

decisions on behalf of incompetent patients, but where they still are, should also result in better decision-making.

## 09 ACP IN THE NEW ZEALAND MEDICOLEGAL CONTEXT

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Advance Care Planning (ACP) in New Zealand (NZ) is being implemented into a unique medicolegal environment. This has practical implications as well as providing an opportunity for critical analysis of the place of legally recognised advance decisions within the overall process and philosophy of ACP.

NZ has no specific statute in relation to ACP or the use Advance Directives (AD) although it is acknowledged in the Code of Rights that ADs may be used in accordance with the common law. In addition legally authorised proxy and or substitute decision makers are uncommon and have limited powers. In the overwhelming majority of cases authority to make decisions on behalf of incompetent patients resides with clinicians. Implementation of ACP in this context provides a valuable opportunity to carefully consider the advantages and disadvantages of the NZ medicolegal framework compared with that in other countries and to share insights gained.

ACP is intended to give greater 'voice' to individuals (patients). There are however risks to over-emphasising ACP as a mechanism primarily intended to give patients' 'voice' through legal mechanisms for advance decisions which come in to effect once the individual is incompetent. The greater benefit from ACP comes from hearing patients while they are still able to speak to us and including them in shared-planning within clinician-patient relationships based in mutual respect and trust. Effective ACP reduces occasions on which clinicians are required to make