

treatment decision making, particularly decision making in relation to patients who do not have the capacity to consent to their own treatment.

**Aim** The aims of the paper are to identify the current challenges faced by advocates of advance care planning—from both clinical and legal perspectives—and to propose reforms.

**Methods** The paper considers the current legal parameters in which advance care planning operates, and also considers some recent reform initiatives in Australia, including the adoption of a national framework for advance directives, as well as key recommendations arising from recent guardianship law reviews in Queensland and Victoria.

**Conclusion** In considering whether the law should lead, follow, or get out of the way, the paper concludes by suggesting that reforms are warranted that would enable it to do all three. It should lead, by ensuring the protection of vulnerable people. It should follow, by more meaningfully recognising current advance care planning initiatives and scholarship. And it should get out of the way, by reducing, and where possible eliminating, current unnecessary legal complexities.

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#### THE ROLE OF LAW IN ADVANCE CARE PLANNING: SHOULD IT LEAD, FOLLOW, OR GET OUT OF THE WAY?

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**Background** This paper explores the tensions that exist between clinical advance care planning initiatives and the complex amalgam of laws that govern medical