients' wishes guide decision-making and to mitigate medicolegal risks in the event of family disputes.

Practitioners must record:

- Clinical assessments and prognosis
- Discussions with patients, families, and teams
- Decisions to withhold or withdraw treatment and their justification
- Ongoing reviews as conditions change
- Consent, refusals, advance directives, and proxies
- Disagreements and steps taken to resolve them

PRACTICAL CHECKLIST FOR PRACTITIONERS

- Identify patients with advanced life-limiting illnesses. (**SPICT-SA Tool**)
- Integrate palliative care focused on the improvement of quality of life for patients and their families early, alongside curative or life-prolonging treatment.
- Encourage family engagement from time of diagnosis.
- Document patient wishes, future care plans and goals.
- Encourage advance directives and/or appointment of proxies.
- Communicate clearly and compassionately.
- Monitor patients closely for general indicators of deteriorating health and adjust care plans accordingly.
- Focus on pain and symptom management and provide/facilitate emotional, psychological and spiritual support.
- Recognise when treatment is futile.
- Assess patient capacity and respect autonomy.
- Distinguish withholding/withdrawal of treatment from euthanasia.
- Consult colleagues and avoid decisions regarding withholding/withdrawing of treatment outside of multidisciplinary teams, where possible
- Document everything, not only clinical findings, but also relevant aspects of discussions with patients and their families, as well as the process regarding withholding/withdrawing of treatment, and rationale underpinning such decisions.
- Minimise suffering and allow patients to die with dignity.