

# [Gazettal of Advance Decision on Life-sustaining Treatment Bill, Coroners Ordinance \(Amendment of Schedule 1\) Notice 2023 and Births and Deaths Registration Ordinance \(Amendment of Second Schedule\) Notice 2023](#)

The Government published in the Gazette today (November 24) the Advance Decision on Life-sustaining Treatment Bill, and will gazette the Coroners Ordinance (Amendment of Schedule 1) Notice 2023 (Cap. 504 Notice) and the Births and Deaths Registration Ordinance (Amendment of Second Schedule) Notice 2023 (Cap. 174 Notice) on December 1.

Advance medical directives (AMDs), do-not-attempt cardiopulmonary resuscitation (DNACPR) orders and dying in place are all important policy measures to honour patients' decisions and enhance patients' quality of life during their final days. The Bill and the relevant legislative amendments seek to set the relevant legislative framework for safeguarding the patients, medical professionals and rescuers, as well as facilitating the choice of dying in place for terminally ill patients in residential care homes (RCHs).

## Advance medical directives

The Bill will specify that any person aged 18 or above and who is mentally capable of deciding on a life-sustaining treatment may make an AMD. Upon meeting the specified precondition of the instruction stated in the AMD, no medical professionals can perform any life-sustaining treatment specified in the instructions at the time the person concerned is mentally incapable of deciding on a life-sustaining treatment.

The making of an AMD will adhere to the principle of "cautious making, easy revoking". No less than two witnesses who must satisfy certain conditions (including, to the best of his/her knowledge, not being a beneficiary of the maker's estate, etc) should be in attendance when an AMD is made, with one of the witnesses being a registered medical practitioner (RMP). That RMP should be satisfied that the maker, when signing on the AMD, is mentally capable of deciding on a life-sustaining treatment and has been informed of the nature of the AMD and the effect on oneself upon following each of the instructions therein. The AMD must be made in writing. A scanned and digitalised copy of the paper form AMD can be stored in a designated electronic system as a proof of validity of instructions in the AMD. The Health Bureau (HHB) is also exploring the feasibility of enabling the making of AMD direct in digital form. With regard to revocation, as long as an AMD

maker is mentally capable of deciding on a life-sustaining treatment, he or she can revoke the AMD at any time by verbal/written means or destroying the AMD.

A spokesman for the HHB emphasised, "AMDs and euthanasia are two distinct concepts. An AMD allows withdrawal or withholding of life-sustaining treatment for terminally ill patients in specified situations. Nevertheless, AMD makers cannot refuse basic/palliative care or request the administration or prescription of a substance to end their life through an AMD."

#### Do-not-attempt cardiopulmonary resuscitation orders

As defined in the Bill, a DNACPR order is an instrument that directs not to perform cardiopulmonary resuscitation (CPR) on a person suffering from cardiopulmonary arrest (person-in-arrest). That order must be made by two RMPs (one of whom must be a specialist) in writing by using a physical statutory form as specified in the legislation. Similar to the proposed arrangements for AMDs, a DNACPR order can be revoked upon certain acts of the maker (such as destroying the order) when he or she is mentally capable of deciding on a life-sustaining treatment.

Having considered that medical professionals and rescuers may often need to make split-second decisions especially during rescue operations, and under the principle of "if in doubt, save life first", the Bill will safeguard the medical professionals and rescuers (including lay rescuers), such that they will be protected from any legal liability for whether they have subjected a patient to a life-sustaining treatment or not when specified conditions are met.

The spokesman said, "Upon the passage of the Bill, adequate time will be allowed for medical institutions, relevant policy bureaux and departments and other related organisations to update protocols, records and systems, and provide training to their staff before the Bill takes effect. We will at the same time enhance education to the general public, and engage the healthcare profession and community CPR training organisations to promote the new legislation."

#### Dying in Place

Furthermore, to facilitate the choice of dying in place for terminally ill patients in RCHs, the Government suggests amending the relevant provisions in the Coroners Ordinance (Cap. 504) and the Births and Deaths Registration Ordinance (Cap. 174). Upon amendment, if a resident who passed away in an RCH was diagnosed as having a terminal illness when he or she was alive and was attended to by an RMP within 14 days before passing away, and his or her certificate of cause of death states that he or she died of a natural cause, such a death case will no longer be considered as a reportable death to the Coroners Court.

The Bill will be introduced into the Legislative Council (LegCo) for first reading and second reading on December 6, whereas the Cap. 504 Notice and the Cap. 174 Notice will be introduced into the LegCo for negative vetting on the same day.