
Advance Decision on Life-sustaining Treatment Bill

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A BILL

To

Provide for the making and revocation of advance medical directives as regards life-sustaining treatments and the operation of instructions in advance medical directives; to provide for the making, revocation and operation of do-not-attempt cardiopulmonary resuscitation orders that have a continuing effect; and to provide for related matters.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Advance Decision on Life-sustaining Treatment Ordinance.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Health by notice published in the Gazette.

2. Interpretation

(1) In this Ordinance—

advance decision instrument (預作決定文書) means—

- (a) an advance medical directive; or
- (b) a DNACPR order;

advance medical directive (預設醫療指示) means an instrument made by a person that contains one or more instructions that if the person is mentally incapable of deciding on a life-sustaining treatment and the specified precondition of the instruction is met, the person is not to be subjected to any life-sustaining treatment specified in the instruction;

AMD-based (按預設指示簽發)—see subsection (2);

Note—

“AMD” stands for “advance medical directive”.

applicable (適用)—

- (a) in relation to an instruction in an advance medical directive—see section 14; and
- (b) in relation to a DNACPR order—see section 36;

basic care (基本護理) means any personal care provided to a patient that is essential to maintaining the comfort of the patient;

Note—

The following are examples of basic care—

- (a) offering food and drink to the patient for the patient’s consumption by mouth;
- (b) assisting the patient in consuming food and drink by mouth;
- (c) measures to maintain the patient’s personal hygiene;
- (d) measures to relieve the patient’s pain.

CPR (心肺復甦術) means an emergency life-sustaining treatment that—

- (a) is performed on a person-in-arrest; and
- (b) aims to restore or maintain blood circulation and oxygenation to the vital organs of the person-in-arrest;

Notes—

1. “CPR” stands for cardiopulmonary resuscitation.
2. The following are examples of procedures in CPR—
 - (a) external cardiac compression;
 - (b) artificial ventilation;
 - (c) defibrillation.

designated electronic system (指定電子系統) means an electronic system designated under section 57;

DNACPR order (不作心肺復甦術命令) means an instrument that has a continuing effect and directs not to perform CPR on a person-in-arrest;

Notes—

1. “DNACPR” stands for do-not-attempt cardiopulmonary resuscitation.
2. An example of an instrument that does not have a continuing effect is an instrument made for a patient in a hospital that is intended to lose effect on the patient’s discharge from the hospital.

enrolled nurse (登記護士) has the meaning given by section 2(1) of the Nurses Registration Ordinance (Cap. 164);

episode of care (受治期), in relation to a person, means—

- (a) if the person receives medical care, or is attended to, for an illness at a hospital, any healthcare facility where lodging is not available, a residential care home (as defined by section 2 of the Residential Care

Homes (Elderly Persons) Ordinance (Cap. 459)) or a residential care home for PWDs (as defined by section 2 of the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613))—the period during which the person stays there to receive the medical care or to be attended to; or

- (b) if the person receives medical care from, or is attended to by, a treatment provider or rescuer for an illness at any other premises—the period during which the person receives the medical care or is attended to;

houseman (實習醫生) means a person who is provisionally registered under section 12 of the Medical Registration Ordinance (Cap. 161);

immediate family member (至親), in relation to a person, means any of the following relatives of the person—

- (a) spouse;
- (b) parent (whether natural parent, adoptive parent or step-parent);
- (c) child (whether natural child, adoptive child or step-child);
- (d) sibling (whether sibling of full or half blood, sibling by virtue of adoption or step-sibling);
- (e) grandparent (whether natural grandparent, adoptive grandparent or step-grandparent);
- (f) grandchild (whether natural grandchild, adoptive grandchild or step-grandchild);

interested person (利益攸關者), in relation to a person (**former person**), means a person—

- (a) who is a beneficiary under the will of, or any insurance policy of, the former person;

- (b) to whom the former person grants or settles any interest by means of any instrument;
- (c) who is entitled to any interest in the estate of the former person on the former person's death intestate; or
- (d) in whom any interest would otherwise vest by operation of the law or any instrument on the former person's death;

Note—

An example of a person falling within paragraph (d) is a person who holds a unit in a building together with the former person as joint tenants and not as tenants in common.

liability (法律責任) means—

- (a) civil liability;
- (b) criminal liability; or
- (c) liability for professional misconduct;

life-sustaining treatment (維持生命治療) means any medical treatment that is necessary to keep a person alive, but does not include basic care and palliative care;

Note—

An example of a life-sustaining treatment for a person in a persistent vegetative state is artificial nutrition and hydration.

listed Chinese medicine practitioner (表列中醫) has the meaning given by section 2(1) of the Chinese Medicine Ordinance (Cap. 549);

maker (訂立者), in relation to an advance medical directive, means the person who makes the directive;

mentally capable of deciding on a life-sustaining treatment (有精神能力就維持生命治療作決定)—see section 3;

mentally incapable of deciding on a life-sustaining treatment (無精神能力就維持生命治療作決定)—see section 3;

palliative care (紓緩治療) means any care or support provided to a patient that—

- (a) aims to improve the patient's quality of life through the prevention and relief of the patient's suffering or distress (whether physical, psychological, social or spiritual); and
- (b) is provided by means of timely assessment and relief of the suffering or distress;

person-in-arrest (待援者) means a person who is in cardiopulmonary arrest;

professional misconduct (專業失當行為) means—

- (a) in relation to a registered dentist—unprofessional conduct as defined by section 18(2) of the Dentists Registration Ordinance (Cap. 156);
- (b) in relation to a registered medical practitioner or houseman—misconduct in a professional respect for the purposes of the Medical Registration Ordinance (Cap. 161);
- (c) in relation to a registered nurse or enrolled nurse—unprofessional conduct as defined by section 17(3) of the Nurses Registration Ordinance (Cap. 164);
- (d) in relation to a registered Chinese medicine practitioner—misconduct in a professional respect against which the Chinese Medicine Practitioners Board is empowered under section 98(2)(b) of the Chinese Medicine Ordinance (Cap. 549) to take any of the steps in section 98(3) of that Ordinance; and
- (e) in relation to a listed Chinese medicine practitioner—misconduct in a professional respect against which the Chinese Medicine Practitioners

Board is empowered under section 91(2)(a) of the Chinese Medicine Ordinance (Cap. 549) to remove from the list maintained under section 90 of that Ordinance the name of the practitioner;

registered Chinese medicine practitioner (註冊中醫) has the meaning given by section 2(1) of the Chinese Medicine Ordinance (Cap. 549);

registered dentist (註冊牙醫) has the meaning given by section 2(1) of the Dentists Registration Ordinance (Cap. 156);

registered medical practitioner (註冊醫生) has the meaning given by section 2(1) of the Medical Registration Ordinance (Cap. 161);

registered nurse (註冊護士) has the meaning given by section 2(1) of the Nurses Registration Ordinance (Cap. 164);

rescuer (施救者), in relation to a person-in-arrest, means a person who performs, or is about to perform, CPR on the person-in-arrest;

Secretary (局長) means the Secretary for Health;

sign (簽署)—see section 4;

solicitor (律師) has the meaning given by section 2(1) of the Legal Practitioners Ordinance (Cap. 159);

specified precondition (指明先決條件), in relation to an instruction in an advance medical directive, means the condition precedent that is specified in the directive for following the instruction;

subject person (當事人), in relation to a DNACPR order, means the person for whom the order is made;

treatment provider (醫治者), in relation to a person (*former person*), means a person who provides medical care to the former person, whether or not during the course of his or her work, as—

- (a) a registered dentist;
- (b) a registered medical practitioner or houseman;
- (c) a registered nurse or enrolled nurse; or
- (d) a registered Chinese medicine practitioner or listed Chinese medicine practitioner;

valid (有效)—

- (a) in relation to an instruction in an advance medical directive—see section 13; and
- (b) in relation to a DNACPR order—see section 35;

validating copy (圓效文本), in relation to an advance decision instrument, means—

- (a) the original copy of the instrument;
- (b) a copy of the instrument that is certified as a true copy of the instrument by—
 - (i) a registered medical practitioner; or
 - (ii) a solicitor practising in Hong Kong; or
- (c) if the instrument is an advance medical directive—a clearly legible copy of the directive that—
 - (i) is in the form of an electronic record (as defined by section 2(1) of the Electronic Transactions Ordinance (Cap. 553)); and
 - (ii) is stored in a designated electronic system;

wrongful means (不當手段) means deception, fraud, misrepresentation, harassment, coercion or undue influence.

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- (2) For the purposes of this Ordinance, a DNACPR order is AMD-based if—
 - (a) the order is made for the maker of an advance medical directive on the basis of an instruction in the directive that the maker is not to be subjected to CPR in the event that the maker is mentally incapable of deciding on a life-sustaining treatment and the specified precondition of the instruction is met; and
 - (b) the instruction is valid when the order is made.
 - (3) In this Ordinance, a reference to being in cardiopulmonary arrest includes appearing to be in cardiopulmonary arrest.
 - (4) In this Ordinance—
 - (a) a reference to subjecting a person to a life-sustaining treatment includes continuing to subject the person to the treatment;
 - (b) a reference to not subjecting a person to a life-sustaining treatment is a reference to withholding or withdrawing the treatment from the person;
 - (c) a reference to performing CPR includes continuing to perform CPR; and
 - (d) a reference to not performing CPR is a reference to withholding CPR or ceasing to perform CPR.
 - (5) A note in the text of this Ordinance is for information only and has no legislative effect.

3. **Meaning of *mentally capable of deciding on a life-sustaining treatment and mentally incapable of deciding on a life-sustaining treatment***
- (1) For the purposes of this Ordinance, a person is mentally capable of deciding on a life-sustaining treatment if the person is not mentally incapable of doing so.
 - (2) For the purposes of this Ordinance, a person is mentally incapable of deciding on a life-sustaining treatment if the person is suffering from an impairment of, or a disturbance in the functioning of, the mind or brain and as a result, the person is unable to—
 - (a) understand any information relevant to deciding whether to be subjected to a life-sustaining treatment;
 - (b) retain that information;
 - (c) use or weigh that information in making the decision;
or
 - (d) communicate the decision.
 - (3) For the purposes of subsection (2), it does not matter whether the impairment or disturbance is temporary or permanent.
 - (4) Whether a person is mentally incapable of deciding on a life-sustaining treatment is not to be determined by reference to—
 - (a) the person's age or appearance; or
 - (b) a condition of the person, or an aspect of the person's behaviour, that might lead others to make unjustified assumptions about whether the person is so mentally incapable.

- (5) A person is not to be regarded as unable to act as described in subsection (2)(a), (b), (c) or (d) unless a reasonable effort to help the person to so act has been taken without success.
- (6) For the purposes of subsection (2)(a), a person is not to be regarded as unable to understand the information if the person is able to understand an explanation of it given to the person in a way that is appropriate to the person's circumstances.
- (7) For the purposes of subsection (2)(b), a person's ability to retain the information for a short period only does not prevent the person from being regarded as able to retain the information.
- (8) In this section, a reference to information relevant to deciding whether to be subjected to a life-sustaining treatment includes information about the reasonably foreseeable consequences of being subjected to, or not being subjected to, the treatment.

4. **Meaning of *sign***

In this Ordinance, a reference to a person's signing a document includes, in relation to a person who is unable to write (*signer*)—

- (a) the signer's making, on the document, a mark (whether on his or her own or with assistance rendered by another person at his or her request) that purports to serve as the signer's signature; and
 - (b) the signer's impressing his or her fingerprint on the document (whether on his or her own or with assistance rendered by another person at his or her request).
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Part 2

Advance Medical Directive

Division 1—Making and Revocation of Advance Medical Directive

Subdivision 1—Making of Directive

5. Making of advance medical directive

An advance medical directive is made if all the conditions set out in sections 6, 7(1), 8 and 9(1) are met in relation to it.

6. Condition 1: legal capacity of maker

At the time of making the advance medical directive, the maker of the directive must be—

- (a) an adult; and
- (b) mentally capable of deciding on a life-sustaining treatment.

7. Condition 2: form

- (1) The advance medical directive must be made in writing and all instructions in the directive must be presented in a clear way.
- (2) The condition under subsection (1) is presumed, until the contrary is proved, to have been met if Form 1 or 2 (as appropriate) prescribed in Schedule 1 is adopted.

Notes—

1. An advance medical directive must not be made in electronic form—see section 14 of Schedule 1 to the Electronic Transactions Ordinance (Cap. 553).

2. See also section 55, which makes supplementary provisions for subsection (2).

8. Condition 3: signature etc.

The maker of the advance medical directive must sign the directive and must insert in it the date of signing.

9. Condition 4: witnesses

- (1) Subject to subsections (2) and (3), the maker of the advance medical directive must sign the directive in the presence of not less than 2 witnesses.
- (2) For the purposes of subsection (1), a person must not be counted as a witness unless the person—
 - (a) is an adult;
 - (b) is, to the best of his or her knowledge, not an interested person of the maker;
 - (c) declares in the directive that he or she meets the requirements under paragraphs (a) and (b);
 - (d) signs the directive to signify that he or she witnessed that the maker signed the directive; and
 - (e) inserts in the directive the date of his or her signing.
- (3) Without affecting subsection (2), one of the witnesses must be a registered medical practitioner who—
 - (a) before the maker signs the directive, has explained to the maker—
 - (i) the nature of the directive; and
 - (ii) in relation to each of the instructions in the directive—the effect of following it on the maker;

- (b) is satisfied that the maker is mentally capable of deciding on a life-sustaining treatment at the time when the maker signs the directive; and
- (c) declares in the directive that he or she meets the requirements under paragraphs (a) and (b).

Subdivision 2—Revocation of Directive

10. Revocation of advance medical directive

- (1) An advance medical directive is revoked by its maker if any of the following acts takes place and the maker is mentally capable of deciding on a life-sustaining treatment at that time—
 - (a) the maker revokes the directive in writing;
 - (b) the maker, or an adult in the maker's presence and by the maker's direction—
 - (i) burns, tears or otherwise destroys the directive; or
 - (ii) crosses out the content of, and signs, each page of the directive;
 - (c) in the presence of one or more witnesses who are adults, the maker—
 - (i) revokes the directive verbally; or
 - (ii) by any means other than written or verbal communication, expresses his or her intention to revoke the directive;
 - (d) the maker makes another advance medical directive.

- (2) For the purposes of subsection (1), until the contrary is proved, the maker is presumed to be mentally capable of deciding on a life-sustaining treatment at the time when any of the acts described in paragraph (a), (b) or (c) of that subsection takes place.

Note—

See also section 55, which makes supplementary provisions for this subsection.

Division 2—Operation of Instructions in Advance Medical Directive

Subdivision 1—Certain Instructions of No Effect

11. Certain instructions of no effect

An instruction in an advance medical directive is of no effect if it instructs, or purports to instruct, that the maker of the directive—

- (a) is not to be provided with basic care or palliative care;
- (b) is to be administered with a substance to end his or her life; or
- (c) is to be prescribed or provided with a substance to enable the maker to end his or her life by self-administering the substance.

Note—

The acts described in paragraphs (b) and (c) are commonly known as “medical assistance in dying”.

Subdivision 2—Validity and Applicability of Instruction**12. Rights etc. relating to life-sustaining treatment subject to valid and applicable instruction**

The rights, duties, obligations and liabilities relating to subjecting, or not subjecting, the maker of an advance medical directive to any life-sustaining treatment are subject to a valid and applicable instruction in the directive.

13. Validity of instruction

- (1) An instruction in an advance medical directive is valid for the purposes of this Ordinance unless any of the circumstances specified in subsection (2) exists.
- (2) The circumstances are—
 - (a) none of the treatment providers of the maker of the directive has notice of the directive as described in section 16 during the current episode of care of the maker;
 - (b) any of the conditions mentioned in section 5 is not met in relation to the directive;
 - (c) the making of the directive was procured by wrongful means;
 - (d) the directive has been revoked; and
 - (e) the maker has done anything, other than revocation of the directive, that—
 - (i) is clearly inconsistent with the instruction; and
 - (ii) indicates that the maker no longer wants the instruction to be followed.

14. Applicability of instruction

- (1) Subject to subsection (2), an instruction in an advance medical directive is applicable for the purposes of this Ordinance if—
 - (a) the maker of the directive is mentally incapable of deciding on a life-sustaining treatment; and
 - (b) the specified precondition of the instruction is met.
- (2) An instruction in an advance medical directive is not applicable if there are reasonable grounds for believing that—
 - (a) there arises any circumstance that the maker of the directive did not anticipate when he or she made the directive; and
 - (b) had the maker anticipated the circumstance at that time, it would be likely that—
 - (i) the maker would not have made the directive; or
 - (ii) the maker would not have included the instruction in the directive in the relevant terms or at all.

Note—

A valid instruction in an advance medical directive may be not applicable if the conditions under subsection (1) are met in relation to the instruction as a result of the maker of the directive suffering from a major injury caused by a traffic accident but the instruction is made for the maker's terminal cancer condition.

Subdivision 3—Notice of Advance Medical Directive

15. Interpretation of Subdivision 3 of Division 2 of Part 2

In this Subdivision, a reference to a validating copy of an advance medical directive includes, in the case of an advance medical directive that is made in neither Chinese nor English, a certified translation of the directive.

Note—

For certified translation of an advance medical directive—see section 56.

16. When does treatment provider have notice of advance medical directive

- (1) Subject to subsection (2), for the purposes of this Ordinance, a treatment provider of the maker of an advance medical directive has notice of the directive when the treatment provider sees a validating copy of the directive.
- (2) For the purposes of this Ordinance, a treatment provider of the maker of an advance medical directive is taken to have notice of the directive if—
 - (a) the treatment provider is informed that a copy of the directive is or may be stored in a designated electronic system; and
 - (b) a validating copy of the directive is stored in the system and is accessible to the treatment provider.
- (3) To avoid doubt, for the purposes of this Ordinance, a treatment provider of the maker of an advance medical directive does not have notice of the directive only because a validating copy of the directive is stored in a designated electronic system and is accessible to the treatment provider.

17. No requirement to search for validating copy of advance medical directive

- (1) For the purposes of this Ordinance, a treatment provider of the maker of an advance medical directive is not required to search the maker or the items that are carried by, or appear to be carried by, the maker to ascertain whether the maker carries a validating copy of the directive.
- (2) For the purposes of this Ordinance, a treatment provider of the maker of an advance medical directive is not required to search a designated electronic system to ascertain whether a validating copy of the directive is stored in the system.

Subdivision 4—Declaration by Court of First Instance

18. Application to Court of First Instance for declaration

- (1) The Court may, on application, make a declaration for determining—
 - (a) whether a purported advance medical directive purported to be made by a person is an advance medical directive made by the person; or
 - (b) whether an instruction in an advance medical directive is—
 - (i) valid;
 - (ii) applicable; or
 - (iii) valid and applicable.
- (2) An application under subsection (1) must be made *inter partes*.
- (3) No leave is required for an application under subsection (1) if the application is made by—

-
- (a) a treatment provider of the affected person of the application;
 - (b) a person who has a contractual arrangement with a treatment provider of the affected person under which the treatment provider is obliged to provide medical care to the affected person;
 - (c) an immediate family member of the affected person;
or
 - (d) a person who is not an immediate family member of the affected person but is, under subsection (4), eligible to act.
- (4) A person (*relevant person*) is eligible to act for the purposes of subsection (3)(d) if—
- (a) he or she is an adult; and
 - (b) the practitioner-in-charge of the affected person, having considered the factors set out in subsection (6), reasonably determines that he or she is of sufficiently close connection with the affected person to be concerned with the well-being of the affected person.
- (5) In deciding whether to grant leave to a person (*applicant for leave*) for an application under subsection (1), the Court must consider the factors set out in subsection (6).
- (6) For the purposes of subsections (4)(b) and (5), the factors are—
- (a) the relationship between the relevant person or the applicant for leave (as applicable) (*assessed person*) and the affected person;
 - (b) the frequency of contact between the assessed person and the affected person;

- (c) the level of perceived closeness between the assessed person and the affected person;
 - (d) the degree of perceived importance of the assessed person to the affected person;
 - (e) the views of the affected person concerning the assessed person; and
 - (f) any other factor relevant in the affected person's circumstances.
- (7) If a declaration has been made under subsection (1) in respect of a matter, no person may make another application under that subsection in respect of that matter.
- (8) Subsection (7) does not apply if the Court is satisfied that—
- (a) there has been a material change of circumstances since the declaration; or
 - (b) the evidence on the basis of which the Court made the declaration was incomplete, false or misleading in a material particular.
- (9) In the circumstances specified in subsection (8), the Court may rescind the declaration mentioned in subsection (7) and substitute it with another declaration.
- (10) In this section—
- affected person*** (受影響者), in relation to an application under subsection (1) relating to an advance medical directive made by, or a purported advance medical directive purported to be made by, a person, means the person;
- Court*** means the Court of First Instance;
- practitioner-in-charge*** (主診者), in relation to an affected person, means a person who is in immediate charge of the medical care of the affected person during the course of his or her work as—

- (a) a registered dentist;
- (b) a registered medical practitioner; or
- (c) a registered Chinese medicine practitioner or listed Chinese medicine practitioner.

Division 3—Protection

19. Protection of treatment providers

- (1) This section applies to a treatment provider of a person, irrespective of whether the treatment provider is a public officer.
- (2) If there is any of the circumstances specified in subsection (4), the treatment provider does not incur any liability for subjecting the person to a life-sustaining treatment.
- (3) However, subsection (2) does not affect any liability arising from a breach of duty to exercise care during the course of the life-sustaining treatment.
- (4) For the purposes of subsection (2), the circumstances are—
 - (a) the person has made an advance medical directive but the treatment provider does not know of the existence of the directive; and
 - (b) the treatment provider is not satisfied that—
 - (i) the treatment is specified in an instruction of an advance medical directive made by the person; or
 - (ii) the instruction is valid and applicable.
- (5) The treatment provider does not incur any liability for not subjecting the person to a life-sustaining treatment if the treatment provider honestly and reasonably believes that—

- (a) the treatment is specified in an instruction of an advance medical directive made by the person; and
- (b) the instruction is valid and applicable.

20. Certain civil liabilities not affected by section 19

If—

- (a) but for the operation of subsection (2) or (5) of section 19, a treatment provider would have incurred civil liability for subjecting, or not subjecting, a person (*Person A*) to a life-sustaining treatment; and
- (b) a third person would have been civilly liable for the treatment provider's subjecting or not subjecting Person A to the life-sustaining treatment,

that subsection does not affect that liability of the third person.

21. Supplementary provisions: burden and standard of proof in proceedings

- (1) A person who seeks to rely on section 19(2) in any criminal proceedings has the burden of establishing that there was any of the circumstances mentioned in that section.
- (2) A person who seeks to rely on section 19(5) in any criminal proceedings has the burden of establishing that he or she held the honest and reasonable belief required by that section.
- (3) For the purposes of subsections (1) and (2), the person is taken to have established the matter described in subsection (1) or (2) (as the case requires) if—
 - (a) there is sufficient evidence to raise an issue with respect to the matter; and

- (b) the contrary is not proved by the prosecution beyond reasonable doubt.
 - (4) A person who seeks to rely on section 19(2) in any legal proceedings other than criminal proceedings has the burden of proving that there was any of the circumstances mentioned in that section.
 - (5) A person who seeks to rely on section 19(5) in any legal proceedings other than criminal proceedings has the burden of proving that he or she held the honest and reasonable belief required by that section.
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Part 3

DNACPR Order

Division 1—Preliminary

22. Interpretation of Part 3

In this Part—

effective period (效力期), in relation to a DNACPR order—see section 33;

prescribed form (訂明表格)—see section 27;

responsible person (責任人)—

- (a) in relation to a minor, means—
 - (i) a parent (whether natural parent, adoptive parent or step-parent) of the minor; or
 - (ii) a person who is assuming guardianship over the minor under the Guardianship of Minors Ordinance (Cap. 13); and
- (b) in relation to an adult who is mentally incapable of deciding on a life-sustaining treatment, means the following person—
 - (i) an immediate family member of the adult; or
 - (ii) if a person is a guardian of the adult for the purposes of Part IIIA or IVB of the Mental Health Ordinance (Cap. 136)—the person; but
- (c) does not include the Director of Social Welfare and any Assistant Director of Social Welfare;

specialist (專科醫生) means a registered medical practitioner whose name is included in the Specialist Register as defined by section 2(1) of the Medical Registration Ordinance (Cap. 161);

underlying AMD (基礎預設指示), in relation to a DNACPR order that is AMD-based, means the advance medical directive that contains the underlying instruction for the order;

underlying instruction (基礎指令) means an instruction in an advance medical directive—

- (a) that, if the maker of the directive is mentally incapable of deciding on a life-sustaining treatment and the specified precondition of the instruction is met, the maker is not to be subjected to CPR; and
- (b) on the basis of which a DNACPR order is made.

Division 2—Making and Revocation of DNACPR Order

Subdivision 1—Making of Order

23. Interpretation of Subdivision 1 of Division 2 of Part 3

In this Subdivision—

subject patient (對象病人), in relation to a DNACPR order, means the person for whom the order is to be made.

24. Who may make DNACPR order

A DNACPR order may only be made by 2 registered medical practitioners.

25. Types of DNACPR orders that may be made

The types of DNACPR orders that may be made are—

- (a) a DNACPR order that is AMD-based;
- (b) a DNACPR order that is not AMD-based and is made for an adult who is mentally incapable of deciding on a life-sustaining treatment; and
- (c) a DNACPR order that is not AMD-based and is made for a minor.

26. Making of DNACPR order

A DNACPR order is made if all the conditions set out in sections 27, 28(1), 29(1) and (2) and 30 are met in relation to it.

27. Condition 1: form

The DNACPR order must be in a prescribed form, which means—

- (a) for an order described in section 25(a)—Form 1 prescribed in Schedule 2;
- (b) for an order described in section 25(b)—Form 2 prescribed in Schedule 2; and
- (c) for an order described in section 25(c)—Form 3 prescribed in Schedule 2.

28. Condition 2: form to be properly completed

- (1) The prescribed form must be properly completed.
- (2) For the purposes of subsection (1), the form is properly completed if the form as completed accurately reflects—
 - (a) the personal particulars of the subject patient of the DNACPR order;

- (b) the personal particulars of the persons who sign the form;
- (c) the joint diagnosis and prognosis of the subject patient made by 2 registered medical practitioners;
- (d) the joint decision of the registered medical practitioners to make a DNACPR order for the subject patient; and
- (e) the joint decision of the registered medical practitioners on the effective period of the order.

Note—

A DNACPR order is not to be made in electronic form—see section 14 of Schedule 1 to the Electronic Transactions Ordinance (Cap. 553).

29. Condition 3: signature etc.

- (1) Both of the registered medical practitioners mentioned in section 28(2)(c) must sign the prescribed form and insert in it the dates of their respective signing.
- (2) If the DNACPR order to be made is an order described in section 25(b) or (c), a person who is, under subsection (3), eligible to act—
 - (a) must sign the form to signify his or her agreement that performing CPR on the subject patient of the order when the subject patient is in cardiopulmonary arrest would not be in the subject patient's best interests; and
 - (b) must insert in the form the date of his or her signing.
- (3) A person is eligible to act for the purposes of subsection (2) if—
 - (a) the person is an adult;
 - (b) any of the following applies—

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- (i) the person is a responsible person of the subject patient;
 - (ii) if it is impracticable to secure any responsible person of the subject patient to act—at least one of the registered medical practitioners mentioned in subsection (1), having considered the factors set out in subsection (4), reasonably determines that the person is in a good position to form a view as to whether performing CPR on the subject patient when the subject patient is in cardiopulmonary arrest would be in the subject patient’s best interests; and
 - (c) the person—
 - (i) has been advised by at least one of the registered medical practitioners mentioned in subsection (1) that performing CPR on the subject patient when the subject patient is in cardiopulmonary arrest would not be in the subject patient’s best interests; and
 - (ii) agrees with the advice.
 - (4) For the purposes of subsection (3)(b)(ii), the factors are—
 - (a) the relationship between the person and the subject patient;
 - (b) the frequency of contact between the person and the subject patient;
 - (c) the level of perceived closeness between the person and the subject patient;
 - (d) the degree of perceived importance of the person to the subject patient;

- (e) if the subject patient is an adult who is mentally incapable of deciding on a life-sustaining treatment—the views of the adult as to whether the person would act in his or her best interests that were expressed before he or she became so mentally incapable;
- (f) if the subject patient is a minor determined by the registered medical practitioner to be of considerable mental maturity to determine whether the person would act in the minor's best interests—the views of the minor; and
- (g) any other factor relevant in the subject patient's circumstances.

30. Condition 4: requirements for signing registered medical practitioners

- (1) At least one of the registered medical practitioners who signs the prescribed form (*signing RMP*) must be a specialist.
- (2) Each of the signing RMPs—
 - (a) must ensure, to the best of his or her knowledge, that he or she is not an interested person of the subject patient of the DNACPR order; and
 - (b) must declare in the form that he or she meets the requirement under paragraph (a).

Subdivision 2—Revocation of Order

31. Revocation of DNACPR order

- (1) A DNACPR order is revoked if it is revoked in accordance with section 32(1).

- (2) A DNACPR order that is AMD-based is revoked—
 - (a) when the underlying AMD of the order is revoked in accordance with section 10; or
 - (b) when the order is revoked in accordance with section 32(2).
- (3) A DNACPR order made for a person who is under the age of 18 years is revoked when the person reaches that age.
- (4) A DNACPR order made for an adult who is mentally incapable of deciding on a life-sustaining treatment is revoked when the adult ceases to be so mentally incapable.
- (5) If—
 - (a) a DNACPR order (*original order*) has been made for a person; and
 - (b) another DNACPR order is made for the person, the original order is revoked.

32. How to revoke DNACPR order

- (1) A DNACPR order is revoked if—
 - (a) the content of each page of the order is crossed out; and
 - (b) the following persons sign each page of the order—
 - (i) one registered medical practitioner who is a specialist; and
 - (ii) another registered medical practitioner, whether a specialist or not.
- (2) A DNACPR order that is AMD-based is revoked if any of the following acts takes place and its subject person is mentally capable of deciding on a life-sustaining treatment at that time—

- (a) the subject person expresses in writing his or her wish that the order is not to be complied with;
 - (b) the subject person, or an adult in the subject person's presence and by the subject person's direction—
 - (i) burns, tears or otherwise destroys the order; or
 - (ii) crosses out the content of, and signs, each page of the order;
 - (c) in the presence of one or more witnesses who are adults, the subject person expresses his or her wish that the order is not to be complied with—
 - (i) verbally; or
 - (ii) by any means other than written or verbal communication.
- (3) For the purposes of subsection (2), until the contrary is proved, the subject person is presumed to be mentally capable of deciding on a life-sustaining treatment at the time when any of the acts described in paragraph (a), (b) or (c) of that subsection takes place.

Note—

See also section 55, which makes supplementary provisions for this subsection.

Division 3—Operation of DNACPR Order

Subdivision 1—Effective Period of Order

33. Effective period of DNACPR order

- (1) The effective period of a DNACPR order—
 - (a) begins on the date on which it is made; and
 - (b) ends—

- (i) when it is revoked under section 31; or
 - (ii) if it is not so revoked—on the expiry of the date specified in the order (whether the date was specified when it was made or specified subsequently under subsection (2)) as the date on which it ceases to have effect (*expiry date*).
- (2) During the effective period of a DNACPR order, a registered medical practitioner who is, to the best of his or her knowledge, not an interested person of the subject person of the order may, having reviewed the current circumstances of the subject person and considered all other relevant factors, extend the effective period of the order by—
 - (a) specifying a date that falls after the expiry date of the order (*original expiry date*) as the new expiry date in—
 - (i) Part 4 of the order; or
 - (ii) (if appropriate) an appropriate part of a continuation sheet for the order in the form of—
 - (A) for a DNACPR order described in section 25(a) or (b)—Form 4 prescribed in Schedule 2; and
 - (B) for a DNACPR order described in section 25(c)—Form 5 prescribed in Schedule 2; and
 - (b) signing, and inserting the date of signing and his or her personal particulars, in Part 4 of the order or the appropriate part of the continuation sheet (as the case may be).

- (3) The registered medical practitioner mentioned in subsection (2) must declare in the DNACPR order or the continuation sheet (as applicable) that, to the best of his or her knowledge, he or she is not an interested person of the subject person of the order.
- (4) A continuation sheet in the form described in subsection (2)(a)(ii)(A) or (B) forms part of a DNACPR order if—
 - (a) the details of the order are inserted in the continuation sheet;
 - (b) the acts described in subsections (2)(a) and (b) are completed in an appropriate part of the continuation sheet; and
 - (c) the continuation sheet is attached to the order.
- (5) For a DNACPR order made for a person who is under the age of 18 years, any expiry date of the order must fall before the person's 18th birthday.

Subdivision 2—Validity and Applicability of Order

34. Rights etc. relating to CPR subject to terms of valid and applicable DNACPR order

If a DNACPR order is valid and applicable, the rights, duties, obligations and liabilities relating to performing, or not performing, CPR on the subject person of the order are subject to the terms of the order.

35. Validity of DNACPR order

- (1) A DNACPR order is valid for the purposes of this Ordinance unless any of the circumstances specified in subsection (2) exists.
- (2) The circumstances are—

- (a) none of the treatment providers or rescuers of the subject person of the order has notice of the order as described in section 37 during the current episode of care of the subject person;
- (b) any of the conditions mentioned in section 26 is not met in relation to the order;
- (c) the making of the order was procured by wrongful means;
- (d) the effective period of the order has ended; and
- (e) for an order that is AMD-based—
 - (i) its underlying AMD has been revoked by the subject person; or
 - (ii) the subject person has done anything, other than revocation of the underlying AMD, that—
 - (A) is clearly inconsistent with the underlying instruction for the order; and
 - (B) indicates that the subject person no longer wants the instruction to be followed.

36. Applicability of DNACPR order

- (1) Subject to subsections (2), (3) and (4), a DNACPR order is applicable for the purposes of this Ordinance unless there are reasonable grounds for believing that—
 - (a) there arises any circumstance that the signing RMP of the order did not anticipate when he or she made the order or extended its effective period (as applicable); and
 - (b) had the signing RMP anticipated the circumstance at that time, it would be likely that he or she would not have made the order or extended the effective period (as the case may be).

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- (2) A DNACPR order is not applicable if the attending RMP of the subject person of the order—
 - (a) makes, or has made, a diagnosis or prognosis of the subject person that is different from the diagnosis or prognosis (as the case may be) of the subject person made by the signing RMP of the order; and
 - (b) reasonably considers that it would be likely that the signing RMP would not have made the order or extended its effective period (as applicable) had the signing RMP made the same diagnosis or prognosis as the attending RMP at the time of the making or the extension (as the case may be).
 - (3) A DNACPR order that is AMD-based is not applicable if there are reasonable grounds for believing that—
 - (a) there arises any circumstance that the subject person of the order did not anticipate when he or she made the underlying AMD of the order; and
 - (b) had the subject person anticipated the circumstance at that time, it would be likely that—
 - (i) the subject person would not have made the underlying AMD; or
 - (ii) the subject person would not have included the underlying instruction in the underlying AMD in the relevant terms or at all.
 - (4) A DNACPR order that is not AMD-based is not applicable if the attending RMP of the subject person of the order reasonably considers that—
 - (a) there is any exceptional circumstance that warrants disregarding the order; and
 - (b) disregarding the order is in the subject person's best interests.

(5) In this section—

attending RMP (診症醫生), in relation to the subject person of a DNACPR order, means a person who is in immediate charge of the medical care of the subject person as a registered medical practitioner;

signing RMP (簽發醫生) in relation to a DNACPR order, means—

- (a) if its effective period has not been extended under section 33(2) before—any of the registered medical practitioners who made the order; and
- (b) if its effective period has been extended under section 33(2)—the registered medical practitioner who last extended the effective period.

Subdivision 3—Notice of Order

37. When does a person have notice of DNACPR order

For the purposes of this Ordinance, a person has notice of a DNACPR order when the person sees a validating copy of the order.

38. No requirement to search for validating copy of DNACPR order

For the purposes of this Ordinance, a person is not required to search the subject person of a DNACPR order or the items that are carried by, or appear to be carried by, the subject person to ascertain whether the subject person carries a validating copy of the order.

Division 4—Protection

39. Interpretation of Division 4 of Part 3

In this Division—

medical carer (施治者), in relation to a person-in-arrest, means—

- (a) a treatment provider of the person-in-arrest; or
- (b) a rescuer of the person-in-arrest.

40. Protection of medical carers

- (1) This section applies to a medical carer of a person-in-arrest, irrespective of whether the medical carer is a public officer.
- (2) If there is any of the circumstances specified in subsection (4), the medical carer does not incur any liability for performing CPR on the person-in-arrest.
- (3) However, subsection (2) does not affect any liability arising from a breach of duty to exercise care during the course of performing CPR.
- (4) For the purposes of subsection (2), the circumstances are—
 - (a) a DNACPR order has been made for the person-in-arrest but the medical carer does not—
 - (i) know of the existence of the order; or
 - (ii) know what a DNACPR order is;
 - (b) the medical carer is not satisfied that—
 - (i) a DNACPR order has been made for the person-in-arrest; or
 - (ii) the order is valid and applicable; and
 - (c) any of the conditions specified in subsection (7) is not met.
- (5) If there is any of the circumstances specified in subsection (6), the medical carer does not incur any liability for not performing CPR on the person-in-arrest.

- (6) The circumstances are—
 - (a) the medical carer honestly and reasonably believes that—
 - (i) a DNACPR order has been made for the person-in-arrest; and
 - (ii) the order is valid and applicable; and
 - (b) all the conditions specified in subsection (7) are met.
- (7) The conditions specified for subsections (4)(c) and (6)(b) are—
 - (a) the medical carer is reasonably satisfied that a medical carer of the person-in-arrest has, during the current episode of care of the person-in-arrest, seen a document that appears—
 - (i) to be a validating copy of a DNACPR order made for the person-in-arrest;
 - (ii) to show that the order is in a prescribed form and has been duly completed, signed and dated; and
 - (iii) to show that the latest date specified in the order as the date on which the effective period of the order ends has not passed;
 - (b) none of the following circumstances comes to the attention of the medical carer—
 - (i) the making of the DNACPR order for the person-in-arrest was or may have been procured by wrongful means;
 - (ii) the order is or may have been revoked under section 31;

- (iii) if the order is AMD-based—
 - (A) the underlying AMD of the order has been or may have been revoked by the person-in-arrest; or
 - (B) the person-in-arrest has done or may have done anything, other than revocation of the underlying AMD, that—
 - (I) is clearly inconsistent with the underlying instruction for the order; and
 - (II) indicates that the person-in-arrest no longer wants the instruction to be followed; and
- (c) the medical carer determines that there is no reason to suspect that the cardiopulmonary arrest the person-in-arrest is in arises from—
 - (i) an unnatural cause; or
 - (ii) an injury that is self-inflicted or inflicted by another person.

41. Protection of console operators at Fire Services Communications Centre

- (1) Subsection (2) applies if a console operator learns during his or her communication with a caller that the caller is or may be able to see a copy of a DNACPR order made for a person-in-arrest.
- (2) The console operator does not incur any liability for any reasonable response given by him or her in good faith to the caller in relation to—
 - (a) the DNACPR order; or
 - (b) whether to perform CPR on the person-in-arrest.

(3) In this section—

caller (求助者) means a person who is seeking assistance from the Centre by means of real time communications;

Centre (中心) means the Fire Services Communications Centre of the Fire Services Department;

console operator (控制台操作員) means an officer of the Fire Services Department who is acting as a console operator at the Centre.

42. Certain civil liabilities not affected by sections 40 and 41

(1) If—

- (a) but for the operation of subsection (2) or (5) of section 40, a medical carer would have incurred civil liability for performing, or not performing, CPR on a person-in-arrest; and
- (b) a third person would have been civilly liable for the medical carer's performing or not performing CPR on the person-in-arrest,

that subsection does not affect that liability of the third person.

(2) Section 41(2) does not affect the civil liability of the Government for the response described in that section.

43. Supplementary provisions: burden and standard of proof in proceedings

(1) A person who seeks to rely on subsection (2) or (5) of section 40 in any criminal proceedings has the burden of establishing that there was any of the circumstances mentioned in that subsection.

- (2) A person who seeks to rely on section 41(2) in any criminal proceedings has the burden of establishing that the response given by him or her was reasonable and was given in good faith.
 - (3) For the purposes of subsections (1) and (2), the person is taken to have established the matter described in subsection (1) or (2) (as the case requires) if—
 - (a) there is sufficient evidence to raise an issue with respect to the matter; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.
 - (4) A person who seeks to rely on subsection (2) or (5) of section 40 in any legal proceedings other than criminal proceedings has the burden of proving that there was any of the circumstances mentioned in that subsection.
 - (5) A person who seeks to rely on section 41(2) in any legal proceedings other than criminal proceedings has the burden of proving that the response given by him or her was reasonable and was given in good faith.
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Part 4

Offences

Division 1—Preliminary

44. Interpretation of Part 4

(1) In this Part—

benefit (利益)—

- (a) means any financial or proprietary gain, whether temporary or permanent; and
- (b) includes such a gain by keeping what one has, as well as such a gain by getting what one has not;

damage (損毀), in relation to a thing, includes deface, mutilate, obliterate and destroy the thing;

instruction (指令) means an instruction in an advance medical directive (or a purported advance medical directive) that a person is not to be subjected to any life-sustaining treatment specified in the instruction;

specified instrument (指明文書) means—

- (a) an advance medical directive; or
 - (b) a DNACPR order that is AMD-based.
- (2) For the purposes of this Part, an individual is covered by a specified instrument if the individual is—
- (a) if the instrument is an advance medical directive—the maker of the directive; or
 - (b) if the instrument is a DNACPR order that is AMD-based—the subject person of the order.

Division 2—Offences

Subdivision 1—Obstruction

- 45. Offence to obstruct following of instruction in advance medical directive**
- (1) A person (*Person A*) commits an offence if—
 - (a) Person A is aware that another person (*Person B*) has made an advance medical directive;
 - (b) an instruction in the directive is valid and applicable; and
 - (c) Person A wilfully obstructs a treatment provider of Person B in following the instruction.
 - (2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 5 and to imprisonment for 6 months.
 - (3) It is a defence for a person charged with an offence under subsection (1) to establish that the person honestly and reasonably believed that the instruction was not valid or not applicable.
 - (4) A person is taken to have established a matter that needs to be established for the defence if—
 - (a) there is sufficient evidence to raise an issue with respect to the matter; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.

Subdivision 2—Damaging Documents relating to Specified Instrument

46. Offence of damaging validating copy of specified instrument

- (1) A person commits an offence if the person—
 - (a) damages a validating copy of a specified instrument without the consent of the individual who is covered by the instrument; and
 - (b) knows that, or is reckless as to whether, the document the person damages is a validating copy of the instrument.
- (2) A person commits an offence if the person—
 - (a) damages a validating copy of a specified instrument without the consent of the individual who is covered by the instrument;
 - (b) knows that the document the person damages is a validating copy of the instrument; and
 - (c) damages the validating copy with intent to—
 - (i) prolong the suffering of the individual who is covered by the instrument; or
 - (ii) obtain any benefit for himself or herself or another person.
- (3) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 5 and to imprisonment for 6 months.
- (4) A person who commits an offence under subsection (2) is liable on conviction to imprisonment for 3 years.

47. Offence of damaging record of revocation of specified instrument

- (1) A person commits an offence if the person—

- (a) damages a record of revocation of a specified instrument without the consent of the individual who is covered by the instrument; and
 - (b) knows that, or is reckless as to whether, the document the person damages is a record of revocation of the instrument.
- (2) A person commits an offence if the person—
- (a) damages a record of revocation of a specified instrument without the consent of the individual who is covered by the instrument;
 - (b) knows that the document the person damages is a record of revocation of the instrument; and
 - (c) damages the record with intent to—
 - (i) jeopardize the health of the individual who is covered by the instrument; or
 - (ii) obtain any benefit for himself or herself or another person.
- (3) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for 10 years.
- (4) A person who commits an offence under subsection (2) is liable on conviction on indictment to imprisonment for 14 years.

48. Defence for offences under sections 46(1) and 47(1)

- (1) It is a defence for a person charged with an offence under section 46(1) or 47(1) to establish that if, at the time of the damage, the person honestly and reasonably believed that the validating copy of the specified instrument or the record of revocation of the specified instrument (as

applicable) was not needed for any purpose relating to the operation of this Ordinance.

- (2) A person is taken to have established a matter that needs to be established for the defence if—
 - (a) there is sufficient evidence to raise an issue with respect to the matter; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.

Subdivision 3—False or Misleading Representation

49. How representation may be made

To avoid doubt, for the purposes of this Subdivision, a person may make a representation directly or by implication from the person's conduct.

50. Offence of making false or misleading representation to prevent compliance with advance decision instrument

- (1) A person commits an offence if the person—
 - (a) makes to another person a false or misleading representation;
 - (b) knows that, or is reckless as to whether, the representation is false or misleading; and
 - (c) makes the representation with intent to prevent the following of an instruction in an advance medical directive made by a third person or the compliance with a DNACPR order made for a third person.
- (2) A person commits an offence if the person—
 - (a) makes to another person a false or misleading representation;

- (b) knows that, or is reckless as to whether, the representation is false or misleading; and
 - (c) makes the representation—
 - (i) with intent to prevent the following of an instruction in an advance medical directive made by a third person or the compliance with a DNACPR order made for a third person; and
 - (ii) with intent to—
 - (A) prolong the suffering of the third person; or
 - (B) obtain any benefit for himself or herself or another person.
- (3) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 5 and to imprisonment for 6 months.
- (4) A person who commits an offence under subsection (2) is liable on conviction to imprisonment for 3 years.

51. Offence of making false or misleading representation to procure compliance with advance decision instrument etc.

- (1) A person commits an offence if the person—
- (a) makes to another person a false or misleading representation;
 - (b) knows that, or is reckless as to whether, the representation is false or misleading; and
 - (c) makes the representation with intent to procure the following of an instruction in an advance medical directive made by a third person or the compliance with a DNACPR order made for a third person.

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- (2) A person commits an offence if the person—
- (a) makes to another person a false or misleading representation;
 - (b) knows that, or is reckless as to whether, the representation is false or misleading; and
 - (c) makes the representation—
 - (i) with intent to procure the following of an instruction in an advance medical directive made by a third person or the compliance with a DNACPR order made for a third person; and
 - (ii) with intent to—
 - (A) jeopardize the health of the third person; or
 - (B) obtain any benefit for himself or herself or another person.
- (3) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for 10 years.
- (4) A person who commits an offence under subsection (2) is liable on conviction on indictment to imprisonment for 14 years.
- (5) In this section—
- (a) a reference to an advance medical directive made by a person includes a purported advance medical directive purported to be made by the person; and
 - (b) a reference to a DNACPR order made for a person includes a purported DNACPR order purported to be made for the person.
-

Part 5

Miscellaneous Provisions

- 52. Ordinance does not authorize act that causes or accelerates death**
- (1) Nothing in this Ordinance authorizes an act that causes or accelerates death.
 - (2) For the purposes of subsection (1), an act that permits the dying process to take its natural course is not an act that causes or accelerates death.
- 53. Insurance policies not affected by advance decision instrument**
- (1) The making of an advance decision instrument does not affect the sale, procurement or issuance of an insurance policy or any of the terms of the policy.
 - (2) An insurance policy is not avoided, invalidated or otherwise affected by not subjecting the insured person to any life-sustaining treatment pursuant to this Ordinance.
- 54. Pre-existing advance decision instrument**
- (1) A pre-existing directive is treated as an advance medical directive made for the purposes of this Ordinance if all the conditions set out in sections 6, 7(1), 8 and 9(1) were met in relation to it at the time when it was made as if those sections and Schedule 1 were in force at that time.
 - (2) A pre-existing order is treated as a DNACPR order made for the purposes of this Ordinance if all the conditions set out in sections 27, 28(1), 29(1) and (2) and 30 were met in relation to it at the time when it was made as if those sections and Schedule 2 were in force at that time.

(3) In this section—

pre-existing directive (原有指示) means an instrument made before the commencement date of sections 6, 7, 8 and 9 and Schedule 1 that purports to be an advance medical directive;

pre-existing order (原有命令) means an instrument made before the commencement date of sections 27, 28, 29 and 30 and Schedule 2 that purports to be a DNACPR order.

55. Standard of proof by defendant in certain criminal proceedings

- (1) This section applies to any criminal proceedings in which a defendant seeks to prove any of the following matters—
- (a) for the purposes of section 7(2)—the condition under section 7(1) has not been met;
 - (b) for the purposes of section 10(2)—the maker of an advance medical directive is mentally incapable of deciding on a life-sustaining treatment at the time described in that section;
 - (c) for the purposes of section 32(3)—the subject person of a DNACPR order is mentally incapable of deciding on a life-sustaining treatment at the time described in that section.
- (2) In the proceedings, the defendant is taken to have proved a matter specified in subsection (1) if—
- (a) there is sufficient evidence to raise an issue with respect to that matter; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.

56. Certified translation of advance medical directive

- (1) For the purposes of this Ordinance, a Chinese or English translation made in Hong Kong of an advance medical directive that is made in neither Chinese nor English is a certified translation of the directive if—
 - (a) it is certified as a correct translation of the directive by the translator; and
 - (b) a person specified in subsection (3) certifies that in that person's belief the translator is competent in translating the directive into Chinese or English (as the case may be).
- (2) For the purposes of this Ordinance, a Chinese or English translation made in a place outside Hong Kong of an advance medical directive that is made in neither Chinese nor English is a certified translation of the directive if—
 - (a) in the case of a translator specified in subsection (4), it is certified as a correct translation of the directive by the translator; or
 - (b) in the case of any other translator—
 - (i) it is certified as a correct translation of the directive by the translator; and
 - (ii) a person specified in subsection (5) certifies that in that person's belief the translator is competent in translating the directive into Chinese or English (as the case may be).
- (3) The person specified for subsection (1)(b) is—
 - (a) a notary public practising in Hong Kong;
 - (b) a solicitor practising in Hong Kong; or
 - (c) a consular officer in Hong Kong.

-
- (4) The translator specified for subsection (2)(a) is a translator approved by a court of law of the place.
 - (5) The person specified for subsection (2)(b)(ii) is—
 - (a) a notary public practising in the place;
 - (b) a professional legal practitioner practising in the place;
 - (c) an officer of a court of law duly authorized by the law of the place to certify documents for any judicial or other legal purpose; or
 - (d) a consular officer in the place.
 - (6) The Secretary may, by notice published in the Gazette, amend subsection (3), (4) or (5).

57. Designation of electronic system

- (1) The Secretary may, for the purposes of this Ordinance, designate an electronic system.
- (2) The Secretary must, as soon as practicable after making a designation under subsection (1), publish its details in a way that the Secretary considers appropriate.

58. Secretary may amend Schedules

The Secretary may, by notice published in the Gazette, amend Schedule 1 or 2.

Part 6

Related Amendments

Division 1—Enactments Amended

59. Enactments amended

The enactments specified in Divisions 2, 3 and 4 are amended as set out in those Divisions.

Division 2—Amendments to Fire Services Ordinance (Cap. 95)

60. Section 7 amended (duties of Fire Services Department)

(1) Section 7—

Renumber the section as section 7(1).

(2) Section 7(1), English text—

Repeal

“shall be”

Substitute

“are”.

(3) Section 7(1)(d)—

Repeal subparagraph (ii)

Substitute

“(ii) subject to section 34 of the relevant Ordinance, resuscitating the person or sustaining the person’s life;”.

(4) After section 7(1)—

Add

- “(2) The duty specified in subsection (1)(d)(ii) ceases to apply in relation to the performance of CPR on a person mentioned in subsection (1)(d) (*relevant person*) if—
- (a) a DNACPR order has been made for the relevant person, and the order is valid and applicable; or
 - (b) section 40(5) of the relevant Ordinance applies in relation to a member’s attendance to the relevant person.
- (3) In this section—
- applicable* (適用), in relation to a DNACPR order, has the meaning given by section 36 of the relevant Ordinance;
- CPR* (心肺復甦術) has the meaning given by section 2(1) of the relevant Ordinance;
- DNACPR order* (不作心肺復甦術命令) has the meaning given by section 2(1) of the relevant Ordinance;
- relevant Ordinance* (《有關條例》) means the Advance Decision on Life-sustaining Treatment Ordinance (of 2023);
- valid* (有效), in relation to a DNACPR order, has the meaning given by section 35 of the relevant Ordinance.”.

Division 3—Amendment to Mental Health Ordinance (Cap. 136)

61. Section 59ZFA added

After section 59ZF—

Add

“59ZFA. Application of sections 59ZD(1), 59ZE and 59ZF

- (1) Sections 59ZD(1), 59ZE and 59ZF do not apply in relation to—
- (a) any life-sustaining treatment that—
 - (i) is, or is intended to be, carried out in respect of a mentally incapacitated person with AMD; and
 - (ii) is specified in a valid and applicable instruction in the advance medical directive made by the person; and
 - (b) CPR that is, or is intended to be, carried out in respect of a mentally incapacitated person in relation to whom a DNACPR order is valid and applicable.
- (2) In subsection (1)—

advance medical directive (預設醫療指示) has the meaning given by section 2(1) of the relevant Ordinance;

applicable (適用)—

- (a) in relation to an instruction in an advance medical directive, has the meaning given by section 14 of the relevant Ordinance; and
- (b) in relation to a DNACPR order, has the meaning given by section 36 of the relevant Ordinance;

CPR (心肺復甦術) has the meaning given by section 2(1) of the relevant Ordinance;

DNACPR order (不作心肺復甦術命令) has the meaning given by section 2(1) of the relevant Ordinance;

life-sustaining treatment (維持生命治療) has the meaning given by section 2(1) of the relevant Ordinance;

mentally incapacitated person with AMD (具預設指示的精神上無行為能力的人) means a mentally incapacitated person—

- (a) who made an advance medical directive; and
- (b) who was, at the time of making the directive, an adult and mentally capable of deciding on a life-sustaining treatment (within the meaning of section 3 of the relevant Ordinance);

relevant Ordinance (《有關條例》) means the Advance Decision on Life-sustaining Treatment Ordinance (of 2023);

valid (有效)—

- (a) in relation to an instruction in an advance medical directive, has the meaning given by section 13 of the relevant Ordinance; and
- (b) in relation to a DNACPR order, has the meaning given by section 35 of the relevant Ordinance.”.

Division 4—Amendment to Electronic Transactions Ordinance (Cap. 553)

62. **Schedule 1 amended (matters excluded from application of sections 5, 5A, 6, 7, 8 and 17 of this Ordinance under section 3 of this Ordinance)**

Schedule 1, after section 13—

Add

Advance Decision on Life-sustaining Treatment Bill

Part 6—Division 4

Clause 62

C3387

- “14. An advance decision instrument within the meaning of section 2(1) of the Advance Decision on Life-sustaining Treatment Ordinance (of 2023).”
-

Schedule 1

[ss. 7, 54 & 58]

Model Forms of Advance Medical Directive

Form 1

Advance Medical Directive

(Made under the Advance Decision on Life-sustaining Treatment Ordinance)

Part 1: Personal Particulars of Maker

(Please tick the appropriate boxes in this Part.)

Name in English *(Please use capital letters):*

First Name: _____ Family Name: _____

Name in Chinese *(Optional):* _____

Details of Identity Document *(Please choose one):*

Hong Kong Identity Card No.: _____

Passport *(Please state the issuing region and number):* _____

Other Identity Document *(Please state the type, issuing region and number):*

Sex: Male Female

Date of Birth: _____ / _____ / _____
(Day) (Month) (Year)

Home Address: _____

Contact Tel. No.: _____

Part 2: Declarations of Maker

(Please tick the appropriate box in this Part.)

I declare as follows—

1. I have attained 18 years of age.
2. I make this Directive out of my own free will, having had—
 - (a) the nature of this Directive; and
 - (b) in relation to each of the instructions in Part 3—the effect of following it on myself,explained to me by Dr. _____, the First Witness of my signature on this Directive.
3. I—
 - (a) have not made any advance medical directive before; or
 - (b) have made an advance medical directive before, which I now revoke by this Directive.
4. I understand that I can revoke this Directive at any time when I am mentally capable of deciding on a life-sustaining treatment (within the meaning of section 3 of the Advance Decision on Life-sustaining Treatment Ordinance (***Ordinance***)) by completing Part 5 or by any other means prescribed in the Ordinance.
5. I understand that this Directive applies in relation to my medical treatment only when I am mentally incapable of deciding on a life-sustaining treatment (within the meaning of section 3 of the Ordinance).

Part 3: Instructions of Maker

(Please tick the appropriate boxes in this Part.)

(The Maker may give one or more of the following instructions.)

Instruction in the case of Terminal Illness

- If I become terminally ill within the meaning stated in Note 1 in Part 6, my instruction is as follows—**
 - I am not to be subjected to—**
 - cardiopulmonary resuscitation;**
 - others (please state): _____.**

OR

- I am not to be subjected to any form of life-sustaining treatment within the meaning stated in Note 2 in Part 6.**

(Caution to the Maker: Please ensure it is your informed decision not to be subjected to any form of life-sustaining treatment before ticking this box.)

Instruction in the case of falling into Persistent Vegetative State or State of Irreversible Coma

- If I fall into a persistent vegetative state, or a state of irreversible coma, within the meaning stated in Note 3 in Part 6, my instruction is as follows—**
 - I am not to be subjected to—**
 - cardiopulmonary resuscitation;**
 - others (please state): _____.**

OR

- I am not to be subjected to any form of life-sustaining treatment within the meaning stated in Note 2 in Part 6.**

(Caution to the Maker: Please ensure it is your informed decision not to be subjected to any form of life-sustaining treatment before ticking this box.)

Instruction in the case of being in Other End-stage, Irreversible, Life-limiting Condition

If I am in an other end-stage, irreversible, life-limiting condition within the meaning stated in Note 4 in Part 6, namely _____, my instruction is as follows—

I am not to be subjected to—

cardiopulmonary resuscitation;

others (please state): _____.

OR

I am not to be subjected to any form of life-sustaining treatment within the meaning stated in Note 2 in Part 6.

(Caution to the Maker: Please ensure it is your informed decision not to be subjected to any form of life-sustaining treatment before ticking this box.)

I make the declarations in Part 2 and give the instruction or instructions in this Part.

Signature of Maker

_____/_____/_____
(Day) (Month) (Year)
Date of Signing

Part 4: Witnesses

(Please tick the appropriate box in this Part.)

Declarations, Signature and Personal Particulars of First Witness

I declare as follows—

1. I have attained 18 years of age and am a registered medical practitioner.

2. To the best of my knowledge, I am not an interested person (within the meaning stated in Note 5 in Part 6) of the Maker.
3. Before the Maker signed this Directive, I explained to him/her—
 - (a) the nature of this Directive; and
 - (b) in relation to each of the instructions in Part 3—the effect of following it on him/her.
4. I am satisfied that the Maker was mentally capable of deciding on a life-sustaining treatment (within the meaning of section 3 of the Ordinance) at the time when he/she signed this Directive.
5. The Maker signed this Directive in the presence of the Second Witness named below and myself.

Signature of First Witness

_____/_____/_____
(Day) (Month) (Year)

Date of Signing

Name of First Witness *(Please use capital letters):*

First Name: _____ Family Name: _____

Medical Council Registration No.: _____

Correspondence Address: _____

Contact Tel. No.: _____

Declarations, Signature and Personal Particulars of Second Witness

I declare as follows—

1. I have attained 18 years of age.
2. To the best of my knowledge, I am not an interested person (within the meaning stated in Note 5 in Part 6) of the Maker.
3. The Maker signed this Directive in the presence of the First Witness named above and myself.

Signature of Second Witness

_____/_____/_____
(Day) (Month) (Year)
Date of Signing

Name of Second Witness *(Please use capital letters):*

First Name: _____ Family Name: _____

Details of Identity Document *(Please choose one):*

Hong Kong Identity Card No.: _____

Passport *(Please state the issuing region and number):* _____

Other Identity Document *(Please state the type, issuing region and number):*

Correspondence Address: _____

Contact Tel. No.: _____

Part 5: Revocation

I revoke this Directive.

Signature of Maker

_____/_____/_____
(Day) (Month) (Year)
Date of Signing

Part 6: Notes

Note 1

A person is “terminally ill” if—

- (a) he/she suffers from an advanced, progressive and irreversible medical condition;
- (b) he/she fails to respond to any medical treatment for the condition;
- (c) he/she has a short life expectancy in terms of days, weeks or months; and
- (d) the application of any form of life-sustaining treatment within the meaning stated in Note 2 would only serve to postpone his/her death.

Note 2

“Life-sustaining treatment” means any medical treatment that is necessary to keep a person alive, but does not include basic care and palliative care. An example of a life-sustaining treatment for a person in a persistent vegetative state within the meaning stated in Note 3 is the feeding of food and drink to the person through a tube or a catheter (that is to say, artificial nutrition and hydration).

Note 3

A person is in a “persistent vegetative state” if—

- (a) he/she suffers from severe brain damage resulting in a persistent state of unawareness of self and his/her surroundings with inability to give any purposeful response to his/her surroundings (other than reflexive behaviour); but
- (b) he/she maintains a state of wakefulness with sleep-wake cycles, although there is no hope for him/her to regain awareness of self and his/her surroundings.

A person is in a “state of irreversible coma” if—

- (a) he/she suffers from severe brain damage resulting in a persistent state of unawareness of self and his/her surroundings with inability to give any purposeful response to his/her surroundings (other than reflexive behaviour); and
- (b) he/she does not maintain a state of wakefulness with sleep-wake cycles and there is no hope for him/her to regain wakefulness and awareness of self and his/her surroundings.

Examples of reflexive behaviour are—

- (a) spontaneous movement with no discernible reasons;
- (b) reflexive movements such as brainstem reflexes; and
- (c) generalized arousal response.

Note 4

A person is in an “other end-stage, irreversible, life-limiting condition” if he/she suffers from any medical condition—

- (a) in which he/she is not terminally ill within the meaning stated in Note 1 or not in a persistent vegetative state, or a state of irreversible coma, within the meaning stated in Note 3; and
- (b) that is progressive and irreversible, has reached its end-stage and limits his/her survival.

Examples of persons who are in other end-stage, irreversible, life-limiting conditions are—

- (a) a person with end-stage renal failure, end-stage motor neuron disease, or end-stage chronic obstructive pulmonary disease who is not terminally ill within the meaning stated in Note 1, because his/her survival may be prolonged by dialysis or assisted ventilation; and
- (b) a person with irreversible loss of major cerebral function and extremely poor functional status who is not in a persistent vegetative state, or a state of irreversible coma, within the meaning stated in Note 3.

Note 5

A person is an “interested person” of the Maker if—

- (a) he/she is a beneficiary under the will of, or any insurance policy of, the Maker;
- (b) the Maker grants or settles any interest to him/her by means of any instrument;
- (c) he/she is entitled to any interest in the estate of the Maker on the Maker’s death intestate; or
- (d) any interest would otherwise vest in him/her by operation of the law or any instrument on the Maker’s death (for example, a person who co-owns a unit in a building with the Maker as joint tenants falls within this description).

Form 2

**Advance Medical Directive
(For Refusal of Cardiopulmonary Resuscitation
Only)**

(Made under the Advance Decision on Life-sustaining Treatment Ordinance)

Part 1: Personal Particulars of Maker

(Please tick the appropriate boxes in this Part.)

Name in English *(Please use capital letters):*

First Name: _____ Family Name: _____

Name in Chinese *(Optional):* _____

Details of Identity Document *(Please choose one):*

Hong Kong Identity Card No.: _____

Passport *(Please state the issuing region and number):* _____

Other Identity Document *(Please state the type, issuing region and number):*

Sex: Male Female

Date of Birth: _____ / _____ / _____
(Day) (Month) (Year)

Home Address: _____

Contact Tel. No.: _____

Part 2: Declarations of Maker

(Please tick the appropriate box in this Part.)

I declare as follows—

1. I have attained 18 years of age.
2. I make this Directive out of my own free will, having had—
 - (a) the nature of this Directive; and
 - (b) in relation to each of the instructions in Part 3—the effect of following it on myself,explained to me by Dr. _____, the First Witness of my signature on this Directive.
3. I—
 - (a) have not made any advance medical directive before; or
 - (b) have made an advance medical directive before, which I now revoke by this Directive.
4. I understand that I can revoke this Directive at any time when I am mentally capable of deciding on a life-sustaining treatment (within the meaning of section 3 of the Advance Decision on Life-sustaining Treatment Ordinance (***Ordinance***)) by completing Part 5 or by any other means prescribed in the Ordinance.
5. I understand that this Directive applies in relation to my medical treatment only when I am mentally incapable of deciding on a life-sustaining treatment (within the meaning of section 3 of the Ordinance).

Part 3: Instructions of Maker

(Please tick the appropriate box or boxes in this Part.)

(The Maker may give one or more of the following instructions.)

Instruction in the case of Terminal Illness

- If I become terminally ill within the meaning stated in Note 1 in Part 6, my instruction is that I am not to be subjected to cardiopulmonary resuscitation.**

Instruction in the case of falling into Persistent Vegetative State or State of Irreversible Coma

- If I fall into a persistent vegetative state, or a state of irreversible coma, within the meaning stated in Note 3 in Part 6, my instruction is that I am not to be subjected to cardiopulmonary resuscitation.**

Instruction in the case of being in Other End-stage, Irreversible, Life-limiting Condition

- If I am in an other end-stage, irreversible, life-limiting condition within the meaning stated in Note 4 in Part 6, namely _____, my instruction is that I am not to be subjected to cardiopulmonary resuscitation.**

I make the declarations in Part 2 and give the instruction or instructions in this Part.

Signature of Maker

_____/_____/_____
(Day) (Month) (Year)
Date of Signing

Part 4: Witnesses

(Please tick the appropriate box in this Part.)

Declarations, Signature and Personal Particulars of First Witness

I declare as follows—

1. I have attained 18 years of age and am a registered medical practitioner.
2. To the best of my knowledge, I am not an interested person (within the meaning stated in Note 5 in Part 6) of the Maker.
3. Before the Maker signed this Directive, I explained to him/her—
 - (a) the nature of this Directive; and
 - (b) in relation to each of the instructions in Part 3—the effect of following it on him/her.
4. I am satisfied that the Maker was mentally capable of deciding on a life-sustaining treatment (within the meaning of section 3 of the Ordinance) at the time when he/she signed this Directive.
5. The Maker signed this Directive in the presence of the Second Witness named below and myself.

Signature of First Witness

_____/_____/_____
(Day) (Month) (Year)

Date of Signing

Name of First Witness *(Please use capital letters):*

First Name: _____ Family Name: _____

Medical Council Registration No.: _____

Correspondence Address: _____

Contact Tel. No.: _____

Declarations, Signature and Personal Particulars of Second Witness

I declare as follows—

1. I have attained 18 years of age.
2. To the best of my knowledge, I am not an interested person (within the meaning stated in Note 5 in Part 6) of the Maker.
3. The Maker signed this Directive in the presence of the First Witness named above and myself.

Signature of Second Witness

_____/_____/_____
(Day) (Month) (Year)
Date of Signing

Name of Second Witness *(Please use capital letters):*

First Name: _____ Family Name: _____

Details of Identity Document *(Please choose one):*

Hong Kong Identity Card No.: _____

Passport *(Please state the issuing region and number):* _____

Other Identity Document *(Please state the type, issuing region and number):*

Correspondence Address: _____

Contact Tel. No.: _____

Part 5: Revocation

I revoke this Directive.

Signature of Maker

_____/_____/_____
(Day) (Month) (Year)
Date of Signing

Part 6: Notes

Note 1

A person is “terminally ill” if—

- (a) he/she suffers from an advanced, progressive and irreversible medical condition;
- (b) he/she fails to respond to any medical treatment for the condition;
- (c) he/she has a short life expectancy in terms of days, weeks or months; and
- (d) the application of any form of life-sustaining treatment within the meaning stated in Note 2 would only serve to postpone his/her death.

Note 2

“Life-sustaining treatment” means any medical treatment that is necessary to keep a person alive, but does not include basic care and palliative care. An example of a life-sustaining treatment for a person in a persistent vegetative state within the meaning stated in Note 3 is the feeding of food and drink to the person through a tube or a catheter (that is to say, artificial nutrition and hydration).

Note 3

A person is in a “persistent vegetative state” if—

- (a) he/she suffers from severe brain damage resulting in a persistent state of unawareness of self and his/her surroundings with inability to give any purposeful response to his/her surroundings (other than reflexive behaviour); but
- (b) he/she maintains a state of wakefulness with sleep-wake cycles, although there is no hope for him/her to regain awareness of self and his/her surroundings.

A person is in a “state of irreversible coma” if—

- (a) he/she suffers from severe brain damage resulting in a persistent state of unawareness of self and his/her surroundings with inability to give any purposeful response to his/her surroundings (other than reflexive behaviour); and
- (b) he/she does not maintain a state of wakefulness with sleep-wake cycles and there is no hope for him/her to regain wakefulness and awareness of self and his/her surroundings.

Examples of reflexive behaviour are—

- (a) spontaneous movement with no discernible reasons;
- (b) reflexive movements such as brainstem reflexes; and
- (c) generalized arousal response.

Note 4

A person is in an “other end-stage, irreversible, life-limiting condition” if he/she suffers from any medical condition—

- (a) in which he/she is not terminally ill within the meaning stated in Note 1 or not in a persistent vegetative state, or a state of irreversible coma, within the meaning stated in Note 3; and
- (b) that is progressive and irreversible, has reached its end-stage and limits his/her survival.

Examples of persons who are in other end-stage, irreversible, life-limiting conditions are—

- (a) a person with end-stage renal failure, end-stage motor neuron disease, or end-stage chronic obstructive pulmonary disease who is not terminally ill within the meaning stated in Note 1, because his/her survival may be prolonged by dialysis or assisted ventilation; and
- (b) a person with irreversible loss of major cerebral function and extremely poor functional status who is not in a persistent vegetative state, or a state of irreversible coma, within the meaning stated in Note 3.

Note 5

A person is an “interested person” of the Maker if—

- (a) he/she is a beneficiary under the will of, or any insurance policy of, the Maker;
- (b) the Maker grants or settles any interest to him/her by means of any instrument;
- (c) he/she is entitled to any interest in the estate of the Maker on the Maker’s death intestate; or
- (d) any interest would otherwise vest in him/her by operation of the law or any instrument on the Maker’s death (for example, a person who co-owns a unit in a building with the Maker as joint tenants falls within this description).

Schedule 2

[ss. 27, 33, 54 & 58]

Forms of DNACPR Order and Continuation Sheets

Form 1

**Do-Not-Attempt Cardiopulmonary Resuscitation
(DNACPR) Order
(With Continuing Effect)
(AMD-Based)**

(Made under the Advance Decision on Life-sustaining Treatment Ordinance)

Part 1: Personal Particulars of Subject Person

(Please tick the appropriate boxes in this Part.)

This Order, which has a continuing effect, is made under the Advance Decision on Life-sustaining Treatment Ordinance (***Ordinance***) for (Name): _____ (***subject person***), whose personal particulars are set out below—

Details of Identity Document *(Please choose one)*:

Hong Kong Identity Card No.: _____

Passport *(Please state the issuing region and number)*: _____

Other Identity Document *(Please state the type, issuing region and number)*:

Sex: Male Female

Date of Birth: _____ / _____ / _____
(Day) (Month) (Year)

(Optional) Emergency Contact of Subject Person

Name: _____ Contact Tel. No.: _____

Part 2: Content of No Interest Declaration

In this Order (including any continuation sheet), the No Interest Declaration is a declaration that “To the best of my knowledge, I am not an interested person (as defined by section 2(1) of the Ordinance) of the subject person.”.

Part 3: Effective Period

(Note: The effective period of this Order stated in this Part is not to exceed 1 year.)

The effective period of this Order begins on _____ / _____ / _____,
(Day) (Month) (Year)

the date on which this Order is made, and ends at 24:00 hours on
_____ / _____ / _____.
(Day) (Month) (Year)

Part 4: 1st Extension of Effective Period

(Note: An extension is not to exceed 1 year.)

Having reviewed the current circumstances of the subject person and considered all other relevant factors, I EXTEND the effective period of this Order. The extended effective period is to end at 24:00 hours on _____ / _____ / _____.
(Day) (Month) (Year)

I make the No Interest Declaration^(See Part 2).

Signature: _____ Date of Signing: _____ / _____ / _____
(Day) (Month) (Year)

Name of Registered Medical Practitioner: _____

Medical Council Registration No.: _____

Hospital/Clinic: _____ Contact Tel. No.: _____

(For any subsequent extension, please use a continuation sheet in the form of Form 4 prescribed in Schedule 2 to the Ordinance. If a continuation sheet is used, it should be attached to this Order. Once used and attached, it forms part of this Order.)

Part 5: Decisions of Registered Medical Practitioners

(Please tick the appropriate box or boxes in this Part.)

We, the registered medical practitioners who sign below, declare as follows—

1. We certify that the subject person is—
 - terminally ill;
 - in a persistent vegetative state or a state of irreversible coma;
 - in an other end-stage, irreversible, life-limiting condition, namely _____.

2. We decide to **ORDER THAT CARDIOPULMONARY RESUSCITATION (CPR)⁺ IS NOT TO BE PERFORMED ON THE SUBJECT PERSON** when he/she is in cardiopulmonary arrest. This Order is made on the basis of an instruction of the subject person not to perform CPR on him/her. The instruction is contained in an advance medical directive made by him/her on ____/____/____ and is valid.
(Day) (Month) (Year)

The medical condition diagnosed above falls within the specified precondition of the instruction.

(⁺Examples of procedures in CPR are external cardiac compression, artificial ventilation and defibrillation.)

3. We decide on the effective period of this Order in Part 3.

Registered Medical
Practitioner 1

Registered Medical
Practitioner 2

(a) I declare that I am a registered medical practitioner who is a specialist.

(a) I declare that I am a registered medical practitioner.

(b) I make the No Interest Declaration^(See Part 2).

(b) I make the No Interest Declaration^(See Part 2).

Signature: _____

Signature: _____

Date of Signing:
_____/_____/_____
(Day) (Month) (Year)

Date of Signing:
_____/_____/_____
(Day) (Month) (Year)

Name: _____

Name: _____

Medical Council Registration
No.: _____

Medical Council Registration
No.: _____

Hospital/Clinic: _____

Hospital/Clinic: _____

Contact Tel. No.: _____

Contact Tel. No.: _____

Part 6: Instructions to Treatment Providers/Rescuers of Subject Person in Cardiopulmonary Arrest

You should disregard this Order and perform CPR on the subject person who is in cardiopulmonary arrest if—

- (a) you do not see the original copy, or a certified copy, of this Order;
- (b) the effective period of this Order has ended;

- (c) you have doubts about the validity or applicability of this Order; or
- (d) you determine there is reason to suspect that the cardiopulmonary arrest the subject person is in arises from—
 - (i) an unnatural cause; or
 - (ii) an injury that is self-inflicted or inflicted by another person.

Form 2

**Do-Not-Attempt Cardiopulmonary Resuscitation
(DNACPR) Order
(With Continuing Effect)
(Not AMD-Based)
(For Mentally Incapable Adult)**

(Made under the Advance Decision on Life-sustaining Treatment Ordinance)

Part 1: Personal Particulars of Subject Person

(Please tick the appropriate boxes in this Part.)

This Order, which has a continuing effect, is made under the Advance Decision on Life-sustaining Treatment Ordinance (**Ordinance**) for (Name): _____ (**subject person**), whose personal particulars are set out below—

Details of Identity Document (*Please choose one*):

Hong Kong Identity Card No.: _____

Passport (*Please state the issuing region and number*): _____

Other Identity Document (*Please state the type, issuing region and number*):

Sex: Male Female

Date of Birth: ____/____/____
(Day) (Month) (Year)

(*Optional*) Emergency Contact of Subject Person

Name: _____ Contact Tel. No.: _____

Part 2: Content of No Interest Declaration

In this Order (including any continuation sheet), the No Interest Declaration is a declaration that “To the best of my knowledge, I am not an interested person (as defined by section 2(1) of the Ordinance) of the subject person.”.

Part 3: Effective Period

(*Note: The effective period of this Order stated in this Part is not to exceed 1 year.*)

The effective period of this Order begins on ____/____/____,
(Day) (Month) (Year)

the date on which this Order is made, and ends at 24:00 hours on
____/____/____.
(Day) (Month) (Year)

Part 4: 1st Extension of Effective Period *(Note: An extension is not to exceed 1 year.)*

Having reviewed the current circumstances of the subject person and considered all other relevant factors, I **EXTEND** the effective period of this Order. The extended effective period is to end at 24:00 hours on ____/____/____.
(Day) (Month) (Year)

I make the No Interest Declaration^(See Part 2).

Signature: _____ Date of Signing: ____/____/____
(Day) (Month) (Year)

Name of Registered Medical Practitioner: _____

Medical Council Registration No.: _____

Hospital/Clinic: _____ Contact Tel. No.: _____

(For any subsequent extension, please use a continuation sheet in the form of Form 4 prescribed in Schedule 2 to the Ordinance. If a continuation sheet is used, it should be attached to this Order. Once used and attached, it forms part of this Order.)

Part 5: Decisions of Registered Medical Practitioners

(Please tick the appropriate boxes in this Part.)

We, the registered medical practitioners who sign below, declare as follows—

1. We certify that the subject person is—
 - terminally ill;
 - in a persistent vegetative state or a state of irreversible coma;

- in an other end-stage, irreversible, life-limiting condition, namely _____.
2. We are satisfied that the subject person is an adult who is mentally incapable of deciding on a life-sustaining treatment (within the meaning of section 3 of the Ordinance).
 3. We are not aware that the subject person has an advance medical directive that contains an instruction not to perform cardiopulmonary resuscitation (*CPR*) on him/her.
 4. We decide to **ORDER THAT CPR⁺ IS NOT TO BE PERFORMED ON THE SUBJECT PERSON** when he/she is in cardiopulmonary arrest. This Order is made on the basis that performing CPR in such circumstances would not be in the subject person's best interests.
(⁺Examples of procedures in CPR are external cardiac compression, artificial ventilation and defibrillation.)
 5. We decide on the effective period of this Order in Part 3.

Registered Medical Practitioner 1

Registered Medical Practitioner 2

- | | |
|---|---|
| <p>(a) I declare that I am a registered medical practitioner who is a specialist.</p> <p>(b) I make the No Interest Declaration^(See Part 2).</p> | <p>(a) I declare that I am a registered medical practitioner.</p> <p>(b) I make the No Interest Declaration^(See Part 2).</p> |
|---|---|

(Paragraph (c) must be completed by at least one of the registered medical practitioners who signs below.)

(c) I have advised the person who signs in Part 6 that performing CPR on the subject person when the subject person is in cardiopulmonary arrest would not be in the subject person's best interests.

(c) I have advised the person who signs in Part 6 that performing CPR on the subject person when the subject person is in cardiopulmonary arrest would not be in the subject person's best interests.

(If the person who signs in Part 6 is not a responsible person (as defined by section 22 of the Ordinance) of the subject person, paragraph (d) must be completed by at least one of the registered medical practitioners who signs below.)

(d) I determine that the person who signs in Part 6 is in a good position to form a view as to whether performing CPR on the subject person when the subject person is in cardiopulmonary arrest would be in the subject person's best interests.

(d) I determine that the person who signs in Part 6 is in a good position to form a view as to whether performing CPR on the subject person when the subject person is in cardiopulmonary arrest would be in the subject person's best interests.

Signature: _____

Signature: _____

Date of Signing:
 _____ / _____ / _____
 (Day) (Month) (Year)

Date of Signing:
 _____ / _____ / _____
 (Day) (Month) (Year)

Name: _____

Name: _____

Medical Council Registration
 No.: _____

Medical Council Registration
 No.: _____

Hospital/Clinic: _____

Hospital/Clinic: _____

Contact Tel. No.: _____

Contact Tel. No.: _____

Part 6: Declarations of Person Eligible to Act under Section 29(3) of Ordinance

(Please tick the appropriate boxes in this Part.)

I declare as follows—

1. I have attained 18 years of age.
2. I am—
 - a responsible person (as defined by section 22 of the Ordinance) of the subject person; or
 - determined to be a person eligible to act under section 29(3)(b)(ii) of the Ordinance as regards the subject person.
3. I have been advised by at least one of the registered medical practitioners who signs in Part 5 that performing CPR on the subject person when the subject person is in cardiopulmonary arrest would not be in the subject person's best interests. I agree with the advice.

Signature: _____

Name: _____

Date of Signing: _____ / _____ / _____
(Day) (Month) (Year)

Details of Identity Document (*Please choose one*):

Hong Kong Identity Card No.: _____

Passport (*Please state the issuing region and number*): _____

Other Identity Document (*Please state the type, issuing region and number*):

Relationship with Subject Person: _____

Home Address: _____

Contact Tel. No.: _____

Part 7: Instructions to Treatment Providers/Rescuers of Subject Person in Cardiopulmonary Arrest

You should disregard this Order and perform CPR on the subject person who is in cardiopulmonary arrest if—

- (a) you do not see the original copy, or a certified copy, of this Order;
- (b) the effective period of this Order has ended;
- (c) you have doubts about the validity or applicability of this Order; or
- (d) you determine there is reason to suspect that the cardiopulmonary arrest the subject person is in arises from—
 - (i) an unnatural cause; or
 - (ii) an injury that is self-inflicted or inflicted by another person.

Form 3

**Do-Not-Attempt Cardiopulmonary Resuscitation
(DNACPR) Order
(With Continuing Effect)
(Not AMD-Based)
(For Minor)**

(Made under the Advance Decision on Life-sustaining Treatment Ordinance)

Part 1: Personal Particulars of Subject Person

(Please tick the appropriate boxes in this Part.)

This Order, which has a continuing effect, is made under the Advance Decision on Life-sustaining Treatment Ordinance (**Ordinance**) for (Name): _____ (*subject person*), whose personal particulars are set out below—

Details of Identity Document *(Please choose one)*:

Hong Kong Identity Card No.: _____

Passport *(Please state the issuing region and number)*: _____

Other Identity Document *(Please state the type, issuing region and number)*:

Sex: Male Female

Date of Birth: _____ / _____ / _____
(Day) (Month) (Year)

18th birthday is on _____ / _____ / _____
(Day) (Month) (Year)

(Optional) Emergency Contact of Subject Person

Name: _____ Contact Tel. No.: _____

Part 2: Content of No Interest Declaration

In this Order (including any continuation sheet), the No Interest Declaration is a declaration that “To the best of my knowledge, I am not an interested person (as defined by section 2(1) of the Ordinance) of the subject person.”.

Part 3: Effective Period

(Note: The effective period of this Order stated in this Part is not to exceed 1 year and is to end before the 18th birthday of the subject person.)

The effective period of this Order begins on ____/____/____,
(Day) (Month) (Year)

the date on which this Order is made, and ends at 24:00 hours on
____/____/____.
(Day) (Month) (Year)

Part 4: 1st Extension of Effective Period

(Note: An extension is not to exceed 1 year. The extended effective period is to end before the 18th birthday of the subject person.)

Having reviewed the current circumstances of the subject person and considered all other relevant factors, I EXTEND the effective period of this Order. The extended effective period is to end at 24:00 hours on ____/____/____.
(Day) (Month) (Year)

I make the No Interest Declaration^(See Part 2).

Signature: _____ Date of Signing: ____/____/____
(Day) (Month) (Year)

Name of Registered Medical Practitioner: _____

Medical Council Registration No.: _____

Hospital/Clinic: _____ Contact Tel. No.: _____

(For any subsequent extension, please use a continuation sheet in the form of Form 5 prescribed in Schedule 2 to the Ordinance. If a continuation sheet is used, it should be attached to this Order. Once used and attached, it forms part of this Order.)

Part 5: Decisions of Registered Medical Practitioners

(Please tick the appropriate boxes in this Part.)

We, the registered medical practitioners who sign below, declare as follows—

1. We certify that the subject person is—
 - terminally ill;
 - in a persistent vegetative state or a state of irreversible coma;
 - in an other end-stage, irreversible, life-limiting condition, namely _____.
2. We decide to **ORDER THAT CARDIOPULMONARY RESUSCITATION (CPR)⁺ IS NOT TO BE PERFORMED ON THE SUBJECT PERSON** when he/she is in cardiopulmonary arrest. This Order is made on the basis that performing CPR in such circumstances would not be in the subject person’s best interests.

(⁺Examples of procedures in CPR are external cardiac compression, artificial ventilation and defibrillation.)

3. We decide on the effective period of this Order in Part 3.

Registered Medical
Practitioner 1

- (a) I declare that I am a registered medical practitioner who is a specialist.
- (b) I make the No Interest Declaration^(See Part 2).

(Paragraph (c) must be completed by at least one of the registered medical practitioners who signs below.)

- (c) I have advised the person who signs in Part 6 that performing CPR on the subject person when the subject person is in cardiopulmonary arrest would not be in the subject person's best interests.

Registered Medical
Practitioner 2

- (a) I declare that I am a registered medical practitioner.
- (b) I make the No Interest Declaration^(See Part 2).

- (c) I have advised the person who signs in Part 6 that performing CPR on the subject person when the subject person is in cardiopulmonary arrest would not be in the subject person's best interests.

(If the person who signs in Part 6 is not a responsible person (as defined by section 22 of the Ordinance) of the subject person, paragraph (d) must be completed by at least one of the registered medical practitioners who signs below.)

(d) I determine that the person who signs in Part 6 is in a good position to form a view as to whether performing CPR on the subject person when the subject person is in cardiopulmonary arrest would be in the subject person's best interests.

(d) I determine that the person who signs in Part 6 is in a good position to form a view as to whether performing CPR on the subject person when the subject person is in cardiopulmonary arrest would be in the subject person's best interests.

Signature: _____

Signature: _____

Date of Signing:
_____/_____/_____
(Day) (Month) (Year)

Date of Signing:
_____/_____/_____
(Day) (Month) (Year)

Name: _____

Name: _____

Medical Council Registration No.: _____

Medical Council Registration No.: _____

Hospital/Clinic: _____

Hospital/Clinic: _____

Contact Tel. No.: _____

Contact Tel. No.: _____

Part 6: Declarations of Person Eligible to Act under Section 29(3) of Ordinance

(Please tick the appropriate boxes in this Part.)

I declare as follows—

1. I have attained 18 years of age.

2. I am—
- a responsible person (as defined by section 22 of the Ordinance) of the subject person; or
 - determined to be a person eligible to act under section 29(3)(b)(ii) of the Ordinance as regards the subject person.
3. I have been advised by at least one of the registered medical practitioners who signs in Part 5 that performing CPR on the subject person when the subject person is in cardiopulmonary arrest would not be in the subject person's best interests. I agree with the advice.

Signature: _____ Name: _____

Date of Signing: _____ / _____ / _____
(Day) (Month) (Year)

Details of Identity Document (*Please choose one*):

Hong Kong Identity Card No.: _____

Passport (*Please state the issuing region and number*): _____

Other Identity Document (*Please state the type, issuing region and number*):

Relationship with Subject Person: _____

Home Address: _____

Contact Tel. No.: _____

Part 7: Instructions to Treatment Providers/Rescuers of Subject Person in Cardiopulmonary Arrest

You should disregard this Order and perform CPR on the subject person who is in cardiopulmonary arrest if—

- (a) you do not see the original copy, or a certified copy, of this Order;
- (b) the effective period of this Order has ended;
- (c) you have doubts about the validity or applicability of this Order; or
- (d) you determine there is reason to suspect that the cardiopulmonary arrest the subject person is in arises from—
 - (i) an unnatural cause; or
 - (ii) an injury that is self-inflicted or inflicted by another person.

Form 4

**Continuation Sheet for
Do-Not-Attempt Cardiopulmonary Resuscitation
(DNACPR) Order
(With Continuing Effect)
(For Adult)**

(Made under the Advance Decision on Life-sustaining Treatment Ordinance)

(Note: Once used and attached to the DNACPR Order, this continuation sheet forms part of the Order.)

Details of DNACPR Order

This is a continuation sheet for the DNACPR Order made for (Name): _____ (*subject person*).

The effective period of the Order began on ____/____/____.
(Day) (Month) (Year)

st/nd/rd/th **Extension of Effective** (*Note: An extension is not to exceed 1 year.*)
Period

Having reviewed the current circumstances of the subject person and considered all other relevant factors, I FURTHER EXTEND the effective period of the Order. The extended effective period is to end at 24:00 hours on ____/____/____.
(Day) (Month) (Year)

I make the No Interest Declaration^(See Part 2 of the Order).

Signature: _____ Date of Signing: ____/____/____
(Day) (Month) (Year)

Name of Registered Medical Practitioner: _____

Medical Council Registration No.: _____

Hospital/Clinic: _____ Contact Tel. No.: _____

<u>st/nd/rd/th</u>	<u>Extension of Effective Period</u>	<i>(Note: An extension is not to exceed 1 year.)</i>
<p>Having reviewed the current circumstances of the subject person and considered all other relevant factors, I FURTHER EXTEND the effective period of the Order. The extended effective period is to end at 24:00 hours on ____/____/____. (Day) (Month) (Year)</p> <p>I make the No Interest Declaration^(See Part 2 of the Order).</p> <p>Signature: _____ Date of Signing: ____/____/____ (Day) (Month) (Year)</p> <p>Name of Registered Medical Practitioner: _____</p> <p>Medical Council Registration No.: _____</p> <p>Hospital/Clinic: _____ Contact Tel. No.: _____</p>		
<u>st/nd/rd/th</u>	<u>Extension of Effective Period</u>	<i>(Note: An extension is not to exceed 1 year.)</i>
<p>Having reviewed the current circumstances of the subject person and considered all other relevant factors, I FURTHER EXTEND the effective period of the Order. The extended effective period is to end at 24:00 hours on ____/____/____. (Day) (Month) (Year)</p> <p>I make the No Interest Declaration^(See Part 2 of the Order).</p> <p>Signature: _____ Date of Signing: ____/____/____ (Day) (Month) (Year)</p>		

Name of Registered Medical Practitioner: _____

Medical Council Registration No.: _____

Hospital/Clinic: _____ Contact Tel. No.: _____

st/nd/rd/th **Extension of Effective** *(Note: An extension is not to exceed 1 year.)*
Period

Having reviewed the current circumstances of the subject person and considered all other relevant factors, I FURTHER EXTEND the effective period of the Order. The extended effective period is to end at 24:00 hours on ____/____/____.
(Day) (Month) (Year)

I make the No Interest Declaration^(See Part 2 of the Order).

Signature: _____ Date of Signing: ____/____/____
(Day) (Month) (Year)

Name of Registered Medical Practitioner: _____

Medical Council Registration No.: _____

Hospital/Clinic: _____ Contact Tel. No.: _____

Form 5

**Continuation Sheet for
Do-Not-Attempt Cardiopulmonary Resuscitation
(DNACPR) Order
(With Continuing Effect)
(For Minor)**

(Made under the Advance Decision on Life-sustaining Treatment Ordinance)

(Note: Once used and attached to the DNACPR Order, this continuation sheet forms part of the Order.)

Details of DNACPR Order

This is a continuation sheet for the DNACPR Order made for (Name): _____ (*subject person*).

The effective period of the Order began on ____/____/____.
(Day) (Month) (Year)

st/nd/rd/th **Extension of Effective Period**

(Note: An extension is not to exceed 1 year. The extended effective period is to end before the 18th birthday of the subject person.)

Having reviewed the current circumstances of the subject person and considered all other relevant factors, I FURTHER EXTEND the effective period of the Order. The extended effective period is to end at 24:00 hours on ____/____/____.

(Day) (Month) (Year)

I make the No Interest Declaration^(See Part 2 of the Order).

Signature: _____ Date of Signing: ____/____/____
(Day) (Month) (Year)

Name of Registered Medical Practitioner: _____

Medical Council Registration No.: _____

Hospital/Clinic: _____ Contact Tel. No.: _____

st/nd/rd/th **Extension of**
Effective Period

(Note: An extension is not to exceed 1 year. The extended effective period is to end before the 18th birthday of the subject person.)

Having reviewed the current circumstances of the subject person and considered all other relevant factors, I FURTHER EXTEND the effective period of the Order. The extended effective period is to end at 24:00 hours on ____/____/____.
(Day) (Month) (Year)

I make the No Interest Declaration^(See Part 2 of the Order).

Signature: _____ Date of Signing: ____/____/____
(Day) (Month) (Year)

Name of Registered Medical Practitioner: _____

Medical Council Registration No.: _____

Hospital/Clinic: _____ Contact Tel. No.: _____

st/nd/rd/th **Extension of**
Effective Period

(Note: An extension is not to exceed 1 year. The extended effective period is to end before the 18th birthday of the subject person.)

Having reviewed the current circumstances of the subject person and considered all other relevant factors, I FURTHER EXTEND the effective period of the Order. The extended effective period is to end at 24:00 hours on ____/____/____.
(Day) (Month) (Year)

I make the No Interest Declaration^(See Part 2 of the Order).

Signature: _____ Date of Signing: ____/____/____
(Day) (Month) (Year)

Name of Registered Medical Practitioner: _____

Medical Council Registration No.: _____

Hospital/Clinic: _____ Contact Tel. No.: _____

 st/nd/rd/th **Extension of** *(Note: An extension is not to exceed 1*
Effective Period *year. The extended effective period is to*
end before the 18th birthday of the
subject person.)

Having reviewed the current circumstances of the subject person and considered all other relevant factors, I FURTHER EXTEND the effective period of the Order. The extended effective period is to end at 24:00 hours on ____/____/____.
(Day) (Month) (Year)

I make the No Interest Declaration^(See Part 2 of the Order).

Signature: _____ Date of Signing: ____/____/____
(Day) (Month) (Year)

Name of Registered Medical Practitioner: _____

Medical Council Registration No.: _____

Hospital/Clinic: _____ Contact Tel. No.: _____

Explanatory Memorandum

The main purposes of this Bill are—

- (a) to provide for the making and revocation of advance medical directives as regards life-sustaining treatments and the operation of instructions in advance medical directives; and
- (b) to provide for the making, revocation and operation of do-not-attempt cardiopulmonary resuscitation orders that have a continuing effect.

2. The Bill contains 6 Parts and 2 Schedules.

Part 1—Preliminary

3. Clause 1 sets out the short title and provides for commencement.
4. Clauses 2, 3 and 4 contain the definitions, and the meaning of words and expressions, for the interpretation of the Bill (including *advance medical directive*, *DNACPR order*, *episode of care*, *rescuer*, *treatment provider* and *validating copy*). In particular, clause 3 explains the meaning of *mentally capable of deciding on a life-sustaining treatment* and *mentally incapable of deciding on a life-sustaining treatment*.

Part 2—Advance Medical Directive

5. Division 1 (clauses 5 to 10) provides for the making and revocation of advance medical directives.
6. Under clause 5, an advance medical directive is made if all the conditions set out in clauses 6 to 9 are met in relation to it. The

conditions concern the legal capacity of the maker of the directive, the form of the directive, the maker's signing of the directive and witnesses.

7. Clause 10 provides that an advance medical directive is revoked if an act specified in that clause takes place and the maker is mentally capable of deciding on a life-sustaining treatment at the time.
8. Division 2 (clauses 11 to 18) provides for the operation of instructions in advance medical directives.
9. Clause 11 provides that certain instructions in an advance medical directive are of no effect. Clause 12 provides that the rights, duties, obligations and liabilities relating to subjecting, or not subjecting, the maker of an advance medical directive to any life-sustaining treatment are subject to a valid and applicable instruction in the directive.
10. Clause 13 provides for the validity of an instruction in an advance medical directive. An instruction is valid unless any of the circumstances specified in that clause exists. One such circumstance is that none of the treatment providers of the maker of the directive has notice of the directive as described in clause 16 during the current episode of care of the maker.
11. Clause 14 provides for the applicability of an instruction in an advance medical directive. In general, an instruction is applicable if the maker of the directive is mentally incapable of deciding on a life-sustaining treatment and the specified precondition of the instruction is met. However, an instruction is not applicable if there are reasonable grounds for believing that there arise certain unanticipated circumstances.

12. Clause 16 provides for when a treatment provider of the maker of an advance medical directive has notice of the directive.
13. Clause 17 provides that a treatment provider of the maker of an advance medical directive is not required to search the maker, or the maker's personal belongings, to ascertain whether the maker carries a validating copy of the directive, nor is he or she required to search a designated electronic system to ascertain whether a validating copy of the directive is stored in the system.
14. Clause 18 empowers the Court of First Instance to, on application, make a declaration for determining matters relating to an advance medical directive, including whether an instruction in the directive is valid or applicable or both.
15. Division 3 (clauses 19 to 21) concerns the protection of treatment providers. Under clause 19, a treatment provider of a person does not incur any civil or criminal liability or liability for professional misconduct for subjecting, or not subjecting, the person to a life-sustaining treatment if specified conditions are met. Clause 20 provides that clause 19 does not affect the civil liability of certain persons. Clause 21 provides for the burden and standard of proof of a person in legal proceedings in which the person seeks to rely on the protection under clause 19.

Part 3—DNACPR Order

16. Division 1 (clause 22) provides for the interpretation of Part 3.
17. Division 2 (clauses 23 to 32) provides for the making and revocation of DNACPR orders.

18. A DNACPR order may only be made by 2 registered medical practitioners (clause 24), one of whom must be a specialist (clause 30). Clause 25 provides for the types of DNACPR orders that may be made. Under clause 26, a DNACPR order is made if all the conditions set out in clauses 27 to 30 are met in relation to it. The conditions concern the use of Form 1, 2 or 3 prescribed in Schedule 2, the completion and signing of the form and the registered medical practitioners who sign the form.
19. Clauses 31 and 32 provide for the circumstances in which, and the means by which, a DNACPR order is revoked.
20. Division 3 (clauses 33 to 38) provides for the operation of DNACPR orders.
21. Clause 33 provides for the effective period of a DNACPR order and its extension.
22. Clause 34 provides that if a DNACPR order is valid and applicable, the rights, duties, obligations and liabilities relating to performing, or not performing, CPR on the person for whom the order is made (*subject person*) are subject to the terms of the order.
23. Clause 35 provides for the validity of a DNACPR order. A DNACPR order is valid unless any of the circumstances specified in that clause exists. One such circumstance is that none of the treatment providers or rescuers of the subject person has notice of the order as described in clause 37 during the current episode of care of the subject person.

24. Clause 36 provides for the applicability of a DNACPR order. A DNACPR order is applicable unless there are specified circumstances, such as there are reasonable grounds for believing that there arise certain unanticipated circumstances.
25. Clause 37 provides for when a person has notice of a DNACPR order.
26. Clause 38 provides that there is no requirement to search the subject person, or the subject person's personal belongings, to ascertain whether the person carries a validating copy of the order.
27. Division 4 (clauses 39 to 43) concerns the protection of certain persons. Under clause 40, a treatment provider or rescuer of a person who is, or appears to be, in cardiopulmonary arrest (*person-in-arrest*) does not incur any civil or criminal liability or liability for professional misconduct for performing, or not performing, CPR on the person-in-arrest if specified conditions are met. Clause 41 provides for the protection in relation to certain responses given by console operators at the Fire Services Communications Centre in specified circumstances relating to DNACPR orders. Clause 42 provides that clauses 40 and 41 do not affect the civil liability of certain persons. Clause 43 provides for the burden and standard of proof of a person in legal proceedings in which the person seeks to rely on the protection under clause 40 or 41.

Part 4—Offences

28. Division 1 (clause 44) provides for the interpretation of Part 4.
29. Division 2 (clauses 45 to 51) provides for various offences and related matters. The offences are—

- (a) the offence of obstructing the following of a valid and applicable instruction in an advance medical directive (clause 45);
- (b) the offence of damaging a validating copy of, or a record of revocation of, an advance medical directive or a DNACPR order that is AMD-based (clauses 46 and 47); and
- (c) the offence of making false or misleading representation with intent to prevent or procure the following of an instruction in an advance medical directive or the compliance with a DNACPR order (clauses 50 and 51).

Part 5—Miscellaneous Provisions

- 30. Clause 52 provides that the Bill does not authorize an act that causes or accelerates death as distinct from an act that permits the dying process to take its natural course.
- 31. Clause 53 provides that insurance policies are not affected by advance medical directives and DNACPR orders (*advance decision instruments*).
- 32. Clause 54 provides for transitional arrangements for certain instruments made before the commencement of the Advance Decision on Life-sustaining Treatment Ordinance (if enacted) that purport to be advance decision instruments.
- 33. Clause 55 provides for the standard of proof of a defendant in overturning the presumption under clause 7(2), 10(2) or 32(3) in criminal proceedings.

34. Clause 56 provides for the requirements of a certified translation of an advance medical directive that is made in neither Chinese nor English.
35. Clauses 57 and 58 confer certain powers to the Secretary for Health.

Part 6—Related Amendments

36. Part 6 makes related amendments to the Fire Services Ordinance (Cap. 95) (*Cap. 95*), the Mental Health Ordinance (Cap. 136) (*Cap. 136*) and the Electronic Transactions Ordinance (Cap. 553) (*Cap. 553*).
37. Under section 7 of Cap. 95, the Fire Services Department has the duty to resuscitate a person or sustain a person's life. To enable fire services officers to comply with DNACPR orders, clause 60 amends section 7 to mainly provide that the duty is subject to clause 34 of the Bill and to provide that the duty ceases in relation to the performance of CPR in specified circumstances involving DNACPR orders.
38. Section 59ZF of Cap. 136 provides that treatment by certain medical professionals may be carried out in respect of a mentally incapacitated person (*MIP*) without consent given by, e.g. a guardian of the MIP in certain circumstances where the professionals consider that the treatment is necessary and is in the best interests of the MIP. Clause 61 adds a new section 59ZFA to Cap. 136 to disapply section 59ZF and related Cap. 136 provisions in relation to any life-sustaining treatment (including CPR) that is, or is intended to be, carried out in respect of an MIP if the treatment is specified in a valid and applicable instruction in an advance medical directive of the

MIP or if the DNACPR order made for the MIP is valid and applicable.

39. Section 3 of Cap. 553 excludes from the application of sections 5, 5A, 6, 7, 8 and 17 of Cap. 553 certain matters set out in Schedule 1 to Cap. 553 so that they cannot be executed by an electronic transaction in satisfying a rule of law in those matters. In view of the requirement that an advance decision instrument is not to be made by electronic means, clause 62 adds an advance decision instrument as a matter in that Schedule.

Schedules

40. Schedule 1 prescribes the model forms of advance medical directives.
41. Schedule 2 prescribes the forms of DNACPR orders and the continuation sheets for those orders.