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Protection for doctors in laws for the dying

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DOCTORS, health professionals and family members will be given blanket legal protection under far-reaching death-with-dignity laws to be introduced in Western Australia.

The legislation will also allow people over 18 to make Advance Health Directives, or "living wills", that spell out what care -- if any -- can be administered to them in palliative care or other life-threatening situations.

Under the laws, an appointed guardian will also have the power to decide whether the person should or should not receive treatment, if that person is mentally incapacitated or unable to make "reasonable judgments".

The Advanced Health Care Planning Bill will be introduced into state parliament next week. Members will be given a conscience vote, the first since the emotional and divisive abortion-pill debate in 1998.

Attorney-General Jim McGinty has hailed the legislation as the nation's most progressive laws for the dying and will amend the criminal code to give medical workers protection.

The laws are far-reaching and surpass those in other states. In Victoria, terminally ill patients may issue a Refusal of Treatment Certificate, which prevents them from receiving medical treatment. The act specifically removes civil liability for medical practitioners who act in accordance with the certificate.

In Queensland, patients may issue an advance health directive, with which they can refuse future treatment. Unlike the Victorian legislation, Queensland law does not provide specific protections from criminal or civil liability.

NSW has instead developed best-practice guidelines, which allow patients to issue advanced care directives. The guidelines aim for patients, families and health professionals to determine end-of-life decisions together. While the advanced care directives are legally binding in NSW, there is no specific legal protection for medical professionals who carry out the directives.

Mr McGinty said health professionals needed clear legal guidelines so they could carry out their work and the "wishes of a terminally ill patient without the fear of legal action hanging over their heads".

The Australian Medical Association and palliative care organisations have cautiously welcomed the new legislation, but right-to-life organisations oppose the plan.

Rosanna Capolingua, chairwoman of the AMA ethics committee, said the bill was a step in the right direction but it was imperfect. "When people think about their choices when they are fit and well, it is often very different to how they will think when they're at the end of their life," she said.

Directives were complicated and a doctor should be involved when they were drawn up. "We believe that an advance directive can't be made by mum and dad sitting around a kitchen table together. It needs to be made with a doctor. Does it open the door for euthanasia? We have to watch out for that one."

Palliative Care WA president Scott Blackwell said: "This legislation has nothing to do

with euthanasia, does not promote euthanasia and, in actual fact, detracts from the need for euthanasia."

He said the Terri Schiavo case in the US last year could have been avoided, for example, if a guardian had been appointed, as mooted in the new West Australian laws. A decision to prolong her life or to stop life-sustaining treatment could have been made.

Dr Blackwell said a bonus of the legislation was that doctors, who were now not protected by law, would be free of criminal prosecution, unless they were negligent.

Additional reporting: David Settelaar