

EMERGENCY MEDICAL CARE (“EMC”) & DO NOT RESUSCITATE (“DNR”) ORDERS IN BOTSWANA

THE BASICS

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Last week, we gave you an introduction into this delicate virgin territory in Botswana. You can click [here](#) for our introductory article, in case you missed it. This week we walk you through the basics, so that you have a solid grounding going forward.

Don't worry. We will take it slow. But fair warning, this will be a little dense. The concepts in this article are yet to be tested in Botswana. As such, we refer to South African authority, which we believe will be of persuasive value here.

What is emergency medical treatment?

Emergency medical treatment refers to acute episodes that can be rectified, rather than chronic incurable illnesses.

The need for emergency medical treatment arises when a person is faced with the real possibility of death, serious bodily injury or deterioration in health resulting from a sudden situation or event, but not as a result of a chronic illness.

The relationship between emergency medical treatment and DNR orders

DNR orders are only issued in situations in which attempts to apply cardiopulmonary resuscitation (“CPR”) would be futile or against the wishes of the patient or the persons legally able to consent on his or her behalf.

At face value, DNR orders appear to fly in the face of emergency medical treatment, because they deny medical treatment in life-threatening situations. However, given the interpretation of ‘emergency medical treatment’ by the courts of South Africa, this is not necessarily so, because the legal meaning is confined to situations that are of a ‘passing nature in

terms of time’ and not to underlying fatal conditions that are incurable (e.g. terminal chronic illnesses).

The meaning of futile medical treatment

The concept of futile medical treatment generally refers to that which is useless, ineffective or does not offer a reasonable chance of survival.

Determining futile treatment in the context of whether a person will survive does not appear to be medically difficult. Difficulties tend to arise in the context of quality of life prognoses.

In South Africa, when considering passive euthanasia situations, courts have equated the artificial feeding of a patient in a persistent vegetative state to medical treatment, which may be discontinued if adjudged ‘not to serve the purpose of supporting human life as is commonly known’ by society’s convictions.

Thank you for your attention. This is not an easy topic. But we hope that you are learning something as we inch along this uncomfortable terrain.

Please join us next week as we get into the thorny issue of DNR orders and euthanasia, as well as how they can be lawfully used, *et cetera*.

I appreciate your joining us. I am [Msiya Kindiano](#), a partner at [Bookbinder Business Law](#).

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