# DRAFT FOR CONSULTATION

## Advance Directives Bill

Member's Bill

### Explanatory note

#### General policy statement

This Bill establishes a clear legal framework for advance directives in New Zealand's health system. An advance directive regulated by this Bill is a written document made by a person while they have decision-making capacity that sets out their instructions or preferences about health treatment to apply if they later lack capacity.

The Law Commission has recently observed that, in New Zealand, there is ongoing uncertainty about both the requirements for making a valid advance directive and the circumstances in which health practitioners are legally required to give effect to an advance directive. This uncertainty has contributed to inconsistent understanding and application of advance directives by health practitioners. The Law Commission has stated that these uncertainties could be addressed through clearer statutory codification of the law. Similarly, the Health Committee, in an August 2025 review of advance directives, concluded that deficiencies in the current advance directive framework warrant urgent reform, including the establishment of a nationwide register of advance directives.

Further, comparable jurisdictions such as Australia, Canada, and the United Kingdom have enacted legislation governing advance directives, that define validity and applicability and provide protections for health practitioners acting in accordance with advance directives. This statutory clarity promotes more consistent clinical decision-making and gives both patients and practitioners clearer guidance on when advance directives must be followed and when departure is permitted.

The purpose of the Bill is to protect the rights of patients to make informed decisions about their health treatment by codifying the requirements for a valid advance directive and improving the ability of health practitioners to provide care that respects those directives. It does this by setting out requirements for making a valid advance directive, including witnessing and capacity standards, creating a national register of advance directives and appointing a Registrar of Advance Directives to maintain it. The register will enable health practitioners to quickly determine whether a person under their care has an advance directive and the Bill will require practitioners to act consistently with any advance directive identified through the register.

The Bill includes safeguards for privacy and access to information, clarifies the circumstances in which departure from an advance directive is permitted, provides protection from liability for health practitioners who rely in good faith on an advance directive, and clarifies the relationship between advance directives and the Protection of Personal and Property Rights Act 1988. It also creates offences relating to dishonesty or undue influence in the making or management of advance directives, unauthorised creation, alteration or destruction of advance directives, knowingly making

false or misleading statements about advance directives, and wilful non-compliance with the Act by health practitioners.

Directives not recorded on the register will remain valid under the common law and the Code of Health and Disability Services Consumers' Rights. Similarly, advance mental health directives are excluded from the scope of this Bill, as they are already expressly provided for under the Mental Health Bill.

The Bill is intended to promote personal autonomy, reduce uncertainty for health practitioners, patients and their families, and ensure that people's treatment choices are recognised and respected across the health system.

**Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause. It provides that the Bill comes into force 6 months after Royal assent.

## Part 1

## Preliminary provisions

*Clause 3* states the purpose of the Bill.

*Clause 4* defines terms used in the Bill.

*Clause 5* defines the term health treatment.

*Clause 6* defines the term advance directive.

*Clause 7* prohibits certain instructions in advance directives.

*Clause 8* excludes advance mental health directives from the scope of the Bill.

Clause 9 confirms that the Bill does not limit the validity or effect of advance directives that do not comply with the Bill or the right to refuse medical treatment under other laws.

*Clause 10* provides that the Bill, once enacted, binds the Crown.

## Part 2

## Advance Directives

*Registrar*

*Clause 11* provides for the appointment of a Registrar of Advance Directives.

*Clause 12* provides for the functions of the Registrar, which includes establishing and maintaining a register of advance directives, annually reporting to the Minister on the use of advance directives, facilitating public awareness of matters relating to advance directives and the register, and advising on issues relating to advance directives. It also requires the Registrar to refer any information raising concerns about a health practitioner's conduct under this Act to the appropriate enforcement authority.

*Clause 13* provides that every person with an advance directive on the register must answer any questions and supply any information relating to the advance directive reasonably requested by the Registrar for the performance of the Registrar's functions.

*Clause 14* requires the Minister to present to House of Representatives a copy of the annual report provided by the Registrar.

*Register*

*Clause 15* establishes a register of advance directives and requires the Registrar to consult the Privacy Commissioner.

*Clause 16* provides for the purposes of the register, which includes enabling a health practitioner to determine whether a person under their care has an advance directive, and if they do, accommodating that directive in the provision of such care.

*Clause 17* identifies what information must be contained on the register, such as a person's contact details and their preferences for health treatment.

*Clause 18* provides that health practitioners can access the register to enable health practitioners to quickly determine whether a person under their care has an advance directive and act consistently with that directive, subject to privacy law.

*Clause 19* permits the Registrar to provide registered advance directive information to the person concerned or their attorney for specified purposes.

*Clause 20* provides that nothing in the Act affects the application of the Privacy Act 2020 to the collection, use, and disclosure of register information.

*Registering, amending, and removing advance directives*

*Clause 21* sets out the process for registering advance directives and the Registrar’s obligations.

*Clause 22* sets out the process for amending registered advance directives.

*Clause 23* sets out the process for a person to have their registered advance directive removed from the register.

*Clause 24* provides that an advance directive that is not on the register is still valid under other laws.

*Review*

*Clause 25* requires the triannual review of advance directives on the register and provides for directives to lapse where contact cannot be made. Registered advance directives continue to be valid where a person lacks decision-making capacity at the time of review and the directive reflects their wishes while they had capacity.

*Clause 26* requires the Bill, once enacted, to be reviewed as soon as practicable after the third anniversary of its commencement.

*Regulations*

*Clause 27* provides that regulations may be made for the purposes of the Bill.

## Part 3

## Duties of health practitioners

*Clause 28* requires health practitioners to make all reasonable efforts to assess decision-making capacity and identify registered advance directives before providing treatment, sets out obligations relating to binding consent, refusals, and preferences and values, and specifies circumstances in which departure from a registered advance directive is permitted.

*Clause 29* requires health practitioners to report to the Registrar, as soon as practicable, whenever a registered advance directive is followed or not followed, including the reasons if it was not followed and whether this resulted in the person's death.

*Clause 30* provides for the rights of health practitioners to conscientiously object to providing, withholding, or withdrawing treatment, subject to notification duties and ensuring another health professional is available to provide the treatment to that person.

*Clause 31* provides protection from civil, criminal and professional liability for health practitioners who, in good faith, withhold or withdraw treatment in reliance on a registered advance directive.

*Clause 32* provides immunity from liability for emergency treatment provided in circumstances where a health practitioner is unaware of a refusal to treatment in an advance directive.

*Clause 33* enables applications to the Family Court to resolve disputes or uncertainty about advance directives.

## Part 4

## Offences

*Clause 34* creates an offence for dishonestly or improperly inducing the making or alteration of an advance directive.

*Clause 35* creates offences relating to unauthorised creation, alteration, or destruction of advance directives.

*Clause 36* creates an offence for knowingly making false or misleading statements about an advance directive.

*Clause 37* creates an offence for wilful non-compliance with the Bill by health practitioners.

## Schedule

## Amendments to Protection of Personal and Property Rights Act 1988 (1988 No 4)

The Schedule makes consequential amendments to the Protection of Personal and Property Rights Act 1988 to require attorneys and welfare guardians to make reasonable efforts to ascertain whether the person has a registered advance directive and comply with it so far as reasonably practicable.

*Cameron Luxton*

# Advance Directives Bill

Member's Bill

**Contents**

**Part 3**
**Duties of health practitioners**



**Part 4**
**Offences**



**Schedule**
**Amendments to Protection of Personal and Property Rights Act 1988 (1988 No 4)**

**The Parliament of New Zealand enacts as follows:**

### 1 Title

This Act is the Advance Directives Act **2026**.

### 2 Commencement

This Act comes into force 6 months after Royal assent.

## Part 1

## Preliminary provisions

### 3 Purpose

The purpose of this Act is to protect the rights of patients to make informed decisions about their health treatment, including the right to refuse to undergo medical treatment, by—

(a) providing for a person to make an advance directive that either gives binding instructions or expresses the person's preferences and values in relation to future health treatment; and

(b) improving the ability of health practitioners to provide health care consistently with advance directives.

### 4 Interpretation

In this Act, unless the context otherwise requires,—

**advance directive** has the meaning given in **section 6**

**advance mental health directive** has the meaning given in section 4 of the [Mental Health Act 2026].

**Director-General** means the chief executive or acting chief executive under the Public Service Act 2020 of the Ministry of Health

**enduring power of attorney** means a power of attorney described in section 95 of the Protection of Personal and Property Rights Act 1988

**health practitioner** has the meaning given to it by section 5(1) of the Health Practitioners Competence Assurance Act 2003

**health treatment** has the meaning given in **section 5**

**lapsed advance directive** means an advance directive that is no longer a registered advance directive because the Registrar has recorded it as lapsed under section 24(3)

**register** means the advance directives register established by **section 15**

**registered advance directive** means an advance directive registered on the register, but does not include a lapsed advance directive

**Registrar** means the Registrar of Advance Directives appointed under **section 11**.

**5 Meaning of health treatment**

(1) **Health treatment** means treatment provided by a health practitioner to a person that is physical or surgical in nature, for the purpose of 1 or more of the following:

(a) preventing, diagnosing, treating, or managing disease or illness:

(b) restoring, maintaining, or replacing bodily function in the event of disease or injury:

(c) providing the essentials of life or otherwise supporting or improving a person's comfort, wellbeing, or quality of life.

(2) Health treatment includes (but is not limited to)—

(a) treatment by physical or surgical therapy:

(b) prescribing, supplying, or administering medicines:

(c) the provision of nutrition or hydration:

(d) dental treatment:

(e) palliative care.

(3) Health treatment does not include—

(a) mental health care:

(b) assisted dying within the meaning of section 4 of the End of Life Choice Act 2019.

**6 Meaning of advance directive**

(1) An **advance directive** is a document that sets out a person's (**A**) binding instructions or preferences and values in respect of 1 or more of the following matters to take effect in the event that A lacks capacity to make decisions about those matters at a future time:

(a) the health treatments that A consents to receive:

(b) the health treatments that A does not consent to receive:

(c) the preferences and values that A wishes to be taken into account, including A's preferred outcomes, when decisions are made about health treatment or outcomes.

(2) An advance directive may be given so as to apply—

(a) in all circumstances; or

(b) only in specified circumstances; or

(c) in all circumstances except in specified circumstances.

(3) An advance directive is effective for the purposes of this Act only if—

(a) at the time of making it, A has the capacity—

(i) to understand the nature, and to foresee the consequences, of decisions in respect of matters relating to their health and welfare; and

(ii) to communicate decisions in respect of those matters; and

(b) it is made voluntarily, free from undue influence or coercion, and free from improper pressure from any other person; and

(c) it is in writing and signed by A; and

(d) it is witnessed by a prescribed person; and

(e) the witness certifies in writing that, in the witness's opinion, the person making the directive has the capacity referred to in **paragraph (a)**.

**7 Unlawful statements in advance directives**

(1) An advance directive must not include any of the following:

(a) an instruction that, if given effect, would require an unlawful act to be performed, or would cause a health practitioner to contravene a professional standard or code of conduct (however described) applying to the profession of that health practitioner, except where the unlawfulness or contravention would arise solely from the withholding or withdrawal of health treatment:

(b) a request for assisted dying within the meaning of section 4 of the End of Life Choice Act 2019:

(c) any instruction relating to mental health care:

(d) an instruction of a kind or containing an instruction prescribed by regulations made under **section 27**.

(2) If an instruction in an advance directive contravenes **subsection (2)**,—

(a) the instruction is void and is to be treated as severed from the directive; and

(b) if the remaining statements in the advance directive are capable of operating with the void statement severed, the advance directive has effect as if it had been made without that statement, subject to this Act.

**8 Application of Act to advance mental health directives**

(1) An advance mental health directive is not an advance directive for the purposes of this Act.

(2) Nothing in this Act affects the validity or effect of an advance mental health directive made in accordance with the [Mental Health Act 2026].

**9 Other rights and advance directives not affected**

Nothing in this Act:

(a) limits the ability of a person to make, or the validity or effect of, an advance directive that does not meet the definition of advance directive for the purposes of this Act; or

(b) affects any right of a person under any other law to refuse medical treatment.

**10 Act binds the Crown**

This Act binds the Crown.

## Part 2

## Advance Directives

*Registrar*

**11 Appointment of Registrar**

There must be a Registrar of Advance Directives who must be appointed by the Director-General under the Public Service Act 2020.

**12 Functions of Registrar**

(1) The functions of the Registrar in relation to this Act are—

(a) to establish and maintain a register of advance directives in accordance with **section 15**:

(b) to maintain a record of all reports reported under **section 29**:

(c) to report to the Minister by the end of 30 June each year on the following matters for the year:

(i) the total number of reports under **section 29**:

(ii) the number of directives that were followed in whole, in part, or not at all:

(iii) the number of cases in which a death occurred and the relationship, if any, between the death and the following or non-following of the directive:

(iv) any trends or systemic issues identified by the Registrar in respect of the reports received:

(v) any other matter relating to the operation of this Act that the Registrar thinks appropriate:

(c) to facilitate public awareness of matters relating to advance directives and the register:

(d) to advise on issues relating to advance directives when requested to do so by the Director-General or the Minister.

(2) A report provided to the Minister under **subsection (1)(c)** must not include any information that identifies, or could reasonably be expected to identify, the person to whom the directive relates or a health practitioner who made a report to the Minister under section 29.

(3) If the Registrar receives any information about the appropriateness of the conduct of any health practitioner under this Act that the Registrar considers relates to a matter within the jurisdiction of any of the following persons, including in a report made under **section 29**, the Registrar must refer the complaint to that person:

(a) the Health and Disability Commissioner, if it appears that the complaint alleges that the conduct of the health practitioner is, or appears to be, in breach of the Code of Health and Disability Services Consumers' Rights; or

(b) the appropriate authority, if it appears that the complaint relates to a health practitioner's competence, fitness to practise, or conduct; or

(c) the New Zealand Police.

(4) The Registrar must perform any other functions that this Act requires the Registrar to perform.

**13 Registrar may request information**

Every person with a registered advance directive must answer any question and supply any information relating to the registered advance directive reasonably requested by the Registrar for the performance of the Registrar's functions.

**14 Minister must present to House of Representatives copy of report under section 12**

As soon as practicable after receiving a report under **section 12(1)(c)**, the Minister must present a copy of the report to the House of Representatives.

*Register*

**15 Register established**

(1) The Registrar must establish a register called the advance directives register.

(2) The register must be an electronic register.

(3) The Registrar may—

(a) record, amend, or delete information on the register only as permitted by this Act; and

(b) make information on the register available to any person only in accordance with this Act and the Privacy Act 2020.

(4) The Registrar must consult the Privacy Commissioner—

(a) before establishing the register; and

(b) at regular intervals while maintaining the register.

**16 Purpose of register**

The purpose of the register is—

(a) to ensure that there is a national register of advance directives; and

(b) to enable a health practitioner to—

(i) determine whether a person under their care has a registered advance directive; and

(ii) accommodate that person's registered advance directive in their care of that person.

**17 Contents of register**

The register must contain the following information for each registered advance directive:

(a) in respect of the person making the advance directive, the person's—

(i) full legal name:

(ii) physical address:

(iii) email address:

(iv) phone number:

(v) national health index number:

(b) if the person has an enduring power of attorney, the information contained in **paragraphs (a)(i) to (v)** for the attorney:

(c) details of the content of the advance directive:

(d) any other information prescribed by regulations made under **section 27**.

**18 Access to register by health practitioners**

(1) A health practitioner may access the register for the purposes set out in **section 16(b)**.

(2) A health practitioner may use, retain, or disclose information obtained from the register only in accordance with the Privacy Act 2020 and the Health Information Privacy Code 2020.

**19 Access to register for other persons**

(1) The following persons may request information from the Registrar relating to a registered advance directive:

(a) a person to whom the registered advance directive applies:

(b) if the person to whom the registered advance directive applies has an enduring power of attorney, the attorney.

(2) The Registrar must comply with the request if the Registrar is satisfied—

(a) the person is a person specified under **subsection (1)**; and

(b) in respect of an attorney, the information is required for a purpose specified in **subsection (3)**.

(3) For the purposes of **subsection (2)(b)**, the following are purposes to which an attorney may be given access to use, retain, or disclose information relating to a registered advance directive:

(a) to determine whether the donor has a registered advance directive:

(b) to accommodate the donor's registered advance directive in their care of that person:

(b) to update contact details connected with a registered advance directive.

**20 Privacy**

(1) Nothing in this Act affects the application of the Privacy Act 2020 to the collection, use, and disclosure of personal information held on the register.

(2) This Act does not authorise or require the recording on the register of information—

(a) without authorisation or consent from the individual concerned; and

(b) if that individual cancels, or otherwise opts out of, the recording in the register of that information.

(3) **Subsection (2)** does not limit **subsection (1)**.

*Registering, amending, and removing advance directives*

**21 Registration of advance directives**

(1) A person who wishes to have an advance directive registered on the register must—

(a) notify the Registrar; and

(b) provide the Registrar with—

(i) a copy of the advance directive that complies with **sections 6 and 7**; and

(ii) the information required by **section 17**.

(2) If the Registrar is satisfied that the advance directive complies with this Act, the Registrar must, as soon as practicable—

(a) register the advance directive on the register; and

(b) notify the person that the advance directive has been registered.

(3) If the Registrar is not satisfied that the advance directive complies with this Act, the Registrar must, as soon as practicable—

(a) notify the person that the advance directive does not comply with this Act; and

(b) advise the person of the steps required for the advance directive to comply with this Act.

**22 Amending registered advance directives**

(1) A person who wishes to amend a registered advance directive must—

(a) notify the Registrar; and

(b) provide the Registrar with a copy of the amended advance directive that complies with **sections 6 and 7**.

(2) If the Registrar is satisfied that the amended advance directive complies with this Act, the Registrar must, as soon as practicable—

(a) remove the existing registered advance directive from the register; and

(b) register the amended advance directive on the register; and

(c) notify the person that the amended advance directive has been registered.

(3) If the Registrar is not satisfied that the amended advance directive complies with this Act, the Registrar must, as soon as practicable—

(a) notify the person that the amended advance directive does not comply with this Act; and

(b) advise the person of the steps required for the amended advance directive to comply with this Act.

**23 Removing registered advance directives**

(1) A person who wishes to remove a registered advance directive from the register must notify the Registrar.

(2) Following receipt of notification under **subsection (1)**, the Registrar must, as soon as practicable:

(a) remove the registered advance directive from the register; and

(b) notify the person that the registered advance directive has been removed from the register.

**24 Advance directives not on register still valid**

Nothing in this Act limits the application of an advance directive that is not recorded on the register under any other law.

*Review*

**25 Requirement to review registered advance directives**

(1) Once every 3 years, the Registrar must make reasonable efforts to contact each person with a registered advance directive to confirm that—

(a) the registered advance directive still reflects the person's wishes regarding health treatment; and

(b) the person wants the registered advance directive to remain on the register.

(2) The Registrar must remove a registered advance directive from the register if the person requests that the registered advance directive is removed from the register under **subsection (1)(b)**.

(3) If, after reasonable efforts to make contact, the Registrar is unable to reach the person to confirm the information in **subsection (1)**,—

(a) the Registrar must record on the register the registered advance directive as a lapsed advance directive and retain a record of the lapsed advance directive; and

(b) must provide the lapsed advance directive when requested in accordance with **section 18** as if it were a registered advance directive, and must advise the requester that the advance directive is a lapsed advance directive and the date on which it lapsed.

(4) Despite **subsection (3)**, if, at the time the review falls due, the person lacks decision-making capacity and is not able to provide confirmation under **subsection (1)**, the Registrar must—

(a) for the purpose of confirming whether the registered advance directive continues to reflect the person's wishes while the person had decision-making capacity,—

(i) if the person has an attorney or welfare guardian appointed by a court, contact that attorney or welfare guardian; and

(ii) contact the health practitioner responsible for the person’s care; and

(iii) request confirmation that they are not aware of any change, made while the person had decision-making capacity, to the person's wishes as recorded in the registered advance directive; and

(b) if satisfied on reasonable grounds that no such change has been made,—

(a) record that the registered advance directive remains current; and

(b) set the next review date for 3 years after the date of that record; and

(c) if necessary, update any relevant contact details recorded in the register.

(5) To avoid doubt, the fact that a registered advance directive is treated as lapsed under this Act does not, of itself, affect its legal validity or the rights of any person under the Code of Health and Disability Services Consumers' Rights.

**26 Review of operation of Act**

(1) As soon as practicable after the third anniversary of the commencement of this Act, the Director-General must—

(a) review the operation of this Act; and

(b) consider whether any amendments to this Act are necessary or desirable; and

(c) report on the findings of the review to the Minister.

(2) As soon as practicable after receiving the report, the Minister must present a copy of the report to the House of Representatives.

*Regulations*

**27 Regulations**

(1) The Governor-General may, by Order in Council, on the recommendation of the Minister, make regulations for all or any of the following purposes:

(a) providing for anything this Act says may or must be provided for by regulations:

(b) prescribing classes of person who may witness an advance directive under **section 6**:

(c) prescribing instructions or kinds of instructions that must not be included in an advance directive under **section 7**:

(d) prescribing matters to be recorded on the register:

(e) prescribing the manner and form of recording information on the register:

(f) prescribing information to be included in reports under **section 29**:

(g) providing for anything incidental that is necessary for carrying out, or giving full effect to, this Act.

(2) Before recommending the making of an Order in Council under **subsection (1)(b)**, the Minister must be satisfied that the classes of persons who may witness an advance directive have the appropriate knowledge, skills, and experience to act as a witness.

(3) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

## Part 3
## Duties of health practitioners

### 28 Duty to ascertain existence of and comply with registered advance directives

(1) In performing or exercising any function, power, or duty under this section, a health practitioner must act in a timely manner, so far as is reasonably practicable, having regard to the person's condition, the person's registered advance directive, and all the circumstances.

(2) Before making a health treatment decision for a person whom a health practitioner has reasonable grounds to suspect lacks decision-making capacity, the health practitioner must make all reasonable efforts in the circumstances to—

(a) assess the person’s decision-making capacity; and

(b) if the person is found to lack decision-making capacity, ascertain whether the person has a registered advance directive;

(c) if the person has an attorney, advise that attorney of the existence and application of the registered advance directive.

(3) A health practitioner must give effect to the matters in a registered advance directive listed in the first column of the table below in accordance with the second column when the circumstances to which the registered advance directive relates arise, except as provided in **subsection (3)**.

| Content of advance directive | Obligation on health practitioner |
|---|---|
| The health (excluding mental health) treatment that the maker of the directive consents to receive | Consent must be taken as informed consent and the specified treatment must be provided |
| The health (excluding mental health) treatment that the maker of the directive does not consent to receive | The treatment must not be provided |
| The preferences and values that the maker of the directive wishes to be taken into account, including outcomes that they wish to receive, when decisions are made about health treatment | Preferences, values and outcomes must be given effect to, to the extent that is practicable |

(4) A health practitioner is not required to comply with a registered advance directive if—

(a) the health practitioner believes on reasonable grounds that circumstances have changed since the person gave the advance directive so that giving effect to the advance directive would no longer be consistent with the person's wishes:

(b) providing the health treatment would be futile or of no benefit:

(c) providing the health treatment would not be reasonably practicable in the circumstances, including in circumstances where—

(i) the treatment is not available in New Zealand or at the relevant facility:

(ii) the necessary equipment, medication, or specialist health practitioners required to provide the treatment are not available at the relevant time:

(iii) the treatment cannot be provided within the timeframe required for it to be effective:

(iv) providing the treatment would require transfer that is unsafe or not reasonably practicable in the circumstances:

(v) providing the treatment would require an unreasonable diversion of resources:

(vi) the demands of providing the treatment would, in a material and disproportionate way, compromise the care of other patients:

(d) the health practitioner has a conscientious objection in accordance with **section 30**.

(5) If a person does not have a registered advance directive but has a lapsed advance directive in accordance with **section 25(3)**, a health practitioner may have regard to the lapsed advance directive, taking into account—

(a) the time that has elapsed since the advance directive lapsed; and

(b) whether the advance directive is likely to reflect the person's current wishes, preferences, and values.

**29 Duty to report on application of registered advance directives**

(1) A health practitioner must, as soon as practicable after providing, withholding or withdrawing a health treatment in reliance on a registered advance directive, provide a report to the Registrar.

(2) A report under **subsection (1)** must include—

(a) whether the registered advance directive was followed or not followed; and

(b) if the directive was not followed, the reasons for not following it; and

(c) whether the application or non-application of the directive resulted in the person's death; and

(d) any other information required by regulations made under this Act.

**30 Conscientious objection**

(1) A health practitioner is not under any obligation to provide, withhold or withdraw (or to assist to provide, withhold or withdraw) a health treatment that is requested in a person's advance directive if the health practitioner—

(a) has a conscientious objection to providing, withholding or withdrawing that treatment; and

(b) considers that it is reasonably likely that the circumstances to which the request for that treatment applies have arisen or will arise.

(2) The health practitioner must, to the extent practicable and at the earliest opportunity,—

(a) inform the person (or the holder of the person's enduring power of attorney) of the conscientious objection; and

(b) ensure another health practitioner is available to provide, withhold or withdraw (or to assist to provide, withhold or withdraw) the treatment to the person.

(3) This section does not override a health practitioner's professional and legal duty to provide prompt and appropriate medical assistance to any person in a medical emergency.

**31 No liability for actions or omissions in reliance on registered advance directive**

(1) Any act or omission by a health practitioner acting in good faith and in reliance on an advanced directive does not give rise to—

(a) civil or criminal liability; or

(b) a breach of professional ethics or professional standards; or

(c) a breach of a rule of professional conduct; or

(d) the Code of Health and Disability Services Consumers' Rights.

(2) For the purposes of this section, an act or omission includes, without limitation, the provision, withholding, or withdrawal of health treatment.

**32 Protection from liability for emergency treatment in contravention of advance directive**

(1) This section applies if a health practitioner provides health treatment to a person despite an advance directive that refuses consent to that treatment, and the health practitioner—

(a) believes on reasonable grounds that the treatment is immediately necessary to save that person's life or to prevent serious damage to that person's health; and

(b) is not aware that a registered advance directive, or another legally valid and informed refusal of treatment, applies to the treatment and refused consent to it.

(2) A health practitioner giving health treatment in accordance with **subsection (1)** does not give rise to—

(a) civil or criminal liability; or

(b) a breach of professional ethics or professional standards; or

(c) a breach of a rule of professional conduct; or

(d) the Code of Health and Disability Services Consumers' Rights.

**33 Right to apply to court regarding advance directive**

(1) A person may apply to the Family Court for an order under this section if the person alleges that a registered advance directive has not and should have been complied with, or if there is uncertainty as to the application or effect of a registered advance directive.

(2) An application under subsection (1) may be made by—

(a) a health practitioner:

(b) a person to whom the registered advance directive applies:

(c) if the person to whom the registered advance directive applies has an enduring power of attorney, the attorney:

(d) any other person with a proper interest in the welfare of the person to whom the registered advance directive applies.

(3) On an application under this section, the Family Court may make any order it considers appropriate, including an order—

(a) determining the application or effect of the advance directive in the circumstances:

(c) directing whether and to what extent the advance directive is to be complied with:

(d) granting any other relief necessary to give effect to the advance directive.

(4) In determining an application under this section, the Family Court must have regard to—

(a) the content of the advance directive:

(b) the circumstances in which the advance directive was made:

(c) the circumstances existing at the time of the application:

(d) any relevant provisions of this Act.

## Part 4

## Offences

**34 Inducing advance directive by dishonesty or undue influence**

(1) Every person commits an offence if the person, by dishonesty or undue influence, induces another person to—

(a) make or amend an advance directive; or

(b) add an advance directive to, or remove an advance directive from, the register.

(2) A person who commits an offence under this section is liable on conviction to either or both of the following:

(a) imprisonment for a term not exceeding 3 months:

(b) a fine not exceeding $10,000.

**35 Unauthorised making, alteration, or destruction of advance directives**

(1) Every person commits an offence if the person—

(a) makes an advance directive for another person without that other person's consent; or

(b) alters or destroys an advance directive without the consent of the person who made it.

(2) A person who commits an offence under this section is liable on conviction to either or both of the following:

(a) imprisonment for a term not exceeding 3 months:

(b) a fine not exceeding $10,000.

**36 False or misleading statements relating to advance directives**

Every person commits an offence and is liable on conviction to a fine not exceeding $5,000 who knowingly makes a false or misleading statement in relation to an advance directive made by another person.

**37 Non-compliance by health practitioners**

(1) A person who is a health practitioner commits an offence if the health practitioner wilfully fails to comply with any requirement of this Act.

(2) A person who commits an offence under this section is liable on conviction to either or both of the following:

(a) imprisonment for a term not exceeding 3 months:

(b) a fine not exceeding $10,000.

## Schedule

### Amendments to Protection of Personal and Property Rights Act 1988 (1988 No 4)

In section 4, insert the definition of registered advance directive:

> **registered advance directive** has the meaning set out in section 4 of the Advance Directives Act 2026

In section 18(1)(c), after "health", insert ", unless and to the extent that the refusal is made in accordance with a registered advance directive of that person".

After section 18(4)(c), insert:

(d) make all reasonable efforts in the circumstances to ascertain whether the person for whom the welfare guardian is acting has a registered advance directive and, if so, to comply with that directive so far as is reasonably practicable.

Replace section 99A(2) with:

(2) Subject to any consultation required under **subsection (1)** and except to the extent that compliance would require the attorney to act in a manner contrary to **section 98(4)**, an attorney acting under an enduring power of attorney in relation to the donor's personal care and welfare—

(a) must make all reasonable efforts in the circumstances to ascertain whether the donor has a registered advance directive; and

(b) if the donor is found to have a registered advance directive, must, so far as is reasonably practicable, comply with that directive; and

(c) may have regard to any other advance directive made by the donor not in accordance with the Advance Directives Act 2026.