

The Maryan Street petition to investigate fully public attitudes towards the introduction of legislation which would permit medically-assisted dying in the event of a terminal illness or an irreversible condition which makes life unbearable.

Submission to the Health Select Committee

Date: 1 February 2016

Contact

LEANNE MANSON, RCPN, BN, BA (1ST HONS), PGDIP PH, POLICY ANALYST MĀORI

DDI 04 4946389 OR 0800 283 848 | E-MAIL LEANNEM@NZNO.ORG.NZ | www.nzno.org.nz

NEW ZEALAND NURSES ORGANISATION | PO BOX 2128 | WELLINGTON 6140

About the New Zealand Nurses Organisation

NZNO is the leading professional nursing association and union for nurses in Aotearoa New Zealand. NZNO represents over 47,000 nurses, midwives, students, kaimahi hauora and health workers on professional and employment related matters. NZNO is affiliated to the International Council of Nurses and the New Zealand Council of Trade Unions.

NZNO promotes and advocates for professional excellence in nursing by providing leadership, research and education to inspire and progress the profession of nursing. NZNO represents members on employment and industrial matters and negotiates collective employment agreements.

NZNO embraces te Tiriti o Waitangi and contributes to the improvement of the health status and outcomes of all peoples of Aotearoa New Zealand through influencing health, employment and social policy development enabling quality nursing care provision. NZNO's vision is *Freed to care, Proud to nurse.*

EXECUTIVE SUMMARY

1. The New Zealand Nurses Organisation (NZNO) welcomes the opportunity to comment to the Health Select Committee on the Maryan Street petition to investigate fully public attitudes towards the introduction of legislation which would permit medically-assisted dying in the event of a terminal illness or an irreversible condition which makes life unbearable.
2. NZNO has consulted its members and staff in the preparation of this submission, in particular members of Colleges, Sections, regional councils, Board, Te Rūnanga o Aotearoa and professional nursing, legal, industrial, policy and research advisers.
3. NZNO supports the Committee investigation of:
 - the factors that contribute to the desire to end one's life;
 - the effectiveness of services and support available to those who desire to end their own lives;

The Maryan Street petition to investigate fully public attitudes towards the introduction of legislation which would permit medically-assisted dying in the event of a terminal illness or an irreversible condition which makes life unbearable.

New Zealand Nurses Organisation PO Box 2128, Wellington 6140. www.nzno.org.nz

- the attitudes of New Zealanders towards the ending of one's life and the current legal situation; and
 - international experiences.
4. NZNO acknowledge that assisted dying is a complex and contentious ethical issue currently being debated by the New Zealand public. The increase in public requests for legalising medically assisted dying in Aotearoa New Zealand including recent highly publicised cases such as those of Lecretia Sealesⁱ and Helen Kellyⁱⁱ indicate that public opinion may be changing.
 5. Given international trends, NZNO is aware that some form of euthanasia may be legal in Aotearoa New Zealand in the near futureⁱⁱⁱ. The decision to legalise medically assisted dying will have serious implications for nurses who are involved in caring for people that are dying.
 6. Accordingly, our concern is focused on the impact of legislative changes that may affect the day-to-day practice of nurses who work with dying people^{iv}. Further investigation will require extensive consideration and input from professional nursing associations, regulatory bodies and national nursing organisations (NNOs).
 7. Nurses must adhere to legislative requirements and uphold ethical standards of nursing practice^v.
 8. Our members come from a diverse range of cultural, religious and ethnic backgrounds. They hold a broad range of views, knowledge, opinions, values and beliefs about medically assisted dying. Many members are polarised in their views, both for and against euthanasia.
 9. Should any form of euthanasia be legalised, nurses will need to be protected from prosecution though regulations with clear understanding of any delegation of duties for medically assisted dying and guidelines, which outline best practice standards for nurses.

ⁱThe Maryan Street petition to investigate fully public attitudes towards the introduction of legislation which would permit medically-assisted dying in the event of a terminal illness or an irreversible condition which makes life unbearable.

10. Te Rūnanga o Aotearoa, New Zealand Nurses Organisation (Te Rūnanga) welcomes the inquiry and debated. Te Rūnanga wishes to acknowledge that Māori holistic models of wellbeing such as Te Whare Tapa Whā are well supported to discuss both life and death issues such as medically assisted dying.
11. NZNO would like to make an oral submission and will advise our representatives.
12. We recommend that you:
 - **Note** the lack of universal nursing position on euthanasia;
 - legislation should protect nurses from prosecution;
 - **Note** the impact of legislation changes to the day-to-day practices of nurses who work with dying people;
 - **Agree** that Māori approach to death and dying is a good platform to discuss broad ethical issues much better than narrowly focused medical framework; and
 - **Agree** that guidelines for nurses are needed that include health practitioners right to choose to participate or not.

DISCUSSION

Lack of Universal Nursing position on Euthanasia

13. The 'right to die' is not a new issue for nurses, it has long been debated, and articles were discussed as early as 1912 in the *Australian Nurses Journal*^{vi}. As with euthanasia, abortion is one of the most controversial bioethical issue to have captured the publics and health professional's attention in Western liberal democracies^{vii}.
14. Currently there is no universal nursing position on the ethics of euthanasia, however some countries' nursing organisations have documented specific positions supporting or opposing^{viii ix}.

The Maryan Street petition to investigate fully public attitudes towards the introduction of legislation which would permit medically-assisted dying in the event of a terminal illness or an irreversible condition which makes life unbearable.

15. NZNO is a member of International Council of Nurses (ICN), which is a federation of more than 130 national nurses associations representing the millions of nurses worldwide. There is limited reference to medically assisted dying in *Nurses' role in providing care to dying patients and their Families Position Statement*^x, which focuses more on the societal values about quality of life.
16. It is clear International nursing associations agree that guidelines need to be developed to aid nurses to understand their rights as well as the ethical and legal complications of their actions and making decision that honour health consumers decisions^{xi}.
17. NZNO also notes the limitations of its own position statement (*the role of the nurse in the delivery of End-of-Life decisions and care*^{xii}) in addressing the issue of medically assisted dying, and is; currently developing a separate position statement on euthanasia.

Legislation should protect nurses from prosecution

18. Legislation needs to clearly state how nurses will be protected from prosecution and indicate professional legal requirements both directly or indirectly. As the largest health workforce involved in and responsible for 24/7 end of life care, the challenges to nurses are significant, and will have an impact on the protection and safety of nurses, code of conduct and nursing practice.
19. Nurse's practice and professional conduct is bound by legislation under the Health Practitioners Competence Assurance Act 2003 (HPCA)^{xiii}, and regulated by the Nursing Council of New Zealand (NCNZ).
20. NCNZ Codes of Conduct for nurses^{xiv} provides clear principles and guidelines to ensure health consumers are treated with respect (treating them politely and considerately), and valuing their dignity, culture and individuality. However further guidelines are required to assist and inform nurses on their rights, as well as the legal and ethical implications of their actions with medically assisted dying.

The Maryan Street petition to investigate fully public attitudes towards the introduction of legislation which would permit medically-assisted dying in the event of a terminal illness or an irreversible condition which makes life unbearable.

21. While nurses have the right to hold their own opinion and for their opinion to be respected, they also have a professional responsibility to stay reliably informed about the ethical, legal, cultural and clinical implications of medically assisted dying.
22. NZNO believes that public expectation that nurses will act in the best interest of patients and advocate on their behalf at a health and policy level may be impacted by medically assisted dying debate. It is essential that guidelines are available to help nurses make ethical decisions that honour individual differences.
23. Changes to the Medicines Act 1981 (the Act) which extend prescribing rights to practitioners other than medical practitioners are likely to influence the medically assisted dying discussion; designated registered nurse prescribers will be able to prescribe specified controlled drugs^{xv}.

Impact on the day-to-day practices of nurses who work with dying people

24. We have concerns with the singular focus on the physician role in assisted care, as end of life is provided by a range health practitioners in multidisciplinary teams, not just medical practitioners. Nurses, for example provide 24/7 care service and interact with families and medical practitioners in a wide range of clinical settings (hospital, hospice, primary health care, aged care, home care) delivering care to dying people and their whānau and families.
25. We recommend that legislation (if passed) clearly outlines the responsibilities of health practitioners, defined as "Health practitioner has the same meaning as in section 5 of the HPCA Act 2003" as is consistent with recent and anticipated legislation (We should NOT encourage any singling out of any profession group).

26. In countries where euthanasia and assisted dying are legal, the legislation and literature mainly focuses on the role of physicians with little or no mention of the role of nurses^{xvi}. Regardless of this, nurses are intimately involved in the care of people, who are dying, by the very nature of the work they do and by virtue of their expertise in end of life care.
27. There is the potential for the attending doctor in charge of a patient's care to delegate parts of the procedure involving assisting the patient to die to anyone else the patient approves. As nurses, our day to day intimate involvement in caring for people puts us at risk. It is possible that patients would ask nurses to be involved as we are so close to them when they are receiving nursing care. Nurses need to be afforded the same protection from liability that doctors have when acting as a delegate. If we are not even mentioned we do not have the same protection. Every consideration needs to be given to nursing and our work.

Clear guidelines for nurses who wish to participate, those nurses who chose not to participate;

28. With this in mind, being delegated to by a patient could prove challenging and confronting for those nurses, who for whatever reason object to assisted dying and euthanasia. Nurses have their own ethics, ideas and beliefs regarding euthanasia and assisted dying and need both professional guidance and ethical freedom with regard to participating in euthanasia.
29. While there are resources to assist nurses in the care of people at the end of life, there are limited resources for nurses providing direction regarding assisted death. Most of the literature focuses solely on the role of physicians in assisted death.
30. The Oregon Nurses Association has developed guidelines to assist nurses (in provisions of the Oregon Death with Dignity Act) who choose to be involved, or for nurses who choose not to be involved in

providing care to a patient who has made the choice to end his/her life^{xvii}, which may provide assistance to develop Aotearoa New Zealand guidelines.

31. While there are provisions in the HPCA Act 2003 (Section 174)^{xviii} and in the NCNZ Code of Conduct for Nurses (Principle 1.9) for conscientious objection, they are tied to reproductive health services.
32. A subsequent law change would be required to allow health practitioners to object on the grounds of conscience to being involved in care (assisted dying services).
33. The real issue is how we can better support nurses who care for people who are dying. If nurses are adequately resourced and funded, euthanasia may not be needed as we may be able to meet people's needs more appropriately.

CONCLUSION

In conclusion NZNO recommends that you:

- **Note** the lack of universal nursing position on euthanasia;
- legislation should protect nurses from prosecution;
- **Note** the impact of legislation changes to the day-to-day practices of nurses who work with dying people;
- **Agree** that Māori approach to death and dying is a good platform to discuss broad ethical issues much better than narrowly focused medical framework; and
- **Agree** that guidelines for nurses are needed that include health practitioners right to choose to participate or not.

Nāku noa, nā



Leanne Manson

Policy Analyst Māori

REFERENCES

-
- ⁱ New Zealand Herald website. Lecretia Seales's husband: 'Her reaction utterly broke my heart'. Website accessed 19/1/16.
http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11460486
- ⁱⁱ Stuff website. (2016). Euthanasia debate why can't I have the option of assisted dying. Website accessed 29/1/16.
<http://www.stuff.co.nz/national/health/76201402/euthanasia-debate-why-cant-i-have-the-option-of-assisted-dying>
- ⁱⁱⁱ ⁱⁱⁱ Woods, M. & Bickley Asher, J. (2015) *Nurses and the euthanasia debate: reflections from New Zealand*. International Nursing Review. Vol 62, issue 1: 13-20.
- ^{iv} Woods, M. & Bickley Asher, J. (2015) *Nurses and the euthanasia debate: reflections from New Zealand*. International Nursing Review. Vol 62, issue 1: 13-20.
- ^v New Zealand Nurses Organisation. (2010). *The Role of the Nurse in the delivery of End-of-life decisions and care position statement*. Wellington: New Zealand Nurses Organisation.
- ^{vi} ^{vi} Johnstone, M. (2016). *Bioethics A Nursing Perspective*. 6th Edition. Australia: Elsevier.
- ^{vii} Johnstone, M. (2016). *Bioethics A Nursing Perspective*. 6th Edition. Australia: Elsevier.
- ^{viii} Johnstone, M. (2016). *Bioethics A Nursing Perspective*. 6th Edition. Australia: Elsevier.
- ^{ix} ^{ix} Palliative Care Nurses New Zealand. (2012). *Position statement on euthanasia*. Website accessed 29/1/16.
<http://www.pcnnz.co.nz/content.asp?syscmd=dl&ID=FCD5E39A299D492F819A89391CBB025B>
- ^x International Council of Nurses website. (2012) *Nurses' role in providing care to dying patients and their Families Position Statement*. Geneva: International Council of Nurses. Website accessed on 25/1/16.
http://www.icn.ch/images/stories/documents/publications/position_statements/A12_Nurses_Role_Care_Dying_Patients.pdf
- ^{xi} Daly BJ. (1997). Assisted suicide: implications for nurses and nursing. *Nursing Outlook*. 45:209–214.

The Maryan Street petition to investigate fully public attitudes towards the introduction of legislation which would permit medically-assisted dying in the event of a terminal illness or an irreversible condition which makes life unbearable.

-
- ^{xii} New Zealand Nurses Organisation. (2010). *The Role of the Nurse in the delivery of End-of-life decisions and care position statement*. Wellington: New Zealand Nurses Organisation.
- ^{xiii} New Zealand Parliamentary Counsel Office website. Health Practitioners Competence Assurance Act 2003. Website Accessed on 27/1/16.
<http://www.legislation.govt.nz/act/public/2003/0048/latest/whole.html#DLM203312>
- ^{xiv} Nursing Council of New Zealand. (2012). *Code of Conduct for Nurses*. Nursing Council of New Zealand: Wellington. Website accessed 27/1/16.
(file:///C:/Users/LeanneM/Downloads/Nurses%20Code%20of%20Conduct.pdf)
- ^{xv} Ministry of Health website. (2016) Registered Nurse Prescribing. Website accessed 28/1/16. <http://www.health.govt.nz/our-work/nursing/developments-nursing/registered-nurse-prescribing>.
- ^{xvi} Quaghbeur, T., de Casterle, B., & Gastmans, C. (2009). Nursing and euthanasia: A review if argument – based ethics literature. *Nursing Ethics*, 16(4).
- ^{xvii} Oregon Nurses Association. (2015). the Role of the Registered Nurse in Assisted Suicide. Assisted Suicide: The Debate Continues. The Oregon Nurse Volume 62, No. 3 September 1997. Website accessed 25 /1/16.
http://c.ymcdn.com/sites/www.oregonrn.org/resource/resmgr/Docs/ONA_AssistedSuicide_2015-06-.pdf.
- ^{xviii} New Zealand Parliamentary Counsel Office website. Health Practitioners Competence Assurance Act 2003 section 174. Website Accessed on 27/1/16.
http://www.legislation.govt.nz/act/public/2003/0048/latest/DLM205007.html?search=sw_096be8ed8100092a_section+174_25_se&p=1