

MODULE 00

OBA NURSING ACADEMY

Orientation

Five names, nine statutes, and no Commonwealth law

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By the end of this module you will be able to

By the end of this lecture you will be able to ...

01

State the finding, and say where each part of it comes from

02

State the counterweight in your own words, without being prompted

03

Name the five legal names the instrument carries across Australia

04

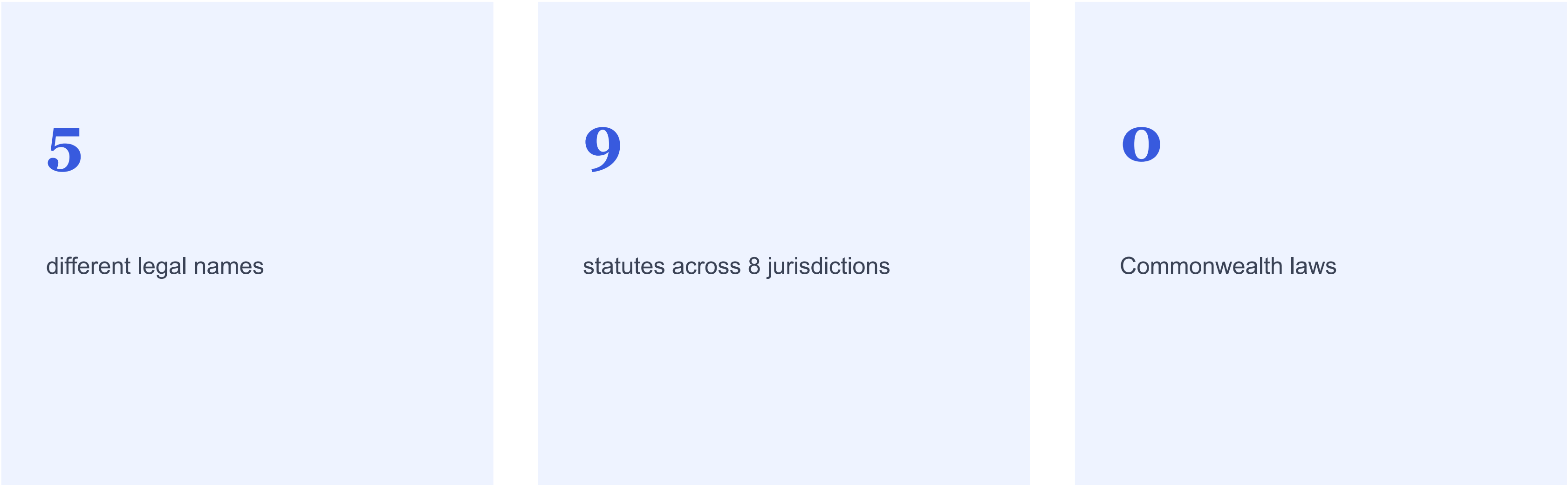
Explain why the New South Wales and Queensland positions are exact opposites

05

Say what the single correct response to the fragmentation is

Australian advance care directives, counted

Verified 28/09/2026 from QUT's End of Life Law in Australia



The finding

And it is a fact about eight bodies of law

- 'ADVANCE CARE DIRECTIVE' IS NOT ONE THING IN AUSTRALIA. It is FIVE DIFFERENT LEGAL NAMES - Advance Care Directive, Advance Health Directive, Health Direction, Advance Personal Plan, and in NEW SOUTH WALES no statutory name at all - under NINE STATUTES across EIGHT JURISDICTIONS. AND NOT ONE OF THOSE STATUTES IS COMMONWEALTH. There is no national advance care directive, no national form, and no national rule.

And the two that are exact opposites

New South Wales and Queensland

- AND THE TWO THAT ARE EXACT OPPOSITES. In NEW SOUTH WALES, only COMMON LAW advance care directives are legally binding - the state has no statutory directive at all - and a common law directive has NO FORMAL REQUIREMENTS, which means IT CAN BE MADE ORALLY. In QUEENSLAND, common law advance care directives ARE NOT LEGALLY BINDING; only the statutory Advance Health Directive is. SO THE SAME SPOKEN SENTENCE IS A BINDING REFUSAL OF TREATMENT ON ONE SIDE OF THE TWEED RIVER AND CARRIES NO LEGAL FORCE ON THE OTHER.

AND THE SENTENCE THAT TRAVELS WITH THE FINDING, EVERY TIME

Say it in the same breath. Never after the break.

- AND HERE IS THE SENTENCE THAT TRAVELS WITH THAT FINDING, EVERY TIME IT IS SAID OUT LOUD. THE FRAGMENTATION IS NOT A REASON TO IGNORE AN ADVANCE CARE DIRECTIVE, OR TO TREAT THEM AS UNRELIABLE, OR TO DECIDE THAT THE LAW IS TOO COMPLICATED TO BOTHER WITH. The response to fragmentation is always the same and it is simple: FIND OUT WHICH JURISDICTION YOU ARE IN AND WHAT ITS LAW CALLS THE DOCUMENT. And a directive that is NOT legally binding is STILL THE BEST AVAILABLE EVIDENCE OF WHAT THE PERSON WANTED - it still guides the substitute decision-maker, it still belongs in the record, and it is still the reason the conversation happened.

So what does the fragmentation actually mean for you?

- The practical consequence is not that you must learn eight systems. It is that you must know WHICH ONE YOU ARE IN, know the NAME your jurisdiction uses, and know that a confident statement about 'advance care directives' made by somebody who trained in another State may simply be wrong where you are standing. An internationally qualified nurse, an agency nurse, and anybody who has moved interstate are the three people most likely to be carrying the wrong rule.

PART 2

Why this matters more than it looks

Three people most likely to be carrying the wrong rule

The internationally qualified nurse

Trained in a system with one national law, and reasonably assumes Australia has one too.

The agency or travel nurse

Worked in three States this year. The rule that was right in March may be wrong today.

Anybody who has moved interstate

Carrying a confident, detailed and locally wrong understanding - which is worse than carrying none.

What this programme will and will not give you

Both authoritative sources for this subject returned HTTP 403 to retrieval. Module 01 says exactly what that means and what was read instead.

- WILL: the NAME of the instrument and the NAME of the statute in each of the eight jurisdictions.
- WILL: the New South Wales and Queensland positions on spoken and common law directives.
- WILL: how to find a directive, read one, record it, and escalate when it is unclear.
- WILL NOT: any witnessing requirement, form requirement, age, capacity test or revocation procedure - for ANY jurisdiction.
- WILL NOT: any substitute decision-maker hierarchy, which is the thing people state most confidently and which differs everywhere.
- WILL NOT: anything at all about voluntary assisted dying.

BEFORE YOU MOVE ON

What to carry out of Module 00

- Five names, nine statutes, no Commonwealth law.
- NSW binds a spoken directive. Queensland does not recognise common law directives at all.
- The counterweight: this is not a reason to ignore a directive.
- The response is one question - WHICH JURISDICTION AM I IN?
- And a non-binding directive is still the best evidence of what the person wanted.

Module 01: the map, jurisdiction by jurisdiction.